

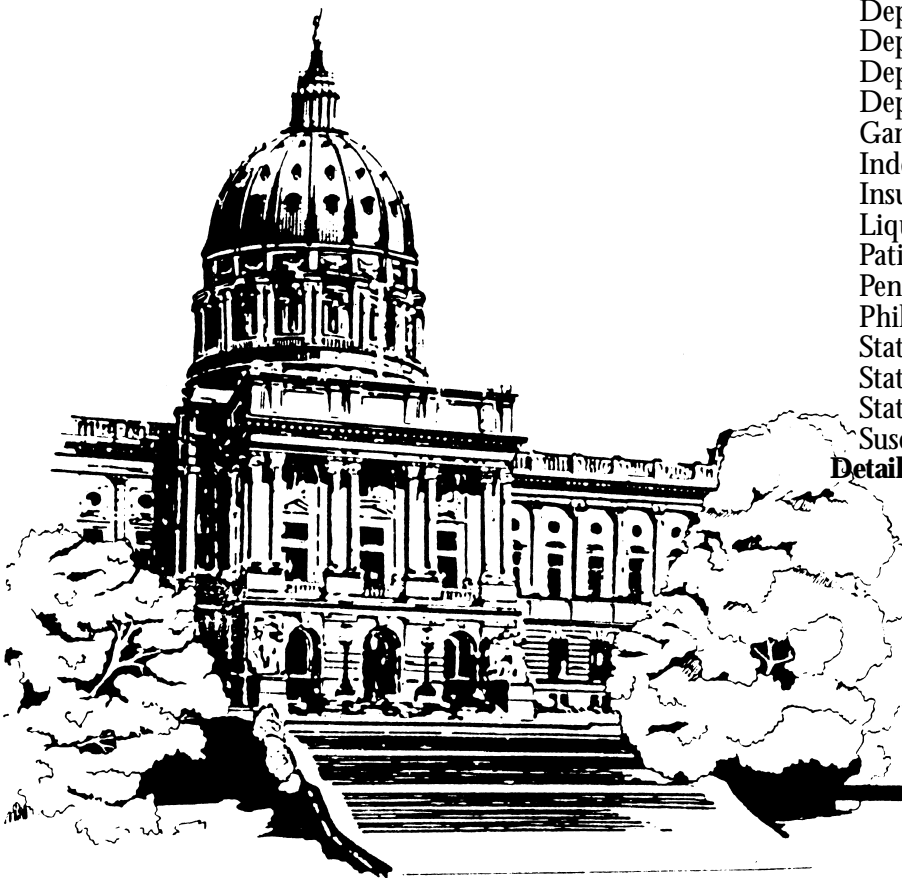
PENNSYLVANIA BULLETIN

Volume 39
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**Latest Pennsylvania Code Reporter
(Master Transmittal Sheet):**

No. 411, February 2009

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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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§ 3.44. General permission to reproduce content of Code and Bulletin.

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List of Pa. Code Chapters Affected

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

4 Pa. Code (Administration)		55 Pa. Code (Public Welfare)	
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22 Pa. Code (Education)		29	523
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680, 832, 833, 835, 994, 995, 1107

THE GOVERNOR

Amendment No. 1 to Proclamation of Disaster Emergency

February 17, 2009

Whereas, On February 2, 2009 I proclaimed a State of Disaster Emergency to address the Commonwealth's need for greater flexibility in the application of federal motor carrier regulations to drivers of commercial vehicles transporting propane gas and heating fuel within the state; and

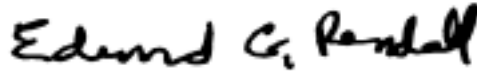
Whereas, pursuant to said proclamation the Pennsylvania Department of Transportation waived certain laws and regulations in the manner and to the extent necessary to permit the motor carrier operations to prevent propane gas and heating fuel supply and distribution problems in the Commonwealth; and

Whereas, the conditions that existed in my February 2, 2009 proclamation continue to exist; and

Whereas, said proclamation expires on February 17, 2009.

Now Therefore, Pursuant to the provisions of Subsection 7301(c) of the Emergency Management Services Code (35 Pa.C.S.A. Section 7101 et seq.), I do hereby amend the Proclamation of February 2, 2009, and extend the state of disaster emergency to February 23, 2009.

Given under my hand and the Seal of the Governor, at the city of Harrisburg, on this seventeenth day of February in the year of our Lord two thousand nine, and of the Commonwealth the two hundred and thirty-third.



Governor

[Pa.B. Doc. No. 09-352. Filed for public inspection February 27, 2009, 9:00 a.m.]

THE COURTS

Title 210—APPELLATE PROCEDURE

[210 PA. CODE CHS. 1, 9, 11, 19, 21, 25 and 37]

Order Adopting Amendments to Pa.R.A.P. 102, 904, 905, 1112, 1113, 1116, 1123, 1925, 1931, 1972, 2113, 2154, 2172, 2185, 2542, 2545 and to Official Notes to Pa.R.A.P. 2572 and 3723; No. 197; Appellate Procedural Rules; Doc. No. 1

Amended Order

Per Curiam

And Now, this 13th day of January, 2009, upon the recommendation of the Appellate Court Procedural Rules Committee, the proposal having been published before adoption at 38 Pa.B. 4723 on August 30, 2008:

It Is Ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, that Pennsylvania Rules of Appellate Procedure 102, 904, 905, 1112, 1113, 1116, 1123, 1925, 1931, 1972, 2113, 2154, 2172, 2185, 2542, 2545 and to Official Notes to Pa.R.A.P. 2572 and 3723 are amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b) and shall be effective as to all appeals filed 60 days or more after adoption.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

IN GENERAL

Rule 102. Definitions.

Subject to additional definitions contained in subsequent provisions of these rules which are applicable to specific provisions of these rules, the following words and phrases when used in these rules shall have, unless the context clearly indicates otherwise, the meanings given to them in this rule:

Action—Any action or proceeding at law or in equity.

Argument—Where required by the context, the term includes submission on briefs.

Administrative Office—The Administrative Office of Pennsylvania Courts.

Appeal—Any petition or other application to a court for review of subordinate governmental determinations. The term includes an application for certiorari under 42 Pa.C.S. § 934 (writs of certiorari) or under any other provision of law. Where required by the context, the term includes proceedings on petition for review.

Note: Under these rules a “subordinate governmental determination” includes an order of a lower court. The definition of “government unit” includes courts, and the definition of “determination” includes action or inaction by (and specifically an order entered by) a court or other government unit. In general any appeal now extends to the whole record, with like effect as upon an appeal from a judgment entered upon the verdict of a jury in an action

at law and the scope of review of an order on appeal is not limited as on broad or narrow certiorari. See 42 Pa.C.S. § 5105(d) (scope of appeal).

Appellant—Includes petitioner for review.

Appellate court—The Supreme Court, the Superior Court or the Commonwealth Court.

Appellee—Includes a party named as respondent in a petition for review.

Application—Includes a petition or a motion.

Appropriate security—Security which meets the requirements of Rule 1734 (appropriate security).

Children’s fast track appeal—Any appeal from an order involving dependency, termination of parental rights, adoptions, custody or paternity. See 42 Pa.C.S. §§ 6301 et seq.; 23 Pa.C.S. §§ 2511 et seq.; 23 Pa.C.S. §§ 2101 et seq.; 23 Pa.C.S. §§ 5301 et seq.; 23 Pa.C.S. §§ 5102 et seq.

Clerk—Includes prothonotary.

Counsel—Counsel of record.

Determination—Action or inaction by a government unit which action or inaction is subject to judicial review by a court under Section 9 of Article V of the Constitution of Pennsylvania or otherwise. The term includes an order entered by a government unit.

Docket Entries—Includes the schedule of proceedings of a government unit.

General rule—A rule or order promulgated by or pursuant to the authority of the Supreme Court.

Government unit—The Governor and the departments, boards, commissions, officers, authorities and other agencies of the Commonwealth, including the General Assembly and its officers and agencies and any court or other officer or agency of the unified judicial system, and any political subdivision or municipal or other local authority or any officer or agency of any such political subdivision or local authority. The term includes a board of arbitrators whose determination is subject to review under 42 Pa.C.S. § 763(b) (awards of arbitrators).

Judge—Includes a justice of the Supreme Court.

Lower court—The court from which an appeal is taken or to be taken. With respect to matters arising under Chapter 17 (effect of appeals; supersedeas and stays) the term means the trial court from which the appeal was first taken.

Matter—Action, proceeding or appeal. The term includes a petition for review.

Order—Includes judgment, decision, decree, sentence and adjudication.

Petition for allowance of appeal—A petition under Rule 1112 (appeals by allowance).

Petition for permission to appeal—A petition under Rule 1311 (interlocutory appeals by permission).

Petition for review—A petition under Rule 1511 (manner of obtaining judicial review of governmental determinations).

President judge—When applied to the Supreme Court, the term means the Chief Justice of Pennsylvania.

Proof of service—Includes acknowledgment of service endorsed upon a pleading.

Quasijudicial order—An order of a government unit, made after notice and opportunity for hearing, which is by law reviewable solely upon the record made before the government unit, and not upon a record made in whole or in part before the reviewing court.

Reargument—Includes, in the case of applications for reargument under Chapter 25 (post-submission proceedings), reconsideration and rehearing.

Reconsideration—Includes reargument and rehearing.

Reproduced Record—That portion of the record which has been reproduced for use in an appellate court. The term includes any supplemental reproduced record.

Rule of court—A rule promulgated by a court regulating practice or procedure before the promulgating court.

Verified Statement—A document filed with a clerk under these rules containing statements of fact and a statement by the signatory that it is made subject to the penalties of 18 Pa.C.S. § 4904 (unsworn falsification to authorities).

Official Note: Based on 42 Pa.C.S. § 102 (definitions). The definition of “determination” is not intended to affect the scope of review provided by 42 Pa.C.S. § 5105(d) (scope of appeal) or other provision of law.

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 9. APPEALS FROM LOWER COURTS

Rule 904. Content of the Notice of Appeal.

(a) *Form*.—[**The**] **Except as otherwise prescribed by this rule, the** notice of appeal shall be in substantially the following form:

COURT OF COMMON PLEAS
OF _____ COUNTY

A.B., Plaintiff :

v.

C.D., Defendant :

Docket or File No. _____

Offense Tracking Number _____

NOTICE OF APPEAL

Notice is hereby given that C.D., defendant above named, hereby appeals to the (Supreme) (Superior) (Commonwealth) Court of Pennsylvania from the order entered in this matter on the ____ day of ____ [**19**] **20**____. This order has been entered in the docket as evidenced by the attached copy of the docket entry.

(S) _____

(Address and telephone number)

(b) *Caption*.—The parties shall be stated in the caption as they stood upon the record of the lower court at the time the appeal was taken.

(c) *Request for transcript*.—The request for transcript contemplated by Rule 1911 (request for transcript) or a statement signed by counsel that there is either no verbatim record of the proceedings or the complete transcript has been lodged of record, shall accompany the notice of appeal, but the absence of or defect in the request for transcript shall not affect the validity of the appeal.

(d) *Docket entry*.—The notice of appeal shall include a statement that the order appealed from has been entered in the docket. A copy of the docket entry showing the entry of the order appealed from shall be attached to the notice of appeal.

(e) *Content in criminal cases*.—When the Commonwealth takes an appeal pursuant to Rule 311(d), the notice of appeal shall include a certification by counsel that the order will terminate or substantially handicap the prosecution.

(f) Content in children’s fast track appeals.—**In a children’s fast track appeal the notice of appeal shall include a statement advising the appellate court that the appeal is a children’s fast track appeal.**

Official Note: The Offense Tracking Number (OTN) is required only in an appeal in a criminal proceeding. It enables the Administrative Office of the Pennsylvania Courts to collect and forward to the Pennsylvania State Police information pertaining to the disposition of all criminal cases as provided by the Criminal History Record Information Act, 18 Pa.C.S. § 9101 et seq.

The 1986 amendment requires that the notice of appeal include a statement that the order appealed from has been entered in the docket. The 1986 amendment deletes the requirement that the appellant certify that the order has been reduced to judgment. This omission does not eliminate the requirement of reducing an order to judgment before there is a final appealable order where required by applicable practice or case law.

The 1997 amendment changes the word “order” to “request” in order to eliminate any unintended implication that a court order is required. No court order is required to obtain a transcript of the proceedings. See Pa.R.J.A. 5000.5 and the 1997 amendment to subdivision (a) of Rule 1911.

With respect to subdivision (e), in *Commonwealth v. Dugger*, 506 Pa. 537, 486 A.2d 382 (1985), the Supreme Court held that the Commonwealth’s certification that an order will terminate or substantially handicap the prosecution is not subject to review as a prerequisite to the Superior Court’s review of the merits of the appeal. Thus, the need for a detailed analysis of the effect of the order, formerly necessarily a part of the Commonwealth’s appellate brief, was eliminated. See also *Commonwealth v. Deans*, 530 Pa. 514, 610 A.2d 32 (1992); *Commonwealth v. Cohen*, 529 Pa. 552, 605 A.2d 1212 (1992) (allowing appeals by the Commonwealth from adverse rulings on motions in limine). Accordingly, the 1997 amendment added subdivision (e) as a requirement when the Commonwealth takes an appeal pursuant to Rule 311(d).

A party filing a cross appeal should identify it as a cross appeal in the notice of appeal to assure that the prothonotary will process the cross appeal with the initial appeal. See also Rules 2113, 2136 and 2185 regarding briefs in cross appeals and Rule 2322 regarding oral argument in multiple appeals.

Rule 905. Filing of Notice of Appeal.

(a) *Filing with clerk*.

(1) Two copies of the notice of appeal, the order for transcript, if any, and the proof of service required by Rule 906 (service of notice of appeal), shall be filed with the clerk of the trial court. If the appeal is to the Supreme Court, the jurisdictional statement required by Rule 909 shall also be filed with the clerk of the trial court.

(2) **If the appeal is a children's fast track appeal, the concise statement of errors complained of on appeal as described in Rule 1925(a)(2) shall be filed with the notice of appeal and served in accordance with Rule 1925(b)(1).**

(3) Upon receipt of the notice of appeal the clerk shall immediately stamp it with the date of receipt, and that date shall constitute the date when the appeal was taken, which date shall be shown on the docket.

(4) If a notice of appeal is mistakenly filed in an appellate court, or is otherwise filed in an incorrect office within the unified judicial system, the clerk shall immediately stamp it with the date of receipt and transmit it to the clerk of the court which entered the order appealed from, and upon payment of an additional filing fee the notice of appeal shall be deemed filed in the trial court on the date originally filed.

(5) A notice of appeal filed after the announcement of a determination but before the entry of an appealable order shall be treated as filed after such entry and on the day thereof.

(b) *Transmission to appellate court.* The clerk shall immediately transmit to the prothonotary of the appellate court named in the notice of appeal a copy of the notice of appeal showing the date of receipt, the related proof of service and a receipt showing collection of any docketing fee in the appellate court required under Subdivision (c). **If the appeal is a children's fast track appeal, the clerk shall stamp the notice of appeal with a "Children's Fast Track" designation in red ink, advising the appellate court that the appeal is a children's fast track appeal and shall transmit to the prothonotary of the appellate court named in the notice of appeal the concise statement of errors complained of on appeal required by Subdivision (a)(2) of this rule.** The clerk shall also transmit with such papers:

1. a copy of any order for transcript;
2. a copy of any verified statement, application or other document filed under Rule 551 through Rule 561 relating to *in forma pauperis*; and
3. if the appeal is to the Supreme Court, the jurisdictional statement required by Rule 909.

(c) *Fees.* The appellant upon filing the notice of appeal shall pay any fees therefor (including docketing fees in the appellate court) prescribed by Chapter 27 (fees and costs in appellate courts and on appeal).

Official Note: Insofar as the clerk or prothonotary of the lower court is concerned, the notice of appeal is for all intents and purposes a writ in the nature of *certiorari* in the usual form issued out of the appellate court named therein and returnable thereto within the time prescribed by Chapter 19 (preparation and transmission of record and related matters).

To preserve a mailing date as the filing date for an appeal as of right from an order of the Commonwealth Court, see Rule 1101(b).

* * * * *

CHAPTER 11. APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT

PETITION FOR ALLOWANCE OF APPEAL

Rule 1112. Appeals by Allowance.

(a) *General rule.*—An appeal may be taken by allowance under 42 Pa.C.S. § 724(a) (allowance of appeals

from Superior and Commonwealth Courts) from any final order of the Commonwealth Court, not appealable under Rule 1101 (appeals as of right from the Commonwealth Court), or from any final order of the Superior Court.

(b) *Definition. Final order.*—A final order of the Superior Court or Commonwealth Court is any order that concludes an appeal, including an order that remands an appeal, in whole or in part, unless the appellate court remands and retains jurisdiction.

(c) *Petition for allowance of appeal.* [—]

(1) Allowance of an appeal from a final order of the Superior Court or the Commonwealth Court may be sought by filing a petition for allowance of appeal with the Prothonotary of the Supreme Court within the time allowed by Rule 1113 (time for petitioning for allowance of appeal), with proof of service on all other parties to the matter in the appellate court below.

(2) If the petition for allowance of appeal is transmitted to the Prothonotary of the Supreme Court by means of first class, express, or priority United States Postal Service mail, the petition shall be deemed received by the prothonotary for the purposes of Rule 121(a) (filing) on the date deposited in the United States mail, as shown on a United States Postal Service Form 3817 Certificate of Mailing or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter in the appellate court below and shall be either enclosed with the petition or separately mailed to the prothonotary.

(3) Upon actual receipt of the petition for allowance of appeal the Prothonotary of the Supreme Court shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this subdivision, shall constitute the date when allowance of appeal was sought, which date shall be shown on the docket. The Prothonotary of the Supreme Court shall immediately note the Supreme Court docket number upon the petition for allowance of appeal and give written notice of the docket number assignment in person or by first class mail to the prothonotary of the appellate court below who shall note on the docket that a petition for allowance of appeal has been filed to the petitioner and to the other persons named in the proof of service accompanying the petition.

(4) In a children's fast track appeal, the Prothonotary of the Supreme Court shall stamp the petition for allowance of appeal with a "Children's Fast Track" designation in red ink, advising the Supreme Court that the petition for allowance of appeal is a children's fast track appeal.

(d) *Reproduced record.*—One copy of the reproduced record, if any, in the appellate court below shall be lodged with the Prothonotary of the Supreme Court at the time the petition for allowance of appeal is filed therein. A party filing a cross-petition for allowance of appeal from the same order need not lodge any reproduced record in addition to that lodged by petitioner.

(e) *Fee.*—The petitioner upon filing the petition for allowance of appeal shall pay any fee therefor prescribed by Chapter 27 (fees and costs in appellate courts and on appeal).

(f) *Entry of appearance.*—Upon the filing of the petition for allowance of appeal the Prothonotary of the Supreme

Court shall note on the record as counsel for the petitioner the name of his **or her** counsel, if any, set forth in or endorsed upon the petition for allowance of appeal, and, as counsel for other parties, counsel, if any, named in the proof of service. The Prothonotary shall upon praecipe of any such counsel for other parties, filed at any time within 30 days after filing of the petition, strike off or correct the record of appearance. Thereafter a counsel's appearance for a party may not be withdrawn without leave of court unless another lawyer has entered or simultaneously enters an appearance for the party.

Official Note: Based on 42 Pa.C.S. § 724(a) (allowance of appeals from Superior and Commonwealth Courts). The notation on the docket by the Prothonotary of the Superior Court or Commonwealth Court of the filing of a petition for allowance of appeal renders universal the rule that the appeal status of any order may be discovered by examining the docket of the court in which it was entered.

The United States Postal Service form may be in substantially the following form:

* * * * *

The transmittal should be taken *unsealed* to the Post Office, the Form 3817 Certificate of Mailing or other similar United States Postal Service form from which the date of deposit can be verified should be obtained, cancelled, and attached to the petition, and the envelope should only then be sealed. Alternately, the cancelled Form 3817 or other similar United States Postal Service form from which the date of deposit can be verified can be submitted to the prothonotary under separate cover with clear identification of the filing to which it relates.

It is recommended that the petitioner obtain a duplicate copy of the Form 3817 or other similar United States Postal Service form from which the date of deposit can be verified as evidence of mailing. Since the Post Office is technically the filing office for the purpose of this rule a petition which was mailed in accordance with this rule and which is subsequently lost in the mail will nevertheless toll the time for petitioning for allowance of appeal. However, counsel will be expected to follow up on a mail filing by telephone inquiry to the appellate prothonotary where written notice of the docket number assignment is not received in due course.

With regard to subdivision (f) and withdrawal of appearance without leave of the appellate court, counsel may nonetheless be subject to trial court supervision pursuant to Pa.R.Crim.P. 904 (Entry of Appearance and Appointment of Counsel; *In Forma Pauperis*).

With respect to appearances by new counsel following the initial docketing of appearances pursuant to Subdivision (f) of this rule, please note the requirements of Rule 120.

Rule 1113. Time for Petitioning for Allowance of Appeal.

(a) *General rule.*—Except as otherwise prescribed by this rule, a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within 30 days after the entry of the order of the Superior Court or the Commonwealth Court sought to be reviewed.

(1) If a timely application or reargument is filed in the Superior Court or Commonwealth Court by any party, the time for filing a petition for allowance of appeal for all parties shall run from the entry of the order denying

reargument or from the entry of the decision on reargument, whether or not that decision amounts to a reaffirmation of the prior decision.

(2) Unless the Superior Court or the Commonwealth Court acts on the application for reargument within 60 days after it is filed the court shall no longer consider the application, it shall be deemed to have been denied and the prothonotary of the appellate court shall forthwith enter an order denying the application and shall immediately give written notice in person or by first class mail of entry of the order denying the application to each party who has appeared in the appellate court. A petition for allowance of appeal filed before the disposition of such an application for reargument shall have no effect. A new petition for allowance of appeal must be filed within the prescribed time measured from the entry of the order denying or otherwise disposing of such an application for reargument.

(3) **In a children's fast track appeal, unless the Superior Court acts on the application for reargument within 45 days after it is filed the court shall no longer consider the application, it shall be deemed to have been denied and the Prothonotary of the Superior Court shall forthwith enter an order denying the application and shall immediately give written notice in person or by first class mail of entry of the order denying the application to each party who has appeared in the appellate court. A petition for allowance of appeal filed before the disposition of such an application for reargument shall have no effect. A new petition for allowance of appeal must be filed within the prescribed time measured from the entry of the order denying or otherwise disposing of such an application for reargument.**

(b) *Cross petitions.*—Except as otherwise prescribed in Subdivision (c) of this rule, if a timely petition for allowance of appeal is filed by a party, any other party may file a petition for allowance of appeal within 14 days of the date on which the first petition for allowance of appeal was filed, or within the time otherwise prescribed by this rule, whichever period last expires.

(c) *Special provisions.*—Notwithstanding any other provision of this rule, a petition for allowance of appeal from an order in any matter arising under any of the following shall be filed within ten days after the entry of the order sought to be reviewed:

- (1) Pennsylvania Election Code.
- (2) Local Government Unit Debt Act or any similar statute relating to the authorization of public debt.

Official Note: See note to Rule 903 (time for appeal).

A party filing a cross petition for allowance of appeal pursuant to Subdivision (b) should identify it as a cross petition to assure that the prothonotary will process the cross petition with the initial petition. See also Rule 511 (cross appeals), Rule 2136 (Briefs in Cases Involving Cross Appeals) and Rule 2322 (Cross and Separate Appeals).

Rule 1116. Answer to the Petition for Allowance of Appeal.

(a) *General rule.*—[**Within**] Except as otherwise prescribed by this rule, within 14 days after service of a petition for allowance of appeal an adverse party may file an answer. The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. The answer need

not be set forth in numbered paragraphs in the manner of a pleading, shall set forth any procedural, substantive or other argument or ground why the order involved should not be reviewed by the Supreme Court and shall comply with Rule 1115(a)(7) (content of petition for allowance of appeal[.]). No separate motion to dismiss a petition for allowance of appeal will be received. A party entitled to file an answer under this rule who does not intend to do so shall, within the time fixed by these rules for filing an answer, file a letter stating that an answer to the petition for allowance of appeal will not be filed. The failure to file an answer will not be construed as concurrence in the request for allowance of appeal.

(b) Children's fast track appeals.—In a children's fast track appeal, within 10 days after service of a petition for allowance of appeal, an adverse party may file an answer.

Official Note: This rule and Rule 1115 contemplate that the petition and answer will address themselves to the heart of the issue, i.e. whether the Supreme Court ought to exercise its discretion to allow an appeal, without the need to comply with the formalistic pattern of numbered averments in the petition and correspondingly numbered admissions and denials in the response. While such a formalistic format is appropriate when factual issues are being framed in a trial court (as in the petition for review under Chapter 15) such a format interferes with the clear narrative exposition necessary to outline succinctly the case for the Supreme Court in the allocatur context.

Rule 1123. Denial of Appeal; Reconsideration.

(a) *Denial.* If the petition for allowance of appeal is denied the Prothonotary of the Supreme Court shall immediately give written notice in person or by first class mail of the entry of the order denying the appeal to each party who has appeared in the Supreme Court. After the expiration of the time allowed by Subdivision (b) of this rule for the filing of an application for reconsideration of denial of a petition for allowance of appeal, if no application for reconsideration is filed, the Prothonotary of the Supreme Court shall notify the prothonotary of the appellate court below of the denial of the petition.

(b) *Reconsideration.* Applications for reconsideration of denial of allowance of appeal are not favored and will be considered only in the most extraordinary circumstances. An application for reconsideration of denial of a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within fourteen days after entry of the order denying the petition for allowance of appeal. **In a children's fast track appeal, the application for reconsideration of denial of a petition for allowance of appeal shall be filed with the Prothonotary of the Supreme Court within 7 days after entry of the order denying the petition for allowance of appeal.** Any application filed under this subdivision must:

(1) Briefly and distinctly state grounds which are confined to intervening circumstances of substantial or controlling effect.

(2) Be supported by a certificate of counsel to the effect that it is presented in good faith and not for delay. Counsel must also certify that the application is restricted to the grounds specified in Paragraph (1) of this subdivision.

No answer to an application for reconsideration will be received unless requested by the Supreme Court. Second

or subsequent applications for reconsideration, and applications for reconsideration which are out of time under this rule, will not be received.

(c) *Manner of filing.* If the application for reconsideration is transmitted to the prothonotary of the appellate court by means of first class, express, or priority United States Postal Service mail, the application shall be deemed received by the prothonotary for the purposes of Rule 121(a) (filing) on the date deposited in the United States mail as shown on a United States Postal Service Form 3817 Certificate of Mailing, or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter in the court in which reconsideration is sought and shall be enclosed with the application or separately mailed to the prothonotary. Upon actual receipt of the application, the prothonotary shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this subdivision, shall constitute the date when application was sought, which date shall be shown on the docket.

CHAPTER 19. PREPARATION AND TRANSMISSION OF RECORD AND RELATED MATTERS

RECORD ON APPEAL FROM LOWER COURT

Rule 1925. Opinion in Support of Order.

(a) *Opinion in support of order.*

(1) *General rule.—[Upon] Except as otherwise prescribed by this rule, upon* receipt of the notice of appeal, the judge who entered the order giving rise to the notice of appeal, if the reasons for the order do not already appear of record, shall forthwith file of record at least a brief opinion of the reasons for the order, or for the rulings or other errors complained of, or shall specify in writing the place in the record where such reasons may be found.

If the case appealed involves a ruling issued by a judge who was not the judge entering the order giving rise to the notice of appeal, the judge entering the order giving rise to the notice of appeal may request that the judge who made the earlier ruling provide an opinion to be filed in accordance with the standards above to explain the reasons for that ruling.

(2) *Children's fast track appeals.—In a children's fast track appeal:*

(i) **The concise statement of errors complained of on appeal shall be filed and served with the notice of appeal required by Rule 905. See Pa.R.A.P. 905(a)(2).**

(ii) **Upon receipt of the notice of appeal and the concise statement of errors complained of on appeal required by Rule 905(a)(2), the judge who entered the order giving rise to the notice of appeal, if the reasons for the order do not already appear of record, shall within 30 days file of record at least a brief opinion of the reasons for the order, or for the rulings or other errors complained of, which may, but need not, refer to the transcript of the proceedings.**

(b) *Direction to file statement of errors complained of on appeal; instructions to the appellant and the trial court.—*If the judge entering the order giving rise to the

notice of appeal ("judge") desires clarification of the errors complained of on appeal, the judge may enter an order directing the appellant to file of record in the trial court and serve on the judge a concise statement of the errors complained of on appeal ("Statement").

(1) *Filing and service.*—Appellant shall file of record the Statement and concurrently shall serve the judge. Filing of record and service on the judge shall be in person or by mail as provided in Pa.R.A.P. 121(a) and shall be complete on mailing if appellant obtains a United States Postal Service [form] **Form 3817, Certificate of Mailing, or other similar United States Postal Service form from which the date of deposit can be verified**, in compliance with the requirements set forth in Pa.R.A.P. 1112(c). Service on parties shall be concurrent with filing and shall be by any means of service specified under Pa.R.A.P. 121(c).

(2) *Time for filing and service.*—The judge shall allow the appellant at least 21 days from the date of the order's entry on the docket for the filing and service of the Statement. Upon application of the appellant and for good cause shown, the judge may enlarge the time period initially specified or permit an amended or supplemental Statement to be filed. In extraordinary circumstances, the judge may allow for the filing of a Statement or amended or supplemental Statement nunc pro tunc.

(3) *Contents of order.*—The judge's order directing the filing and service of a Statement shall specify:

(i) the number of days after the date of entry of the judge's order within which the appellant must file and serve the Statement;

(ii) that the Statement shall be filed of record;

(iii) that the Statement shall be served on the judge pursuant to paragraph (b)(1);

(iv) that any issue not properly included in the Statement timely filed and served pursuant to subdivision (b) shall be deemed waived.

(4) *Requirements; waiver.*

(i) The Statement shall set forth only those rulings or errors that the appellant intends to challenge.

(ii) The Statement shall concisely identify each ruling or error that the appellant intends to challenge with sufficient detail to identify all pertinent issues for the judge. The judge shall not require the citation to authorities; however, appellant may choose to include pertinent authorities in the Statement.

(iii) The judge shall not require appellant or appellee to file a brief, memorandum of law, or response as part of or in conjunction with the Statement.

(iv) The Statement should not be redundant or provide lengthy explanations as to any error. Where non-redundant, non-frivolous issues are set forth in an appropriately concise manner, the number of errors raised will not alone be grounds for finding waiver.

(v) Each error identified in the Statement will be deemed to include every subsidiary issue contained therein which was raised in the trial court; this provision does not in any way limit the obligation of a criminal appellant to delineate clearly the scope of claimed constitutional errors on appeal.

(vi) If the appellant in a civil case cannot readily discern the basis for the judge's decision, the appellant shall preface the Statement with an explanation as to why the Statement has identified the errors in only

general terms. In such a case, the generality of the Statement will not be grounds for finding waiver.

(vii) Issues not included in the Statement and/or not raised in accordance with the provisions of this paragraph (b)(4) are waived.

(c) *Remand.*

(1) An appellate court may remand in either a civil or criminal case for a determination as to whether a Statement had been filed and/or served or timely filed and/or served.

(2) Upon application of the appellant and for good cause shown, an appellate court may remand in a civil case for the filing nunc pro tunc of a Statement or for amendment or supplementation of a timely filed and served Statement and for a concurrent supplemental opinion.

(3) If an appellant in a criminal case was ordered to file a Statement and failed to do so, such that the appellate court is convinced that counsel has been per se ineffective, the appellate court shall remand for the filing of a Statement nunc pro tunc and for the preparation and filing of an opinion by the judge.

(4) In a criminal case, counsel may file of record and serve on the judge a statement of intent to file an *Anders/McClendon* brief in lieu of filing a Statement. If, upon review of the *Anders/McClendon* brief, the appellate court believes that there are arguably meritorious issues for review, those issues will not be waived; instead, the appellate court may remand for the filing of a Statement, a supplemental opinion pursuant to **Rule 1925(a)**, or both. Upon remand, the trial court may, but is not required to, replace appellant's counsel.

(d) *Opinions in matters on petition for allowance of appeal.*—Upon receipt of notice of the filing of a petition for allowance of appeal under Rule 1112(c) (appeals by allowance), the appellate court below which entered the order sought to be reviewed, if the reasons for the order do not already appear of record, shall forthwith file of record at least a brief statement, in the form of an opinion, of the reasons for the order.

Official Note: Subdivision (a) The 2007 amendments clarify that a judge whose order gave rise to the notice of appeal may ask a prior judge who made a ruling in question for the reasons for that judge's decision. In such cases, more than one judge may issue separate **Rule 1925(a)** opinions for a single case. It may be particularly important for a judge to author a separate opinion if credibility was at issue in the pretrial ruling in question. See, e.g., *Commonwealth v. Yogel*, 307 Pa. Super. 241, 243-44, 453 A.2d 15, 16 (1982). At the same time, the basis for some pre-trial rulings will be clear from the order and/or opinion issued by the judge at the time the ruling was made, and there will then be no reason to seek a separate opinion from that judge under this rule. See, e.g., Pa.R.Crim.P. 581(I). Likewise, there will be times when the prior judge may explain the ruling to the judge whose order has given rise to the notice of appeal in sufficient detail that there will be only one opinion under **Rule 1925(a)**, even though there are multiple rulings at issue. The time period for transmission of the record is specified in Pa.R.A.P. 1931, and that rule was concurrently amended to expand the time period for the preparation of the opinion and transmission of the record.

Subdivision (b) This subdivision permits the judge whose order gave rise to the notice of appeal ("judge") to ask for a statement of errors complained of on appeal

(“Statement”) if the record is inadequate and the judge needs to clarify the errors complained of. The term “errors” is meant to encourage appellants to use the Statement as an opportunity to winnow the issues, recognizing that they will ultimately need to be refined to a statement that will comply with the requirements of Pa.R.A.P. 2116. Nonetheless, the term “errors” is intended in this context to be expansive, and it encompasses all of the reasons the trial court should not have reached its decision or judgment, including, for example, those that may not have been decisions of the judge, such as challenges to jurisdiction.

Paragraph (b)(1) This paragraph maintains the requirement that the Statement be both filed of record in the trial court and served on the judge. Service on the judge may be accomplished by mail or by personal service. The date of mailing will be considered the date of filing and of service upon the judge only if counsel obtains a United States Postal Service form from which the date of mailing can be verified, as specified in Pa.R.A.P. 1112(c). Counsel is advised to retain date-stamped copies of the postal forms (or pleadings if served by hand), in case questions arise later as to whether the Statement was timely filed or served on the judge.

Paragraph (b)(2) This paragraph extends the time period for drafting the Statement from 14 days to at least 21 days, with the trial court permitted to enlarge the time period or to allow the filing of an amended or supplemental Statement upon good cause shown. In *Commonwealth v. Mitchell*, 588 Pa. 19, 41, 902 A.2d 430, 444 (2006), the Court expressly observed that a Statement filed “after several extensions of time” was timely. An enlargement of time upon timely application might be warranted if, for example, there was a serious delay in the transcription of the notes of testimony or in the delivery of the order to appellate counsel. A trial court should enlarge the time or allow for an amended or supplemental Statement when new counsel is retained or appointed. A supplemental Statement may also be appropriate when the ruling challenged was so non-specific—e.g., “Motion Denied”—that counsel could not be sufficiently definite in the initial Statement.

In general, nunc pro tunc relief is allowed only when there has been a breakdown in the process constituting extraordinary circumstances. See, e.g., *In re Canvass of Absentee Ballots of Nov. 4, 2003 Gen. Election*, 577 Pa. 231, 248-49, 843 A.2d 1223, 1234 (2004) (“We have held that fraud or the wrongful or negligent act of a court official may be a proper reason for holding that a statutory appeal period does not run and that the wrong may be corrected by means of a petition filed nunc pro tunc.”) Courts have also allowed nunc pro tunc relief when “non-negligent circumstances, either as they relate to appellant or his counsel” occasion delay. *McKeown v. Bailey*, 731 A.2d 628, 630 (Pa. Super. 1999). However, even when there is a breakdown in the process, the appellant must attempt to remedy it within a “very short duration” of time. *Id.*; *Amicone v. Rok*, 839 A.2d 1109, 1113 (Pa. Super. 2003) (recognizing a breakdown in process, but finding the delay too long to justify nunc pro tunc relief).

Paragraph (b)(3) This paragraph specifies what the judge must advise appellants when ordering a Statement.

Paragraph (b)(4) This paragraph sets forth the parameters for the Statement and explains what constitutes waiver. It should help counsel to comply with the concise-yet-sufficiently-detailed requirement and avoid waiver under either *Lineberger v. Wyeth*, 894 A.2d 141, 148-49

(Pa. Super. 2006) or *Kanter v. Epstein*, 866 A.2d 394, 400-03 (Pa. Super. 2004), allowance of appeal denied, 584 Pa. 678, 880 A.2d 1239 (2005), cert. denied sub nom. *Spector Gadon & Rosen, P.C. v. Kanter*, 546 U.S. 1092 (2006). The paragraph explains that the Statement should be sufficiently specific to allow the judge to draft the opinion required under 1925(a), and it provides that the number of issues alone will not constitute waiver—so long as the issues set forth are non-redundant and non-frivolous. It allows appellants to rely on the fact that subsidiary issues will be deemed included if the overarching issue is identified and if all of the issues have been properly preserved in the trial court. This provision has been taken from the United States Supreme Court rules. See Sup. Ct. R. 14(1). This paragraph does not in any way excuse the responsibility of an appellant who is raising claims of constitutional error to raise those claims with the requisite degree of specificity. This paragraph also allows—but does not require—an appellant to state the authority upon which the appellant challenges the ruling in question, but it expressly recognizes that a Statement is not a brief and that an appellant shall not file a brief with the Statement. This paragraph also recognizes that there may be times that a civil appellant cannot be specific in the Statement because of the non-specificity of the ruling complained of on appeal. In such instances, civil appellants may seek leave to file a supplemental Statement to clarify their position in response to the judge’s more specific Rule 1925(a) opinion.

Subdivision (c) The appellate courts have the right under the Judicial Code to “affirm, modify, vacate, set aside or reverse any order brought before it for review, and may remand the matter and direct the entry of such appropriate order, or require such further proceedings to be had as may be just under the circumstances.” 42 Pa.C.S. § 706. The following additions to the rule are based upon this statutory authorization.

Paragraph (c)(1) This paragraph applies to both civil and criminal cases and allows an appellate court to seek additional information—whether by supplementation of the record or additional briefing—if it is not apparent whether an initial or supplemental Statement was filed and/or served or timely filed and/or served.

Paragraph (c)(2) This paragraph allows an appellate court to remand a civil case to allow an initial, amended, or supplemental Statement and/or a supplemental opinion. See also 42 Pa.C.S. § 706.

Paragraph (c)(3) This paragraph allows an appellate court to remand in criminal cases only when the appellant has completely failed to respond to an order to file a Statement. It is thus narrower than (c)(2), above. Prior to these amendments of this rule, the appeal was quashed if no timely Statement was filed or served; however, because the failure to file and serve a timely Statement is a failure to perfect the appeal, it is presumptively prejudicial and “clear” ineffectiveness. See, e.g., *Commonwealth v. Halley*, 582 Pa. 164, 172, 870 A.2d 795, 801 (2005); *Commonwealth v. West*, 883 A.2d 654, 657 (Pa. Super. 2005). Direct appeal rights have typically been restored through a post-conviction relief process, but when the ineffectiveness is apparent and per se, the court in *West* recognized that the more effective way to resolve such per se ineffectiveness is to remand for the filing of a Statement and opinion. See *West*, 883 A.2d at 657. The procedure set forth in *West* is codified in paragraph (c)(3). As the *West* court recognized, this rationale does not apply when waiver occurs due to the improper filing of a Statement. In such circumstances, relief may occur only

through the post-conviction relief process and only upon demonstration by the appellant that, but for the deficiency of counsel, it was reasonably probable that the appeal would have been successful. An appellant must be able to identify per se ineffectiveness to secure a remand under this section, and any appellant who is able to demonstrate per se ineffectiveness is entitled to a remand. Accordingly, this paragraph does not raise the concerns addressed in *Johnson v. Mississippi*, 486 U.S. 578, 588-89 (1988) (observing that where a rule has not been consistently or regularly applied, it is not—under federal law—an adequate and independent state ground for affirming petitioner's conviction[.]).

Paragraph (c)(4) This paragraph clarifies the special expectations and duties of a criminal lawyer. Even lawyers seeking to withdraw pursuant to the procedures set forth in *Anders v. California*, 386 U.S. 738 (1967) and *Commonwealth v. McClendon*, 495 Pa. 467, 434 A.2d 1185 (1981) are obligated to comply with all rules, including the filing of a Statement. See *Commonwealth v. Myers*, 897 A.2d 493, 494-96 (Pa. Super. 2006); *Commonwealth v. Ladamus*, 896 A.2d 592, 594 (Pa. Super. 2006). However, because a lawyer will not file an *Anders/McClendon* brief without concluding that there are no non-frivolous issues to raise on appeal, this amendment allows a lawyer to file, in lieu of a Statement, a representation that no errors have been raised because the lawyer is (or intends to be) seeking to withdraw under *Anders/McClendon*. At that point, the appellate court will reverse or remand for a supplemental Statement and/or opinion if it finds potentially non-frivolous issues during its constitutionally required review of the record.

Subdivision (d) was formerly (c). The text has not been revised, except to update the reference to Pa.R.A.P. 1112(c).

The 2007 amendments attempt to address the concerns of the bar raised by cases in which courts found waiver: (a) because the Statement was too vague; or (b) because the Statement was so repetitive and voluminous that it did not enable the judge to focus on the issues likely to be raised on appeal. See, e.g., *Lineberger v. Wyeth*, 894 A.2d 141, 148-49 (Pa. Super. 2006); *Kanter v. Epstein*, 866 A.2d 394, 400-03 (Pa. Super. 2004), allowance of appeal denied, 584 Pa. 678, 880 A.2d 1239 (2005), cert. denied sub nom. *Spector Gadon & Rosen, P.C. v. Kanter*, 546 U.S. 1092 (2006). Courts have also cautioned, however, "against being too quick to find waiver, claiming that Rule 1925(b) statements are either too vague or not specific enough." *Astorino v. New Jersey Transit Corp.*, 912 A.2d 308, 309 (Pa. Super. 2006).

While conciseness and vagueness are very case-specific inquiries, certain observations may be helpful. First, the Statement is only the first step in framing the issues to be raised on appeal, and the requirements of Pa.R.A.P. 2116 are even more stringent. Thus, the Statement should be viewed as an initial winnowing. Second, when appellate courts have been critical of sparse or vague Statements, they have not criticized the number of issues raised but the paucity of useful information contained in the Statement. Neither the number of issues raised nor the length of the Statement alone is enough to find that a Statement is vague or non-concise enough to constitute waiver. See *Astorino v. New Jersey Transit Corp.*, 912 A.2d 308, 309 (Pa. Super. 2006). The more carefully the appellant frames the Statement, the more likely it will be that the judge will be able to articulate the rationale underlying the decision and provide a basis for counsel to determine the advisability of appealing that issue. Thus,

counsel should begin the winnowing process when preparing the Statement and should articulate specific rulings with which the appellant takes issue and why. Nothing in the rule requires an appellant to articulate the arguments within a Statement. It is enough for an appellant—except where constitutional error must be raised with greater specificity—to have identified the rulings and issues that comprise the putative trial court errors.

Rule 1931. Transmission of the Record.

(a) *Time for transmission.* [—]

(1) **General rule.**—[The] Except as otherwise prescribed by this rule, the record on appeal, including the transcript and exhibits necessary for the determination of the appeal, shall be transmitted to the appellate court within 60 days after the filing of the notice of appeal. If an appeal has been allowed or if permission to appeal has been granted, the record shall be transmitted as provided by Rule 1122 (allowance of appeal and transmission of record) or by Rule 1322 (permission to appeal and transmission of record), as the case may be. The appellate court may shorten or extend the time prescribed by this subdivision for a class or classes of cases.

(2) **Children's fast track appeals.**—In a children's fast track appeal, the record on appeal, including the transcript and exhibits necessary for the determination of the appeal, shall be transmitted to the appellate court within 30 days after the filing of the notice of appeal. If an appeal has been allowed or if permission to appeal has been granted, the record shall be transmitted as provided by Rule 1122 (allowance of appeal and transmission of record) or by Rule 1322 (permission to appeal and transmission of record), as the case may be.

(b) *Duty of lower court.*—After a notice of appeal has been filed the judge who entered the order appealed from shall comply with Rule 1925 (opinion in support of order), shall cause the official court reporter to comply with Rule 1922 (transcription of notes of testimony) or shall otherwise settle a statement of the evidence or proceedings as prescribed by this chapter, and shall take any other action necessary to enable the clerk to assemble and transmit the record as prescribed by this rule.

(c) *Duty of clerk to transmit the record.*—When the record is complete for purposes of the appeal, the clerk of the lower court shall transmit it to the prothonotary of the appellate court. The clerk of the lower court shall number the documents comprising the record and shall transmit with the record a list of the documents correspondingly numbered and identified with reasonable definiteness. Documents of unusual bulk or weight and physical exhibits other than documents shall not be transmitted by the clerk unless he or she is directed to do so by a party or by the prothonotary of the appellate court. A party must make advance arrangements with the clerk for the transportation and receipt of exhibits of unusual bulk or weight. Transmission of the record is effected when the clerk of the lower court mails or otherwise forwards the record to the prothonotary of the appellate court. The clerk of the lower court shall indicate, by endorsement on the face of the record or otherwise, the date upon which the record is transmitted to the appellate court.

(d) *Service of the list of record documents.*—The clerk of the lower court shall, at the time of the transmittal of the record to the appellate court, mail a copy of the list of record documents to all counsel of record, or if

unrepresented by counsel, to the parties at the address they have provided to the clerk. The clerk shall note on the docket the giving of such notice.

(e) *Multiple appeals*.—Where more than one appeal is taken from the same order, it shall be sufficient to transmit a single record, without duplication.

Official Note: Former Supreme Court Rule 22 required the record to be returned forthwith. See also former Superior Court Rule 50 and former Commonwealth Court Rules 22 and 23.

Explanatory Comment—2007

The 2007 amendment expands the time period for the trial court to transmit the certified record, including any opinions drafted pursuant to Pa.R.A.P. 1925(a), from forty to sixty days. The appellate court retains the ability to establish a shorter (or longer) period of time for the transmittal of the record in any class or classes of cases.

DISPOSITION WITHOUT REACHING THE MERITS

Rule 1972. Dispositions on Motion.

(a) **Except as otherwise prescribed by this rule, [Subject] subject** to Rule 123 (applications for relief), any party may move:

(1) To transfer the record of the matter to another court because the matter should have been commenced in, or the appeal should have been taken to, such other court. See Rule 741 (waiver of objections to jurisdiction).

(2) To transfer to another appellate court under Rule 752 (transfers between Superior and Commonwealth Courts).

(3) To dismiss for want of jurisdiction in the unified judicial system of this Commonwealth.

(4) To dismiss for mootness.

(5) To dismiss for failure to preserve the question below, or because the right to an appeal has been otherwise waived. See Rule 302 (requisites for reviewable issue) and Rule 1551(a) (review of quasijudicial orders).

(6) To continue generally or to quash because the appellant is a fugitive.

(7) To quash for any other reason appearing on the record.

Any two or more of the grounds specified in this rule may be joined in the same motion. Unless otherwise ordered by the appellate court, a motion under this rule shall not relieve any party of the duty of filing **his or her** briefs and reproduced records within the time otherwise prescribed therefor. The court may grant or refuse the motion, in whole or in part; may postpone consideration thereof until argument of the case on the merits; or may make such other order as justice may require.

(b) In a children's fast track appeal, a dispositive motion filed under Paragraphs (a)(1), (a)(2), (a)(5), (a)(6) or (a)(7) of this rule shall be filed within 10 days of the filing of the statement of errors complained of on appeal required by Rule 905(a)(2), or within 10 days of the lower court's filing of a Rule 1925(a)(2) opinion, whichever period expires last, unless the basis for seeking to quash the appeal appears on the record subsequent to the time limit provided herein, or except upon application and for good cause shown.

Official Note: Based on former Supreme Court Rule 33 and former Superior Court Rule 25.

As to Paragraph (6) see, e.g. *Commonwealth v. Galoway*, 460 Pa. 309, 333 A.2d 741 (1975) (continuing generally), *Commonwealth v. Barron*, 237 Pa. Super. 369, 352 A.2d 84 (1975) (quashing). Rule 1933 (record for preliminary hearing in appellate court) makes clear the right of a moving party to obtain immediate transmission of as much of the record as may be necessary for the purposes of a motion under this rule. See Rule 123(c) (speaking applications).

CHAPTER 21. BRIEFS AND REPRODUCED RECORD

CONTENT OF BRIEFS

Rule 2113. Reply Brief.

(a) *General rule*.—In accordance with Rule 2185(a) **[(Time for Serving and Filing Briefs; General Rule)] (service and filing of briefs)**, the appellant may file a brief in reply to matters raised by appellee's brief and not previously addressed in appellant's brief. If the appellee has cross appealed, the appellee may file a similarly limited reply brief.

(b) *Response to draft or plan*.—A reply brief may be filed as prescribed in Rule 2134 (drafts or plans).

(c) *Other briefs*.—No further briefs may be filed except with leave of court.

Official Note: An appellant now has a general right to file a reply brief. The scope of the reply brief is limited, however, in that such brief may only address matters raised by appellee and not previously addressed in appellant's brief. No subsequent brief may be filed unless authorized by the court.

The length of a reply brief is set by Rule 2135 (length of briefs). The due date for a reply brief is found in Rule 2185(a) **(service and filing of briefs) [(time for serving and filing briefs)]**.

Where there are cross appeals, the deemed or designated appellee may file a similarly limited reply brief addressing issues in the cross appeal. See also Rule 2136 (briefs in cases involving cross appeals).

CONTENT OF REPRODUCED RECORD

Rule 2154. Designation of Contents of Reproduced Record.

(a) *General rule*.—Except when the appellant has elected to proceed under Subdivision (b) of this rule, **or as otherwise provided in Subdivision (c) of this rule**, the appellant shall not later than 30 days before the date fixed by or pursuant to Rule 2185 **[(time for serving and filing briefs)] (service and filing of briefs)** for the filing of his **or her** brief, serve and file a designation of the parts of the record which he **or she** intends to reproduce and a brief statement of issues which he **or she** intends to present for review. If the appellee deems it necessary to direct the particular attention of the court to parts of the record not designated by the appellant, the appellee shall, within ten days after receipt of the designations of the appellant, serve and file a designation of those parts. The appellant shall include in the reproduced record the parts thus designated. In designating parts of the record for reproduction, the parties shall have regard for the fact that the entire record is always available to the court for reference and examination and shall not engage in unnecessary designation.

(b) *Large records.*—If the appellant shall so elect, or if the appellate court has prescribed by rule of court for classes of matters or by order in specific matters, preparation of the reproduced record may be deferred until after the briefs have been served. Where the appellant desires thus to defer preparation of the reproduced record, the appellant shall, not later than the date on which his or her designations would otherwise be due under Subdivision (a), serve and file notice that he or she intends to proceed under this subdivision. The provisions of Subdivision (a) shall then apply, except that the designations referred to therein shall be made by each party at the time his or her brief is served, and a statement of the issues presented shall be unnecessary.

(c) *Children's fast track appeals.*

(1) **In a children's fast track appeal, the appellant shall not later than 23 days before the date fixed by or pursuant to Rule 2185 (service and filing of briefs) for the filing of his or her brief, serve and file a designation of the parts of the record which he or she intends to reproduce and a brief statement of issues which he or she intends to present for review. If the appellee deems it necessary to direct the particular attention of the court to parts of the record not designated by the appellant, the appellee shall, within 7 days after receipt of the designations of the appellant, serve and file a designation of those parts. The appellant shall include in the reproduced record the parts thus designated. In designating parts of the record for reproduction, the parties shall have regard for the fact that the entire record is always available to the court for reference and examination and shall not engage in unnecessary designation.**

(2) **In a children's fast track appeal, the provisions of Subdivision (b) shall not apply.**

Official Note: Based in part upon former Supreme Court Rule 44, former Superior Court Rule 36 and former Commonwealth Court Rule 88. The prior statutory practice required the lower court or the appellate court to resolve disputes concerning the contents of the reproduced record prior to reproduction. The statutory practice was generally recognized as wholly unsatisfactory and has been abandoned in favor of deferral of the issue to the taxation of costs phase. The uncertainty of the ultimate result on the merits provides each party with a significant incentive to be reasonable, thus creating a self-policing procedure.

Of course, parties proceeding under either procedure may by agreement omit the formal designations and accelerate the preparation of a reproduced record containing the material which the parties have agreed should be reproduced.

See Rule 2189 for procedure in cases involving the death penalty.

Explanatory Note—1979

The principal criticism of the new Appellate Rules has been the provisions for deferred preparation of the reproduced record, and the resulting procedure for the filing of advance copies of briefs (since the page citations to the reproduced record pages are not then available) followed by the later preparation and filing of definitive briefs with citations to the reproduced record pages. It has been argued that in the typical state court appeal the record is quite small, with the result that the pre-1976 practice of reproducing the record in conjunction with the preparation of appellant's definitive brief is entirely appropriate

and would ordinarily be followed if the rules did not imply a preference for the deferred method. The Committee has been persuaded by these comments, and the rules have been redrafted to imply that the deferred method is a secondary method particularly appropriate for longer records.

FORM OF BRIEFS AND REPRODUCED RECORD

Rule 2172. Covers.

(a) *Briefs and Petitions for Allowance of or Permission to Appeal.*—On the front cover of the brief there shall appear the following:

(1) the name of the appellate court in which the matter is to be heard;

(2) the docket number of the case in the appellate court;

(3) the caption of the case in the appellate court, as prescribed by these rules;

(4) title of the filing, such as "Brief for Appellant" or "Brief for Respondent." If the reproduced record is bound with the brief, the title shall so indicate, for example "Brief for Appellant and Reproduced Record," or "Brief for Appellee and Supplemental Reproduced Record," such as the case may be;

(5) designation of the order appealed from such as "Appeal from the Order of" the court from which the appeal is taken, with the docket number therein. On appeals from the Superior Court or the Commonwealth Court its docket number shall be given, followed by a statement as to whether it affirmed, reversed or modified the order of the court or tribunal of first instance, giving also the name of the latter and the docket number, if any, of the case therein;

(6) the names of counsel, giving the office address and telephone number of the one upon whom it is desired notices shall be served.

(b) Children's fast track appeals.—**In a children's fast track appeal, the front cover shall include a statement advising the appellate court that the appeal is a children's fast track appeal.**

[(b)] (c) Reproduced record.—If the reproduced record is bound separately, the cover thereof shall be the same as provided in Subdivision (a), except that in place of the information set forth in Paragraph (a)(4) of this rule there shall appear "Reproduced Record" or "Supplemental Reproduced Record", as the case may be.

[(c)] (d) Repetition in body of document.—Unless expressly required by these rules, none of the material set forth in Subdivisions (a) **[and (b)] through (c)** shall be repeated in the brief or reproduced record.

[(d)] (e) Cover stock.—The covers of all briefs and reproduced records must be so light in color as to permit writing in ink thereon to be easily read and so firm in texture that the ink will not run.

Official Note: Based on former Supreme Court Rules 35C and 36, former Superior Court Rules 27C and 28, and former Commonwealth Court Rule 82, without change in substance except that Paragraph (a)(4) is clarified by eliminating the "Appeal of . . ." heading, which would not conform to the caption on the notice of appeal, and Subdivision (d) is extended to the Commonwealth Court.

FILING AND SERVICE

Rule 2185. Service and Filing of Briefs.

(a) *Time for serving and filing briefs.*

(1) *General [Rule] rule.*—[The] Except as otherwise provided by this rule, the appellant shall serve and file appellant's brief not later than the date fixed pursuant to Subdivision (b) of this rule, or within 40 days after the date on which the record is filed, if no other date is so fixed. The appellee shall serve and file appellee's brief within 30 days after service of appellant's brief and reproduced record if proceeding under Rule 2154(a). A party may serve and file a reply brief permitted by these rules within 14 days after service of the preceding brief but, except for good cause shown, a reply brief must be served and filed so as to be received at least three days before argument. In cross appeals, the second brief of the deemed or designated appellant shall be served and filed within 30 days of service of the deemed or designated appellee's first brief. Except as prescribed by Rule 2187(b) (advance text of briefs), each brief shall be filed not later than the last day fixed by or pursuant to this rule for its service. Briefs shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized.

(2) *Children's fast track appeals.*

(i) In a children's fast track appeal, the appellant shall serve and file appellant's brief within 30 days after the date on which the record is filed, if no other date is so fixed. The appellee shall serve and file appellee's brief within 21 days after service of appellant's brief and reproduced record. A party may serve and file a reply brief permitted by these rules within 7 days after service of the preceding brief but, except for good cause shown, a reply brief must be served and filed so as to be received at least 3 days before argument. In cross appeals, the second brief of the deemed or designated appellant shall be served and filed within 21 days of service of the deemed or designated appellee's first brief. Briefs shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized.

(ii) In a children's fast track appeal, the provisions of Subdivisions (b) and (c) of this Rule shall not apply.

(b) *Notice of deferred briefing schedule.*—When the record is filed the prothonotary of the appellate court shall estimate the date on which the matter will be argued before or submitted to the court, having regard for the nature of the case and the status of the calendar of the court. If the prothonotary determines that the matter will probably not be reached by the court for argument or submission within 30 days after the latest date on which the last brief could be filed under the usual briefing schedule established by these rules, the prothonotary shall fix a specific calendar date as the last date for the filing of the brief of the appellant in the matter, and shall give notice thereof as required by these rules. The date so fixed by the prothonotary shall be such that the latest date on which the last brief in the matter could be filed under these rules will fall approximately 30 days before the probable date of argument or submission of the matter.

(c) *Definitive copies.*—If the record is being reproduced pursuant to Rule 2154(b) (large records) the brief served pursuant to Subdivision (a) of this rule may be typewrit-

ten or page proof copies of the brief, with appropriate references to pages of the parts of the original record involved. Within 14 days after the reproduced record is filed each party who served briefs in advance form under this subdivision shall serve and file definitive copies of his or her brief or briefs containing references to the pages of the reproduced record in place of or in addition to the initial references to the pages of the parts of the original record involved (see Rule 2132 (references in the briefs to the record)). No other changes may be made in the briefs as initially served, except that typographical errors may be corrected.

Official Note: The 2002 amendment recognizes that in cross appeals the deemed or designated appellant's second brief is more extensive than a reply brief and, therefore may require more than 14 days to prepare. See Rule 2136 (briefs in cases involving cross appeals).

CHAPTER 25. POST-SUBMISSION PROCEEDINGS APPLICATION FOR REARGUMENT

Rule 2542. Time for Application for Reargument. Manner of Filing.

(a) *Time.* [—]

(1) *General rule.*—[An] Except as otherwise prescribed by this rule, an application for reargument shall be filed with the prothonotary within 14 days after entry of the judgment or other order involved.

(2) *Children's fast track appeals.*—In a children's fast track appeal, an application for reargument shall be filed with the prothonotary within 7 days after entry of the judgment or other order involved.

(b) *Manner of Filing.*—If the application for reargument is transmitted to the prothonotary of the appellate court by means of first class, express, or priority United States Postal Service mail, the application shall be deemed received by the prothonotary for the purposes of Rule 121(a) (filing) on the date deposited in the United States mail as shown on a United States Postal Service Form 3817 Certificate of Mailing or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter in the court in which reargument is sought and shall be enclosed with the application or separately mailed to the prothonotary. Upon actual receipt of the application, the prothonotary shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this subdivision, shall constitute the date when application was sought, which date shall be shown on the docket.

Official Note: Former Supreme Court Rule 64, former Superior Court Rules 55 and 58 and former Commonwealth Court Rule 113A required the application for reargument to be filed within ten days of the entry of the order. Under Rule 105(b) (enlargement of time) the time for seeking reargument may be enlarged by order, but no order of the Superior Court or of the Commonwealth Court, other than an actual grant of reargument meeting the requirements of Rule 1701(b)(3) (authority of lower court or agency after appeal), will have the effect of postponing the finality of the order involved under Rule 1113 (time for petitioning for allowance of appeal).

The 1986 amendment provided that an application shall be deemed received on the date deposited in the

United States mail as shown on a United States Postal Service Form 3817 Certificate of Mailing.

* * * * *

Rule 2545. Answer to Application for Reargument.

(a) **General rule.**—[Within] Except as otherwise prescribed by this rule, within 14 days after service of an application for reargument, an adverse party may file an answer. The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. The answer need not be set forth in numbered paragraphs in the manner of a pleading. The answer shall set forth any procedural, substantive or other argument or ground why the court should not grant reargument. No separate motion to dismiss an application for reargument will be received. A party entitled to file an answer under this rule who does not intend to do so shall, within the time fixed by these rules for filing an answer, file a letter stating that an answer to the application for reargument will not be filed. The failure to file an answer will not be construed as concurrence in the request for reargument.

(b) **Children's fast track appeals.**—In a children's fast track appeal, within 7 days after service of an application for reargument, an adverse party may file an answer. The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. The answer need not be set forth in numbered paragraphs in the manner of a pleading. The answer shall set forth any procedural, substantive or other argument or ground why the court should not grant reargument. No separate motion to dismiss an application for reargument will be received. A party entitled to file an answer under this rule who does not intend to do so shall, within the time fixed by these rules for filing an answer, file a letter stating that an answer to the application for reargument will not be filed. The failure to file an answer will not be construed as concurrence in the request for reargument.

REMAND OF RECORD

Rule 2572. Time for Remand of Record.

(a) **General rule.**—Unless otherwise ordered:

(1) The record shall be remanded to the court or other tribunal from which it was certified at the expiration of 30 days after the entry of the judgment or other final order of the appellate court possessed of the record.

(2) The pendency of an application for reargument, or of any other application affecting the order, or the pendency of a petition for allowance of appeal from the order, shall stay the remand of the record until the disposition thereof, and until after 30 days after the entry of a final order in the appellate court possessed of the record.

(b) **Supreme Court orders.**—The time for the remand of the record pursuant to subdivision (a) following orders of the Supreme Court shall be

(1) 7 days after expiration of the time for appeal or petition for writ of certiorari to the United States Supreme Court in cases in which the death penalty has been imposed, and

(2) 14 days in all other cases.

Official Note: The amendment provides for remand seven days after expiration of the time for appeal or

petition for writ of certiorari to the United States Supreme Court in cases in which the death penalty has been imposed. This keeps the movement of the record to a minimum and decreases any risks associated with the physical movement of the record.

(c) **Stay of remand pending United States Supreme Court Review.**—A stay of the remand of the record pending review in the Supreme Court of the United States may be granted upon application to the appellate court possessed of the record in the case. The stay shall not exceed 30 days unless the period is extended for cause shown. If during the period of the stay there is filed with the prothonotary of the appellate court possessed of the record a notice from the Clerk of the Supreme Court of the United States that the party who has obtained the stay has filed a jurisdictional statement or a petition for a writ of certiorari in that court, the stay shall continue until final disposition by the Supreme Court of the United States. Upon the filing of a copy of an order of the Supreme Court of the United States dismissing the appeal or denying the petition for a writ of certiorari the record shall be remanded immediately.

(d) **Security.**—Appropriate security in an adequate amount may be required as a condition to the grant or continuance of a stay of remand of the record.

(e) **Docket entry of remand.**—The prothonotary of the appellate court shall note on the docket the date on which the record is remanded and give written notice to all parties of the date of remand.

Official Note: Subdivision (a) is based upon former Commonwealth Court Rule 115A. Former Superior Court Rule 58 permitted the record to be returned to the lower court before the order became final upon expiration of the time to petition for allowance of appeal.

Subdivision (b) extends the ten day period of former Supreme Court Rule 67 to 14 days to conform to the 14 day period for applying for reargument under Rule 2542(a)(1) (time for application for reargument).

Subdivision (c) is patterned after Fed. Rules App. Proc. 41(b) and fills a void in the prior practice. The time periods may be modified by order under Rule 105 (waiver and modification of rules).

ARTICLE III. MISCELLANEOUS PROVISIONS

CHAPTER 37. BUSINESS OF THE COMMONWEALTH COURT

ARGUMENT BEFORE COURT EN BANC OR A PANEL

Rule 3723. Application for Reargument en Banc.

In cases argued before a single judge, as in petitions for review of determinations of government units which are determined in whole or in part upon the record made before the court, or in cases argued before a panel of judges, the court, at any time on its own initiative before its order becomes final, or upon application for reargument pursuant to these rules, may allow reargument before the court en banc. Such action will be taken only for compelling and persuasive reasons.

Official Note: Based on former Commonwealth Court Rule 43. The time for applying for reargument is increased from ten to 14 days. See Rule 2542(a)(1) (time for application for reargument).

[Pa.B. Doc. No. 09-353. Filed for public inspection February 27, 2009, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 1]

Order Amending Rule of Procedure 105; Doc. No. 2; Criminal Procedural Rule; No. 377

Order

Per Curiam:

Now, this 30th day of January, 2009, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3) in the interests of justice and efficient administration, 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 105 is amended as follows.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective as to all local criminal rules adopted or amended on or after February 1, 2009.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART A. Business of the Courts

Rule 105. Local Rules.

* * * * *

(B) Local rules shall not be inconsistent with any general rule of the Supreme Court or any Act of Assembly.

(1) The Criminal Procedural Rules Committee [**may**], at any time, **may** recommend that the Supreme Court suspend, vacate, or require amendment of a local rule.

* * * * *

(E) All local rules shall be published in the *Pennsylvania Bulletin* to be effective and enforceable.

* * * * *

(2) The adopting court shall distribute two certified paper copies of the local rule [**and**] to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. The adopting court also shall distribute to the Legislative Reference Bureau a copy of the local rule on a computer diskette or on a CD-ROM, that complies with the requirements of 1 Pa. Code § 13.11(b) [to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*].

* * * * *

(F) Contemporaneously with publishing the local rule in the *Pennsylvania Bulletin*, the adopting court shall:

(1) file [**seven**] one certified [**copies**] copy of the local rule with the Administrative Office of Pennsylvania Courts; and

(2) publish a copy of the local rule on the Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.

* * * * *

Comment

The policy of the Supreme Court as declared in the Order promulgating this rule is "to implement the unified judicial system under the Constitution of 1968, to facilitate the statewide practice of law under this Court's general rules, and to promote the further policy that a general rule of criminal procedure normally preempts the subject covered." In accordance with the Court's policy, it is intended that local rules should not repeat general rules or statutory provisions verbatim or substantially verbatim nor should local rules make it difficult for attorneys to practice law in several counties.

* * * * *

Paragraph (E) requires the local rule to be published in the *Pennsylvania Bulletin* to be effective. Pursuant to 1 Pa. Code § 13.11(b)—(f), any documents that are submitted for publication must be accompanied by a diskette or CD-ROM formatted in MS-DOS, ASCII, Microsoft Word, or WordPerfect. The diskette or CD-ROM must be labeled with the court's name and address and the local rule's computer file name.

* * * * *

The Administrative Office of the Pennsylvania Courts maintains a [**webpage**] web site containing the texts of local rules [<http://www.courts.state.pa.us/judicial-council/local-rules/index.htm>] <http://www.pacourts.us/T/SpecialCourts/LocalRules.htm>.

The Administrative Office of the Pennsylvania Courts also maintains a web site containing all local criminal rules adopted or amended after February 1, 2009 at: <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.

* * * * *

Official Note: Rule 6 adopted January 28, 1983, effective July 1, 1983; amended May 19, 1987, effective July 1, 1987; renumbered Rule 105 and amended March 1, 2000, effective April 1, 2001; amended October 24, 2000, effective January 1, 2001; Comment revised June 8, 2001, effective immediately; amended October 15, 2004, effective January 1, 2005; amended September 9, 2005, effective February 1, 2006; amended January 25, 2008, effective February 1, 2009; amended January 30, 2009, effective February 1, 2009.

Committee Explanatory Reports:

* * * * *

Final Report explaining the January 25, 2008 changes to Rule 105 concerning submission of local rules for review prior to adoption published with the Court's Order at 38 Pa.B. [**746**] **745** (February 9, 2008).

Final Report explaining the January 30, 2009 changes to Rule 105 concerning publication of local rules on the UJS Portal published with the Court's Order at 39 Pa.B. **829** (February 14, 2009).

FINAL REPORT¹

Amendments to Pa.R.Crim.P. 105 (Local Rules)

LOCAL RULES

On January 30, 2009, effective February 1, 2009, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rule 105 (Local Rules) to:

¹ 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*.

- require, contemporaneously with publishing in the *Pennsylvania Bulletin*, that all new local rules and local rule amendments be published on the Court's website;
- change the number of copies the judicial district is required to send to the AOPC from seven to one; and
- clarify the requirements when publishing in the *Pennsylvania Bulletin*.

The impetus for these rule changes is the Administrative Office of Pennsylvania Court's ("AOPC") ongoing local rules project to provide all local rules on the Court's web page and the January 25, 2008 amendments to Rule 105, effective February 1, 2009, that require, before a local rule may be published and effective and enforceable, the proposed local rule must be submitted in writing to the Committee for review.

Discussion

Correlative with the January 25, 2008 amendments to Rule 105 requiring the judicial districts to submit all new local rules and local rule amendments to the Committee for prior approval, the AOPC started working on an upgrade to the local rules web site to include local Criminal Rules. As the first step in this upgrade, the AOPC added all the statewide Criminal Rules to the new web site. The next step is for the new and amended local rules to be added to the web site.² To ensure the judicial districts comply with publishing on the web site, the Committee and the AOPC automation staff agreed that Rule 105 should be amended to include the requirement that local criminal rules be published on the web site. Accordingly, Rule 105(F) has been amended to require, "contemporaneously with publishing the local rule in the *Pennsylvania Bulletin*," that "the adopting court" publish the local rule on the Court's web page. The Rule 105 Comment includes an elaboration about the Court's local rule web pages with the links to both sites.

In addition to working on this change, the Committee has been discussing with the AOPC and the Court's other advisory Committees the requirement that the judicial districts submit seven copies of new or amended local rules to the AOPC. When the AOPC receives these seven copies, currently they distribute copies to the advisory committees. We agreed that it is no longer necessary for the AOPC to receive seven copies since all the Committees receive copies of the relevant local rules directly from the judicial districts, and all local rules are published in the *Pennsylvania Bulletin*. In view of this, the Rule 105(F) amendments include the requirement that the AOPC receive only one copy of local criminal rule changes.

Finally, Rule 105(E) has been amended to provide that, in lieu of using a diskette, a judicial district may submit the local rule to the *Pennsylvania Bulletin* on a CD ROM.

[Pa.B. Doc. No. 09-245. Filed for public inspection February 13, 2009, 9:00 a.m.]

² Ideally, all local criminal rules should be on the Court's web site. However, the requirement will begin with the local rules that are amended or adopted after receiving the Committee's approval only. The new process will be monitored for a period of time before any decision is made concerning requiring all local criminal rules be added.

Title 25—LOCAL COURT RULES

DAUPHIN COUNTY

Promulgation of Local Rules 210, 211, 1028, 1034
and 1035.2; No. 1793 S 1989

Order

And Now, this 17th day of February 2009, Dauphin County Local Rules of Civil Procedure are promulgated or amended as follows:

Rule 210—Form and Content of Briefs

- (1) Briefs shall contain the following:
 - (a) a full and accurate procedural history of the case;
 - (b) a full, accurate and unbiased statement of the facts;
 - (c) a concise statement of the pertinent legal and factual question(s) involved;
 - (d) a legal discussion, with accurate and verified citations to legal authority, including contra authority; **and**
 - (e) a concise statement indicating the requested relief and its specific application to the facts of the case[; **and**].

[(f) a concise statement setting forth the reasons why oral argument is believed to be necessary or, in the alternative, a statement waiving oral argument.]

- (2) The Brief of each party, if more than fifteen pages in length, shall contain an Index and a Table of Citation of cases and statutes with reference to the page(s) at which they appear in the Brief. All citations must be verified and brought current to the date of filing.

- (3) No Reply Briefs shall be filed unless otherwise directed by the Assigned Judge.

Rule 211—Oral Argument

Any party has a right to argue any motion, and the Court may require oral argument. If desired by any party involved in a motion, an oral argument request must be so noted on the Certificate of Readiness. If the party filing the Certificate of Readiness does not desire oral argument, counsel or that party if unrepresented shall inquire if any other party filing a brief wishes to present oral argument. By filing a completed Certificate of Readiness, counsel or an unrepresented party certifies that said inquiry has been made and that the wishes of all interested parties are accurately reflected.

Rule 1028(c)—Preliminary Objections—Procedures for Disposition

- (1) Preliminary Objections shall be filed with the Prothonotary and served on all other parties.
- (2) Any response shall be filed within twenty days after service of the Preliminary Objections.
- (3) A brief in support shall be filed within forty days after service of the Preliminary Objections.
- (4) A brief in opposition shall be filed twenty days after service of the brief in support of the Preliminary Objections.

(5) **[All briefs shall contain a statement as to whether oral argument is requested. If oral argument is not requested by either party, it is deemed waived and the Preliminary Objections will be decided on briefs]** Oral argument may be requested as set forth in Local Rule 211.

(6) The Preliminary Objections are ready for assignment to a judge when the briefing requirements set forth above are met or the time permitted for the filing of briefs has elapsed. At that point, either party may file an original and one copy of a Certificate of Readiness with the Prothonotary.

(7) The Prothonotary shall forward the original Certificate of Readiness to the Court Administrator's Office and retain the copy in the file.

(8) The Court Administrator's Office, under the direction and supervision of the Civil Calendar Judge, shall promptly assign the Preliminary Objections to a judge who has had prior significant involvement with the case or, if no judge has had prior significant involvement, to a judge on a rotating basis.

(9) The Assigned Judge shall issue a scheduling order, which will include any additional briefing requirements and an argument date (if necessary). If the Assigned Judge determines that argument is advisable before a three-judge panel, the Assigned Judge and the Court Administrator's Office will make the necessary scheduling arrangements for such panel argument. Parties shall provide a copy of all subsequent pleadings, filings, briefs and memoranda related to the Preliminary Objections to the Court Administrator's Office for distribution to the assigned judge. No cover letter is necessary.

(10) If a party requests that discovery is necessary for the disposition of the Preliminary Objections, said request shall be contained in the Preliminary **[Objection]** **Objections** or in the answer thereto. The Assigned Judge shall dispose of this request in the scheduling order.

(11) The Certificate of Readiness form is available in the Prothonotary's Office, in the Court Administrator's Office and online at the Dauphin County web site www.dauphincounty.org. Parties filing a Certificate of Readiness form must ensure that the most current form is utilized. Failure to utilize the most current form shall result in the rejection of the Certificate of Readiness.

Comment: If a party determines that discovery is necessary before the disposition of the Preliminary Objections, a party should file an Administrative Application for a Status Conference and request that a scheduling order be issued which includes discovery deadlines. Rule 1028(c) was amended to provide time frames for response(s) and briefs. A Certificate of Readiness may be filed after the response(s) and briefs have been filed or at the expiration of the time lines contained in this rule. The purpose of the amendment is to provide for the assignment of the matter to a judge when the matter is ready for disposition.

Rule 1034(a)—Motion for Judgment on the Pleadings—Procedures for Disposition

(1) The Motion for Judgment on the Pleadings shall be filed with the Prothonotary and served on all other parties.

(2) A response shall be filed within twenty days after service of the Motion for Judgment on the Pleadings.

(3) A brief in support shall be filed within twenty days after service of the response.

(4) A brief in opposition shall be filed within twenty days after service of the brief in support.

(5) **[All briefs shall contain a statement as to whether oral argument is requested. If oral argument is not requested by either party, it is deemed waived and the Motion for Judgment on the Pleadings will be decided on briefs]** Oral argument may be requested as set forth in Local Rule 211.

(6) The Motion for Judgment on the Pleadings is ready for assignment to a judge when the briefing requirements set forth above are met or the time permitted for the filing of briefs has elapsed. At that point, either party may file an original and one copy of a Certificate of Readiness with the Prothonotary.

(7) The Prothonotary shall forward the original Certificate of Readiness to the Court Administrator's Office and retain the copy in the file.

(8) The Court Administrator's Office shall promptly assign the Motion for Judgment on the Pleadings to a judge who has had prior significant involvement with the case or, if no judge has had prior significant involvement, to a judge on a rotating basis.

(9) The Assigned Judge shall issue a scheduling order, which will include any additional briefing requirements and an argument date (if necessary). If the Assigned Judge determines that argument is advisable before a three-judge panel, the Assigned Judge and the Court Administrator's Office will make the necessary scheduling arrangements for such panel argument. Parties shall provide a copy of all subsequent pleadings, filings, briefs and memoranda related to the Motion for Judgment on the Pleadings to the Court Administrator's Office for distribution to the assigned judge. No cover letter is necessary.

(10) The Certificate of Readiness form is available in the Prothonotary's Office, in the Court Administrator's Office and online at the Dauphin County web site (www.dauphincounty.org). Parties filing a Certificate of Readiness form must ensure that the most current form is utilized. Failure to utilize the most current form shall result in the rejection of the Certificate of Readiness.

Comment: Rule 1034(a) was amended to provide time frames for response(s) and briefs. A Certificate of Readiness may be filed after the response(s) and briefs have been filed or at the expiration of the time lines contained in this rule. The purpose of the amendment is to provide for the assignment of the matter to a judge when the matter is ready for disposition.

Rule 1035.2(a)—Motion for Summary Judgment—Procedures for Disposition

(1) A Motion for Summary Judgment shall be filed with the Prothonotary and served on all other parties.

(2) A response to the Motion for Summary Judgment shall be filed within thirty days after service of the Motion for Summary Judgment.

(3) A brief in support shall be filed within twenty days after service of the response to the Motion for Summary Judgment.

(4) A brief in opposition shall be filed within twenty days after service of the brief in support of the Motion for Summary Judgment.

(5) **[All briefs shall contain a statement as to whether oral argument is requested. If oral argument is not requested by any party, it is deemed**

waived and the Motion for Summary Judgment will be decided on briefs] Oral argument may be requested as set forth in Local Rule 211.

(6) The Motion for Summary Judgment is ready for assignment to a judge when the briefing requirements set forth above are met or the time permitted for the filing of briefs has elapsed. When said requirements are met, either party may file an original and one copy of a Certificate of Readiness with the Prothonotary.

(7) The Prothonotary shall forward the original Certificate of Readiness to the Court Administrator's Office and retain a copy in the file.

(8) The Court Administrator's Office shall promptly assign the Motion for Summary Judgment to a judge who has had prior significant involvement with the case or, if no judge has had prior significant involvement, to a judge on a rotating basis.

(9) The Assigned Judge shall issue a scheduling order, which will include any additional briefing requirements and an argument date (if necessary). If the Assigned Judge determines that argument is advisable before a three-judge panel, the Assigned Judge and the Court Administrator's Office will make the necessary scheduling arrangements for such panel argument. Parties shall provide a copy of all subsequent pleadings, filings, briefs and memoranda related to the Motion for Summary Judgment to the Court Administrator's Office for distribution to the assigned judge. No cover letter is required.

(10) The Certificate of Readiness form is available in the Prothonotary's Office, in the Court Administrator's Office and online at the Dauphin County web site (www.dauphincounty.org). Parties filing a Certificate of Readiness form must ensure that the most current form is utilized. Failure to utilize the most current form shall result in the rejection of the Certificate of Readiness.

Comment: Rule 1035.2(a) was amended to provide time frames for response(s) and briefs. A Certificate of Readiness may be filed after the response(s) and briefs have

been filed or at the expiration of the time lines contained in this rule. The purpose of the amendment is to provide for the assignment of the matter to a judge when the matter is ready for disposition.

The promulgation of Rule 211 shall be effective thirty (30) days after publication in the *Pennsylvania Bulletin*. The amendments to Rules 210, 1028(c), 1034(a) and 1035.2(a) shall be effective upon posting on the UJS portal.

By the Court

RICHARD A. LEWIS,
President Judge

[Pa.B. Doc. No. 09-354. Filed for public inspection February 27, 2009, 9:00 a.m.]

SUPREME COURT

In Re: Judge Mark A. Ciavarella, Jr.; Court of Common Pleas of Luzerne County; No. 327; Judicial Administration; Doc. No. 1

Order

Per Curiam

And Now, this 13th day of February 2009, upon consideration of the entry of a plea of guilty on February 12, 2009, in the United States District Court of the Middle District of Pennsylvania by Judge Mark A. Ciavarella, Jr., of the Court of Common Pleas of Luzerne County, the Order of this Court dated January 28, 2009, is hereby amended and the salary and benefits of Judge Mark A. Ciavarella, Jr. are terminated.

JOHN A. VASKOV,
Deputy Prothonotary

[Pa.B. Doc. No. 09-355. Filed for public inspection February 27, 2009, 9:00 a.m.]

RULES AND REGULATIONS

Title 58—RECREATION

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

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 27, 2009, meeting, adopted the following rulemaking:

Amend §§ 141.41—141.45 and 141.47 to restructure the regulatory provisions relating to big game hunting to promote consistency and clarity in the regulations and also permit the full inclusion of crossbows during the various big game seasons to expand opportunity and increase participation in big game hunting within this Commonwealth.

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

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

Notice of proposed rulemaking was published at 38 Pa.B. 6937 (December 20, 2008).

1. Purpose and Authority

In recent years, the Commission has been moving towards a comprehensive restructuring of the regulations attending the code. The goals of the restructuring of the regulations are primarily focused on simplifying and making the language more understandable to its users. To this end, the Commission has begun rewriting the regulatory structures relating to the big game seasons. As time progresses, the Commission intends to carry the theme set forth in these changes to other chapters of the regulations to establish clear correlations between related seasonal information. As part of this comprehensive effort, the Commission desires to address the usage of crossbows during the various big game seasons. The Commission recognizes that over the past decade there has been a growing debate concerning the full inclusion of the use of crossbows during the various big game archery seasons. The Commission has identified that there are scores of hunters on both sides of the issue and that each side staunchly supports their respective point of view. In an effort to promote consistency and clarity in the regulations pertaining to big game seasons as well as expand opportunity and increase participation in big game hunting within this Commonwealth, the Commission amended §§ 141.41, 141.43—141.45 and 141.47. Some notable substantive changes include the full inclusion of crossbows during the various big game archery seasons as well as the prohibition on the usage of crossbows during the various muzzleloader deer seasons without an archery deer license.

Section 2102(d) of the code (relating to regulations) authorizes the Commission to “promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used.” Section 2102(a) of the code 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 §§ 141.41, 141.43—141.45 and 141.47 were adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amended §§ 141.41, 141.43—141.45 and 141.47 to restructure the regulatory provisions relating to big game hunting to promote consistency and clarity in the regulations and also permit the full inclusion of crossbows during the various big game seasons to expand opportunity and increase participation in big game hunting within this Commonwealth.

3. Persons Affected

Persons wishing to hunt big game within this Commonwealth may be affected by the final-form rulemaking.

4. Comment and Response Summary

Out of a total of 382 official written comments concerning this final-form rulemaking, 123 supported and 252 opposed the the full inclusion of crossbows during the big game archery seasons, one supported the inclusion of crossbows in big game archery and muzzleloader seasons, three supported the full inclusion of crossbows during the big game archery seasons for junior and senior hunters only, one supported the full inclusion of crossbows during the big game archery seasons for mentored youth hunters only, one supported the creation of a crossbow season during the first 2 weeks of November and one supported increasing the maximum poundage for crossbows.

5. Cost and Paperwork Requirements

The final-form rulemaking should not result in any additional cost or paperwork. Rather, the rulemaking will substantially reduce, if not eliminate, all fees, costs and paperwork associated with the disabled persons crossbow permit application process.

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 A. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative 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 Chapter 141, are amended by amending §§ 141.1 141.43—141.45 and 141.47 to read as set forth in Annex A.

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

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

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-276 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter C. BIG GAME

§ 141.41. General.

It is unlawful to:

(1) Kill big game by mistake or accident and immediately after killing and before removing any big game from the location of the killing, fail to fully complete the proper game kill tag in compliance with the instructions printed on the tag and attach only the game kill tag to the big game.

(2) Kill big game by mistake or accident and fail to report the killing to the appropriate Commission regional office as soon as possible but no later than 12 hours after the time of kill.

(3) Fail, within 10 days of the kill, to complete the report card supplied with the hunting license for reporting big game killed and mail the report card to the Commission in Harrisburg or by any other method designated by the Director.

(4) Receive a DMAP permit without reporting in the manner prescribed on the permit.

(5) Harvest more than one deer at a time before lawfully tagging a deer previously harvested when multiple harvests of deer per day are authorized, except as otherwise provided in § 141.1 (relating to special regulations areas).

§ 141.43. Deer.

(a) *Archery deer season.*

(1) *Permitted devices.* It is lawful to hunt deer during the archery deer season with any of the following devices:

(i) *A bow and arrow.* A bow must have a peak draw weight of at least 35 pounds. An arrow must be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch with at least two cutting edges located on the same plane throughout the length of the cutting surface, and may not exceed 3 inches in length.

(ii) *A crossbow and bolt.* A crossbow must have a peak draw weight of at least 125 pounds. A bolt must be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch with at least two cutting edges located on the same plane throughout the length of

the cutting surface, and may not exceed 3 inches in length. This subparagraph shall become effective July 1, 2009, and expire on June 30, 2012, unless the Commission authorizes its continued legal effectiveness prior to June 30, 2012.

(2) *Prohibitions.* While hunting deer during the archery deer season, it is unlawful to:

(i) Use or possess a firearm. Exceptions:

(A) A person may possess certain firearms during the archery deer season under the authorizations of section 2525 of the act (relating to possession of firearm for protection of self or others).

(B) A person may possess and use both a bow or crossbow and a muzzleloading firearm during the overlaps of the early archery and muzzleloader deer seasons and the late archery and flintlock muzzleloading deer seasons if that person is in possession of both a valid archery deer license and a valid muzzleloader deer license and meets the greater protective material requirements for the muzzleloader deer season, if applicable.

(ii) Use a device not provided for in the act or in this subsection.

(iii) Use magnifying telescopic sights.

(b) *Flintlock muzzleloading deer season.*

(1) *Permitted devices.* It is lawful to hunt deer during the flintlock muzzleloading deer season with a flintlock muzzleloading firearm. The firearm must be an original or similar reproduction of muzzleloading firearm manufactured prior to 1800. The firearm's ignition mechanism must consist of a hammer containing a naturally occurring stone that is spring propelled onto an iron or steel frizzen which, in turn, creates sparks to ignite a priming powder. The firearm must have open sights and be a .44 caliber or larger single-barrel long gun or a .50 caliber or larger single-barrel handgun that propels single-projectile ammunition.

(2) *Prohibitions.* While hunting deer during the flintlock muzzleloading deer season, it is unlawful to:

(i) Use manmade materials attached to the hammer or frizzen to create sparks.

(ii) Use telescopic sights.

(iii) Use or possess multiple projectile ammunition or ammunition other than required by section 2322(a)(4) of the act (relating to prohibited devices and methods).

(iv) Use a device not provided for in the act or in this subsection.

(c) *Muzzleloading deer season.*

(1) *Permitted devices.* It is lawful to hunt deer during the muzzleloading deer season with a muzzleloading firearm. The firearm's ignition mechanism must consist of a percussion cap, primer or flintlock fired design. The firearm must be a .44 caliber or larger single-barrel long gun or a .50 caliber or larger single-barrel handgun that propels single-projectile ammunition.

(2) *Prohibitions.* While hunting deer during the muzzleloading deer season, it is unlawful to:

(i) Use or possess multiple projectile ammunition or ammunition other than required by section 2322(a)(4) of the act.

(ii) Use a device not provided for in the act or in this subsection.

(d) *Regular and special firearms deer seasons.*

(1) *Permitted devices.* It is lawful to hunt deer during the regular and special firearms deer seasons with any of the following devices:

- (i) A manually operated, centerfire firearm.
- (ii) A bow and arrow as permitted under subsection (a)(1)(i).
- (iii) A crossbow and bolt as permitted under subsection (a)(1)(ii).
- (iv) A muzzleloading firearm as permitted under subsection (b)(1) or (c)(1).

(2) *Prohibitions.* While hunting deer during the regular and special firearms deer seasons, it is unlawful to:

- (i) Use or possess multiple projectile ammunition or ammunition other than required by section 2322(a)(4) of the act.
- (ii) Use a device not provided for in the act or in this subsection.
- (e) *Cooperating while hunting during any deer season.* Holders of any of the appropriate licenses or stamps may cooperate while hunting antlered or antlerless deer if pertinent provisions of the act and this season are met.

(f) *.22 caliber or less rimfire required for furbearers.* When using a firearm only a rimfire rifle or handgun .22 caliber or less may be used to dispatch legally trapped furbearers during the regular or special firearms deer seasons.

§ 141.44. Bear.

(a) *Archery bear season.*

(1) *Permitted devices.* It is lawful to hunt bear during the archery bear season with any of the following devices:

- (i) *A bow and arrow.* A bow must have a peak draw weight of at least 35 pounds. An arrow must be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch with at least two cutting edges located on the same plane throughout the length of the cutting surface, and may not exceed 3 inches in length.
- (ii) *A crossbow and bolt.* A crossbow must have a peak draw weight of at least 125 pounds. A bolt must be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch with at least two cutting edges located on the same plane throughout the length of the cutting surface, and may not exceed 3 inches in length. This subparagraph shall become effective July 1, 2009, and expire on June 30, 2012, unless the Commission authorizes its continued legal effectiveness prior to June 30, 2012.

(2) *Prohibitions.* While hunting bear during the archery bear season, it is unlawful to:

- (i) Use or possess a firearm or while in possession of a firearm, except as otherwise authorized by section 2525 of the act (relating to possession of firearm for protection of self or others).
- (ii) Use a device not provided for in the act or in this subsection.
- (iii) Disturb, wound or kill a bear in a den.
- (iv) Assist, conspire or use a device to locate a bear to which a transmitter has been attached.
- (v) Use magnifying telescopic sights.
- (b) *Regular and extended firearms bear seasons.*

(1) *Permitted devices.* It is lawful to hunt bear during the regular and extended firearms bear seasons with any of the following devices:

- (i) A manually operated, centerfire firearm.
- (ii) A bow and arrow as permitted under subsection (a)(1)(i).
- (iii) A crossbow and bolt as permitted under subsection (a)(1)(ii).
- (iv) *A muzzleloading firearm.* The firearm's ignition mechanism must consist of a percussion cap, primer or flintlock fired design. The firearm must be a .44 caliber or larger single-barrel long gun or a .50 caliber or larger single-barrel handgun that propels single-projectile ammunition.

(2) *Prohibitions.* While hunting for bear during the regular and extended firearms bear seasons, it is unlawful to:

- (i) Use or possess multiple projectile ammunition or ammunition other than required by section 2322(a)(4) of the act (relating to prohibited devices and methods).
- (ii) Use a device not provided for in the act or in this subsection.
- (iii) Disturb, wound or kill a bear in a den.
- (iv) Assist, conspire or use a device to locate a bear to which a transmitter has been attached.

§ 141.45. Turkey.

(a) *Fall turkey season.*

(1) *Permitted devices.* It is lawful to hunt turkey during the fall turkey season with any of the following devices:

- (i) A manually operated centerfire, rimfire or muzzleloading firearm using single-projectile ammunition, except as otherwise prohibited in paragraph (2)(i).
- (ii) A manually operated or semiautomatic, centerfire shotgun or muzzleloading shotgun using shot ammunition no larger than #4 lead, #4 Bismuth/tin or #2 steel.
- (iii) *A bow and arrow.* A bow must have a peak draw weight of at least 35 pounds. An arrow must be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch with at least two cutting edges located on the same plane throughout the length of the cutting surface, and may not exceed 3 inches in length.
- (iv) *A crossbow and bolt.* A crossbow must have a peak draw weight of at least 125 pounds. A bolt must be equipped with a broadhead that has an outside diameter or width of at least 7/8 inch with at least two cutting edges located on the same plane throughout the length of the cutting surface, and may not exceed 3 inches in length.

(2) *Prohibitions.* While hunting turkey during the fall turkey season, it is unlawful to:

- (i) Use a manually operated centerfire, rimfire or muzzleloading firearm using single projectile ammunition in Wildlife Management Units 1A, 1B, 2A, 2B, 5B, 5C and 5D.
- (ii) Use drives or any method other than hand or mouth calling.
- (iii) Use or possess an electronic caller or a live turkey as a decoy.
- (iv) Use a device not provided for in the act or in this subsection.
- (b) *Spring turkey season.*

(1) *Permitted devices.* It is lawful to hunt turkey during the spring turkey season with any of the following devices:

(i) A manually operated or semiautomatic, centerfire shotgun or muzzleloading shotgun using shot ammunition no larger than #4 lead, #4 Bismuth/tin or #2 steel.

(ii) A bow and arrow as permitted under subsection (a)(1)(iii).

(iii) A crossbow and bolt as permitted under subsection (a)(1)(iv).

(2) *Prohibitions.* While hunting turkey during the spring turkey season, it is unlawful to:

(i) Use a centerfire, rimfire or muzzleloading firearm using single projectile ammunition.

(ii) Use or possess single projectile ammunition, except arrows or bolts.

(iii) Use drives or any method other than hand or mouth calling.

(iv) Use or possess an electronic caller or a live turkey as a decoy.

(v) Use a device not provided for in the act or in this subsection.

§ 141.47. Elk.

(a) *Permitted devices.* It is lawful to hunt elk during the elk season with any of the following devices:

(1) *A manually operated, centerfire rifle or handgun.* The firearm must be a .27 caliber or larger firearm that propels single-projectile ammunition 130 grains or larger.

(2) *A manually operated, centerfire shotgun.* The firearm must be a 12 gauge or larger firearm.

(3) *A muzzleloading firearm.* The firearm must be .50 caliber or larger firearm that propels single-projectile ammunition 210 grains or larger.

(4) *A bow and arrow.* A bow must have a peak draw weight of at least 45 pounds. An arrow must be equipped with a broadhead that has an outside diameter or width

of at least 1 inch with at least two cutting edges located on the same plane throughout the length of the cutting surface, and may not exceed 3 inches in length.

(5) *A crossbow and bolt.* A crossbow must have a peak draw weight of at least 125 pounds. A bolt must be equipped with a broadhead that has an outside diameter or width of at least 1 inch with at least two cutting edges located on the same plane throughout the length of the cutting surface, and may not exceed 3 inches in length.

(b) *Prohibitions.* While hunting elk during the elk season, it is unlawful to:

(1) Use or possess multiple projectile ammunition or ammunition other than that required under section 2322 (a)(4) of the act (relating to prohibited devices and methods).

(2) Use a device not provided for in the act or in this section.

(3) Fail to mark the kill site after lawful harvest in accordance with Commission instructions provided during the elk season orientation.

(4) Act or conspire to act as a guide for any person without first securing a permit from the Commission and attending an orientation program sponsored by the Commission.

(5) Act or conspire to act as a client for any guide who has not secured a permit from the Commission and attended an orientation program sponsored by the Commission.

(6) Drive or herd elk.

(7) Hunt within 150 yards from the center line of Route 555, from the intersection of Routes 255 and 555, to the intersection of Huston Hill Road and Route 555.

(8) Hunt within the Hick's Run no hunt zone, this being the area immediately adjacent to and north of Route 555, between Hick's Run Road and Huston Hill Road and within .3 mile of Route 555.

[Pa.B. Doc. No. 09-356. Filed for public inspection February 27, 2009, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 501]

Food Stamp Discretionary Provisions

Statutory Authority

The Department of Public Welfare (Department) under the authority of sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)) and the Federal Food Stamp regulation in 7 CFR 273.16(h)(1)(ii)(C) (relating to disqualification for intentional program violation) intends to amend the regulation set forth in Annex A.

Purpose of Regulation

The purpose of this proposed rulemaking is to amend § 501.13(b)(2)(i)(C) (relating to intentional program violation disqualification) to conform to Federal requirements in 7 CFR 273.16(h)(1)(ii)(C). The Department also proposes to amend § 501.13(a)(1) by deleting the term "Office" and inserting "Bureau" when referencing the bureau that handles administrative disqualification hearings.

This proposed rulemaking is needed to codify Federal requirements to provide written notification to food stamp households of the consequences of consenting to disqualification as part of a deferred adjudication process. Proposed rulemaking is needed to ensure that these requirements are codified as a State regulation completely and accurately.

Requirements

§ 501.13(b)(2)(i)(C) (relating to intentional program violation disqualification).

The Department proposes to amend this clause to delete references to specific disqualification penalty periods that are no longer correct and to codify notice requirements as provided under Federal regulation. The Department proposes to amend this clause to specify that a written notice to food stamp households in which a member accused of committing an intentional program violation consents to disqualification must include a reference to 7 CFR 273.16(b). Written notice must also include a statement of which penalty is being imposed as a result of the consent agreement.

Affected Individuals and Organizations

This proposed rulemaking affects food stamp households in which a household member is accused of committing an intentional program violation and consents to disqualification under a deferred adjudication process. The individual who is subject to disqualification must receive appropriate advance written notice of the consequences of consenting to disqualification. Approximately 925 individuals were disqualified from participation in the Food Stamp Program for Fiscal Year (FY) 2004-2005 because they or the head of household signed a disqualification consent agreement; 671 for FY 2005-2006 and 645 for FY 2006-2007.

Accomplishments and Benefits

This proposed rulemaking codifies notice requirements that comply with the Federal regulation. Individuals who

are not accurately or completely informed of the consequences of consenting to disqualification could challenge the disqualification on the grounds that the written notice was defective.

Fiscal Impact

No cost to the Commonwealth, local government, service providers or food stamp households is anticipated as a result of this proposed rulemaking.

Paperwork Requirements

This proposed rulemaking does not increase or add to paperwork requirements.

Effective Date

This proposed rulemaking is effective upon final publication in the *Pennsylvania Bulletin*.

Public Comment Period

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to the Department at the following address: Edward J. Zogby, Director, Bureau of Policy, Room 431, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-4081 within 30 calendar days after the date of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference Regulation No. 14-515 when submitting comments.

Persons with a disability who require an auxiliary aid or service may submit comments by using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Regulatory Review Act

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 12, 2009, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare (Committees). In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

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

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-PRO-515. No fiscal impact; (8) recommendations adoption.

Annex A
TITLE 55. PUBLIC WELFARE
PART II. PUBLIC ASSISTANCE MANUAL
Subpart L. FOOD STAMP PROGRAM
CHAPTER 501. FOOD STAMP DISCRETIONARY PROVISIONS

§ 501.13. Intentional program violation disqualification.

(a) Determination of an intentional program violation.

(1) Disqualification hearings—7 CFR 273.16(a) and (e). The [Office] Bureau of Hearings and Appeals is responsible for conducting administrative disqualification hearings for individuals alleged to have committed an intentional program violation as set forth in § 275.11(a) (related to general policy.)

* * * * *

(b) Disqualification without a hearing or prosecution by a court.

* * * * *

(2) Deferred adjudication—7 CFR 273.16(h). The Department will establish procedures to allow accused individuals to sign disqualification consent agreements for cases of deferred adjudication. The Office of Inspector General may use this method for cases in which a determination of guilt is not obtained from a court [due to] because the accused individual [having] met the terms of a court order or for cases which are not

prosecuted [due to] because the accused individual [having] met the terms of an agreement with the prosecutor. Disqualification consent agreements in cases referred for prosecution will conform with the following requirements:

(i) Notification. Advance written notification will be provided to the household member stating the consequences of consenting to disqualification as part of the deferred adjudication. The advance notification will include, at a minimum:

* * * * *

(C) [Disqualification] A statement that the disqualification penalties for intentional program [violation] violations under the Food Stamp Program [which could be imposed are 6-month disqualification for the first violation, 12-month disqualification for the second violation and permanent disqualification for the third violation] are specified in 7 CFR 273.16(b) (relating to disqualification for intentional program violation).

(D) A statement of the penalty that will be imposed as a result of consenting to disqualification.

(E) A statement that the remaining household member, if any, will be held responsible for repayment of the resulting claim as a result of meeting the terms of the agreement with the prosecutor or the court order.

* * * * *

[Pa.B. Doc. No. 09-357. Filed for public inspection February 27, 2009, 9:00 a.m.]

NOTICES

DELAWARE RIVER BASIN COMMISSION

Meeting and Public Hearing

The Delaware River Basin Commission (Commission) will hold an informal conference followed by a public hearing on Wednesday, March 11, 2009. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the Commission's office building, located at 25 State Police Drive, West Trenton, NJ.

The conference among the commissioners and staff will begin at 10:30 a.m. and will consist of a presentation by representatives of the National Weather Service and the United States Army Corps of Engineers on a project due to be completed later this year that will make digital, interactive flood inundation maps available by means of the Internet for the main stem Delaware River from Trenton to Port Jervis, excluding the Delaware Water Gap. The presentation will be followed by question and answer period.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include the dockets listed as follows:

1. *DuPont Country Club D-90-104-2*. An application for renewal of a surface water withdrawal project to continue the withdrawal of a maximum of 11 million gallons per 30 days (mg/30 days) of water to irrigate approximately 80 acres of the applicant's golf course fairways. Surface water is withdrawn from two existing intakes—one on Brandywine Creek and the other on Husband's Run, a tributary of Brandywine Creek. The project is located in the Brandywine-Christina Watershed in the City of Wilmington, New Castle County, DE.

2. *Borough of Glassboro D-96-54 CP-2*. An application for the renewal of a groundwater withdrawal project to continue the withdrawal of 105 mg/30 days to supply the applicant's public water distribution system from existing Wells Nos. 2—9 in the Cohansey Formation. The project is located in the Mantua Creek Watershed in Glassboro Borough, Gloucester County, NJ, in New Jersey Critical Water Supply Area 2.

3. *Womelsdorf-Robeson Joint Authority D-98-23 CP-2*. An application for renewal of a groundwater withdrawal project to continue the withdrawal of 23 mg/30 days to supply the applicant's public water supply from existing Well Nos. 1, 2, 8 and 9. The project is located in the Precambrian and Cambrian age formations in the Tulpehocken Creek Watershed in Millcreek Township, Lebanon County and Heidelberg Township, Berks County, PA.

4. *Buckingham Township D-2003-13 CP-5*. An application for approval of a groundwater withdrawal project to supply up to 5.31 mg/30 days of water to the applicant's public water supply system from new Well No. F-8 and retain the existing combined withdrawal from all wells of 42.0 mg/30 days. The project will allow the docket holder to add flexibility and redundancy and will relieve stress on its Furlong distribution system. The project is located in the Limeport Formation in the Mill Creek Watershed

in Buckingham Township, Bucks County, PA and is located in the Southeastern Pennsylvania Ground Water Protected Area.

5. *United States Steel, LLC D-78-68-2*. An application for the approval of a 0.163 million gallon per day (mgd) discharge of treated sanitary wastewater from Outfall No. 203; a 3.75 mgd discharge of industrial waste and noncontact cooling water (NCCW) from Outfall No. 103; and a NCCW discharge from Outfall No. 002. Additionally, the docket holder has requested increased TDS effluent concentrations to support a new industrial client. The applicant requests a TDS determination establishing new daily maximum (2,200 mg/l), monthly average (1,100 mg/l) and instantaneous maximum (2,750 mg/l) concentrations at Outfall No. 103. Onsite Outfalls Nos. 103 (IWTP), 203 (WWTP) and 303 (stormwater only) all discharge to Outfall No. 003. The project WWTP, IWTP, and Outfall No. 002 all discharge to Water Quality Zone 2 of the Delaware River at River Mile 127.0. The project facilities are located at the U.S. Steel Real Estate Keystone Industrial Port Complex in Falls Township, Bucks County, PA.

6. *Eagle Lake Community Association D-87-55-2*. An application to approve the Association's existing 0.5 mgd wastewater treatment plant (WWTP). The Commission issued Docket No. D-87-55 on September 22, 1987, approving construction of a 0.4 mgd WWTP by the Association. The WWTP discharges to an unnamed tributary of Tamarack Creek, a tributary of the Lehigh River, which flows to the Delaware River. The project is located within the drainage area to the section of the nontidal Delaware River known as the Lower Delaware, which is designated as Special Protection Waters with the classification Significant Resource Waters. The project is located in Covington Township, Lackawanna County, PA.

7. *Waste Management Disposal Services of Pennsylvania, Inc. D-88-54-4*. An application for renewal of approval of a discharge of 0.1 mgd from the Grows Landfill Leachate Treatment Plant (LTP). Additionally, a TDS determination is requested to allow the plant's monthly average effluent TDS concentration to increase from 15,000 mg/l to 19,100 mg/l. The LTP outfall discharges to the tidal Delaware River by means of a cove in Water Quality Zone 2 at River Mile 125.64—1.0. The LTP is located in Falls Township, Bucks County, PA. A Notice of Application Received for construction of a new 0.3 mgd LTP for the Grows Landfill was published on November 14, 2006 under Docket No. D-88-54-4. Since the proposed renewal will be processed first, the renewal will be assigned Docket No. D-88-54-4. The application for approval of a new LTP, to be reviewed separately, has been assigned Docket No. D-88-54-5.

8. *Croda, Inc. D-88-74-3*. An application for an increase in the applicant's groundwater withdrawal from 60.04 mg/30 days to 76.63 mg/30 days. DNREC denied a like request, and the Commission draft docket reflects that decision. Additionally, the applicant requested renewal of its surface water allocation; however the Commission staff are recommending that the Commission consider a reduction. The purpose of the project is to continue to supply water for heating and cooling purposes to the Croda, Inc. industrial facility from one Delaware River Intake and Wells Nos. 8—12. The existing groundwater allocation of 60.04 mg/30 days is proposed to be renewed for all wells, but the surface water allocation is proposed

to be reduced from 470.0 mg/30 days to 99.0 mg/30 days. The project is located south of Interstate Route 295 in New Castle County, DE.

9. *Ruscombmanor Township D-2007-34 CP-1*. An application for approval to expand the Golden Oaks WWTP from 0.025 mgd to 0.0645 mgd. The WWTP discharges to a UNT of Furnace Creek in Ruscombmanor Township, Berks County, PA.

10. *Blue Mountain Ski Area D-2008-23-1*. An application for approval of the expansion of the Blue Mountain Ski Area WWTP from 25,000 gallons per day (gpd) to 60,000 gpd. The project WWTP is located in Lower Towamensing Township, Carbon County, PA. The WWTP currently discharges to Buckwa Creek, a tributary of Aquashicola Creek. If approved, the project will discharge directly to Aquashicola Creek. Aquashicola Creek is a tributary of the Lehigh River. The project WWTP is located within the drainage area of the section of the nontidal Delaware River known as the Lower Delaware, which is classified as Special Protection Waters.

11. *Aqua Pennsylvania, Inc. D-2008-25-1*. An application for approval of the existing 0.150 mgd Ridley Creek Water Filtration Plant discharge. The discharge consists of filter backwash from the applicant's water filtration plant. The project discharges to Ridley Creek, which is a tributary of the Delaware River within Water Quality Zone 4. The project is located in Middletown Township, Delaware County, PA.

12. *West Deptford Energy Station D-2008-27-1*. An application to approve a cooling water withdrawal and industrial wastewater discharge associated with the construction of a new gas fired, 1,500 megawatt combined cycle power generation facility, known as the West Deptford Energy Station (WDES). The WDES will withdraw an average of 222.6 mg/30 days and maximum of 287.7 mg/30 days of treated effluent from the effluent pipeline of the Gloucester County Utilities Authority (GCUA) wastewater treatment plant as a cooling water source. The WDES will also discharge a monthly average of 2.0 mgd (2.6 mgd daily maximum) of industrial wastewater back to GCUA's effluent pipeline (by means of WDES Outfall No. DSN001A). The combined effluents will discharge from GCUA's existing outfall (No. DSN001). The facility is located in West Deptford Township, Gloucester County, NJ.

13. *Sunny Side Farms, Inc. D-2008-32-1*. A groundwater withdrawal project to supply a maximum of 13.5 mg/30 days of water for the irrigation of approximately 60 acres of wheat and soybeans from a single well known as Millville Farm Well. The well is located in the Kirkwood-Cohansey Formation in the Maurice River Watershed in the City of Millville, Cumberland County, NJ.

14. *Arcelor Mittal Plate, LLC D-2008-36-1*. An application for approval of an existing surface water withdrawal of up to 240 mg/30 days. The Arcelor Mittal Plate Industrial facility withdraws surface water from two intakes. Intake No. 1 withdraws approximately 0.8 mgd of surface water from Sucker Run, a tributary of the West Branch Brandywine Creek. Intake No. 2 withdraws approximately 7.2 mgd of surface water from the West Branch Brandywine Creek. The facility is located in the City of Coatesville, Chester County, PA.

15. *FPL Energy Marcus Hook, LP D-2000-44-2*. Approval is requested for minor corrections to the Descriptions and Decisions Sections of Docket D-2000-44, issued to FPL Energy Marcus Hook, LP, on September 28, 2000.

The business meeting also will include adoption of the Minutes of the Commission's December 10, 2009, business meeting; announcements of upcoming advisory committee meetings and other events; a report on hydrologic conditions in the basin; a report by the Executive Director; and a report by the Commission's General Counsel. Additional business meeting items will include consideration by the Commission of a resolution adopting proposed amendments to the *Water Code* and *Comprehensive Plan* to implement water auditing, and a resolution formally declaring the Commission's intention to review natural gas drilling projects in shale formations in the Delaware Basin. An opportunity for public dialogue will be provided at the end of the meeting.

Draft dockets scheduled for public hearing on March 11, 2009, will be posted on the Commission's web site, www.drbc.net, where they can be accessed through the Notice of Commission Meeting and Public Hearing. Additional documents relating to the dockets and other items may be examined at the Commission's offices. Contact William Muszynski at (609) 883-9500, Ext. 221, with any docket-related questions.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act of 1992 who wish to attend the informational meeting, conference session or hearings should contact the Commission Secretary directly at (609) 883-9500, Ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how the Commission can best accommodate their needs.

PAMELA M. BUSH,
Secretary

[Pa.B. Doc. No. 09-358. Filed for public inspection February 27, 2009, 9:00 a.m.]

DEPARTMENT OF AGRICULTURE

Referendum Order of the Pennsylvania Peach and Nectarine Research Program

I. Referendum on Continuation of the Pennsylvania Peach and Nectarine Research Program (program). The program was established under 3 Pa.C.S. Chapter 45 (relating to Agricultural Commodities Marketing Act) (act). The act requires that the Secretary of Agriculture (Secretary) call a referendum of affected producers every 5 years to determine whether or not a majority of those voting still desire the program. The program was last subjected to a review referendum conducted in 2004. It is now time for another review referendum to determine whether a majority of the peach and nectarine producers desire the program to continue.

II. *Referendum Period*: The referendum period shall be March 17, 2009, until 4 p.m. on March 31, 2009. Completed ballots shall be mailed or hand-delivered to the Department of Agriculture, Bureau of Market Development, Room 310, 2301 North Cameron Street, Harrisburg, PA 17110-9408. Hand-delivered ballots must be received by 4 p.m. on March 31, 2009. Ballots that are mailed must be postmarked no later than March 31, 2009, and received no later than April 6, 2009.

III. *Notice of Referendum*: This referendum order and an official ballot shall be mailed no later than March 10,

2009, to all affected producers whose names appear on the list of peach and nectarine producers maintained in the Office of the Secretary of Agriculture. Additional copies of the same materials shall be made available at the Office of the Secretary of Agriculture.

IV. *Eligible Voters:* The rules governing the eligibility of a producer for voting are as follows. The record date for determination of whether a producer is eligible to vote is March 10, 2009. Peach and nectarine producers who grow a total of 500 or more peach and/or nectarine trees of all ages are eligible to vote.

V. *Counting of Ballots:* The ballots will be canvassed and counted by a Teller Committee appointed by the Secretary. The counting of the ballots will begin 10 a.m. on Tuesday, April 14, 2009, in the Department of Agriculture Building, Harrisburg, PA. The Secretary will announce the results of the referendum within 30 days

following the completion of the referendum period. The results will be published in the *Pennsylvania Bulletin* and disseminated to the news media.

VI. *Reporting Irregularities:* Irregularities or disputes concerning the referendum procedures must be reported in written form to the Secretary within 7 calendar days from the end of the referendum period.

VII. *Publication:* This referendum order shall be published in the *Pennsylvania Bulletin* and the Harrisburg Patriot-News.

VIII. *Effective Date:* The foregoing order shall be effective immediately.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 09-359. Filed for public inspection February 27, 2009, 9:00 a.m.]

DEPARTMENT OF BANKING

Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending February 17, 2009.

Under section 503.E of the Department of Banking Code (71 P. S. § 733-503.E), any person wishing to comment on the following applications, with the exception of branch applications, may file their comments in writing with the Department of Banking, Corporate Applications Division, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290. Comments must be received no later than 30 days from the date notice regarding receipt of the application is published in the *Pennsylvania Bulletin*. The nonconfidential portions of the applications are on file at the Department and are available for public inspection, by appointment only, during regular business hours. To schedule an appointment, contact the Corporate Applications Division at (717) 783-2253. Photocopies of the nonconfidential portions of the applications may be requested consistent with the Department's Right-to-Know Law Records Request policy.

BANKING INSTITUTIONS

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-1-2008	Brentwood Bank Bethel Park Allegheny County	The Devonshire of Mt. Lebanon 1050 McNeilly Road Pittsburgh Allegheny County (Limited Service Facility)	Opened
12-1-2008	Brentwood Bank Bethel Park Allegheny County	UPMC Vanadium Woods Village 50 Vanadium Road Bridgeville Allegheny County (Limited Service Facility)	Opened

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
2-11-2009	Pennsylvania Business Bank Berwyn Chester County	<i>To:</i> 1819 John F. Kennedy Boulevard Philadelphia Philadelphia County <i>From:</i> 1635 Market Street Philadelphia Philadelphia County	Filed

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-30-2009	Susquehanna Bank Lititz Lancaster County	Martinsburg Wal-Mart 800 Foxcroft Avenue Martinsburg Berkely County, WV	Closed

Articles of Amendment

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
2-13-2009	Commerce Bank/Harrisburg Harrisburg Dauphin County	Amend and restate Articles of Incorporation in their entirety.	Approved and Effective

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS**Branch Applications****De Novo Branches**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
2-2-2009	TruMark Financial Credit Union Trevose Bucks County	5th and Berks Streets Philadelphia Philadelphia County	Opened

The Department's web site at www.banking.state.pa.us includes public notices for more recently filed applications.

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 09-360. Filed for public inspection February 27, 2009, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Execution of Oil and Gas Lease for State Forest Lands

Effective January 5, 2009, an Oil and Gas Lease for State Forest Lands, Contract No. M-110551-20 was executed by and between the Commonwealth, acting through the Department of Conservation and Natural Resources (lessor) and Exxon Mobil Corporation (lessee), with its principal place of business located at 222 Benmar Drive, CORP-GP8-367, Houston, TX 77060.

The lease is for Tract 551, located in McIntyre and Jackson Townships, Lycoming County, within the Loyalsock State Forest. The lease was issued to the highest winning and qualified bidder for the tract at the lessor's competitive lease sale held on September 3, 2008. The lease was recorded at the Lycoming County courthouse on January 27, 2009, deed book No. 6548, pages 242—310, instrument No. 200900001186. Contract No. M-110551-20 may be viewed online at contracts.patreaury.org/Admin/Upload/20362_M11055120Tr551.pdf.

Questions regarding this lease should be directed to the Bureau of Forestry, Minerals Section at (717) 787-2703.

MICHAEL DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 09-361. Filed for public inspection February 27, 2009, 9:00 a.m.]

Execution of Oil and Gas Lease for State Forest Lands

Effective January 5, 2009, an Oil and Gas Lease for State Forest Lands, Contract No. M-110596-16 was executed by and between the Commonwealth, acting through the Department of Conservation and Natural Resources (lessor) and Exxon Mobil Corporation (lessee), with its principal place of business located at 222 Benmar Drive, CORP-GP8-367, Houston, TX 77060.

The lease is for Tract 596, located in Hamilton, Liberty and Union Townships, Tioga County, within the Tioga State Forest. The lease was issued to the highest winning and qualified bidder for the tract at the lessor's competitive lease sale held on September 3, 2008. The lease was recorded at the Tioga County courthouse on January 29, 2009, deed book No. 0780, pages 4344—4418, instrument No. 200900704. Contract No. M-110596-16 may be viewed online at contracts.patreaury.org/Admin/Upload/20370_M11059616Tr596.pdf.

Questions regarding this lease should be directed to the Bureau of Forestry, Minerals Section at (717) 787-2703.

MICHAEL DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 09-362. Filed for public inspection February 27, 2009, 9:00 a.m.]

Execution of Oil and Gas Lease for State Forest Lands

Effective January 5, 2009, an Oil and Gas Lease for State Forest Lands, Contract No. M-110723-20 was ex-

ecuted by and between the Commonwealth, acting through the Department of Conservation and Natural Resources (lessor) and Exxon Mobil Corporation (lessee), with its principal place of business located at 222 Benmar Drive, CORP-GP8-367, Houston, TX 77060.

The lease is for Tract 723, located in Gamble Township, Lycoming County, within the Loyalsock State Forest. The lease was issued to the highest winning and qualified bidder for the tract at the lessor's competitive lease sale held on September 3, 2008. The lease was recorded at the Lycoming County courthouse on January 27, 2009, deed book No. 6549, pages 1—69, instrument No. 200900001187. Contract No. M-110723-20 may be viewed online at contracts.patreasury.org/Admin/Upload/20378_M11072320Tr723.pdf.

Questions regarding this lease should be directed to the Bureau of Forestry, Minerals Section at (717) 787-2703.

MICHAEL DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 09-363. Filed for public inspection February 27, 2009, 9:00 a.m.]

Execution of Oil and Gas Lease for State Forest Lands

Effective January 5, 2009, an Oil and Gas Lease for State Forest Lands, Contract No. M-110724-20 was executed by and between the Commonwealth, acting through the Department of Conservation and Natural Resources (lessor) and Exxon Mobil Corporation (lessee), with its principal place of business located at 222 Benmar Drive, CORP-GP8-367, Houston, TX 77060.

The lease is for Tract 724, located in Gamble Township, Lycoming County, within the Loyalsock State Forest. The lease was issued to the highest winning and qualified bidder for the tract at the lessor's competitive lease sale held on September 3, 2008. The lease was recorded at the Lycoming County courthouse on January 27, 2009, deed book No. 6549, pages 70—139, instrument No. 200900001188. Contract No. M-110724-20 may be viewed online at contracts.patreasury.org/Admin/Upload/20384_M11072420Tr724.pdf.

Questions regarding this lease should be directed to the Bureau of Forestry, Minerals Section at (717) 787-2703.

MICHAEL DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 09-364. Filed for public inspection February 27, 2009, 9:00 a.m.]

Execution of Oil and Gas Lease for State Forest Lands

Effective January 5, 2009, an Oil and Gas Lease for State Forest Lands, Contract No. M-110726-20 was executed by and between the Commonwealth, acting through the Department of Conservation and Natural Resources (lessor) and Exxon Mobil Corporation (lessee), with its principal place of business located at 222 Benmar Drive, CORP-GP8-367, Houston, TX 77060.

The lease is for Tract 726, located in Plunketts Creek Township, Lycoming County, within the Loyalsock State

Forest. The lease was issued to the highest winning and qualified bidder for the tract at the lessor's competitive lease sale held on September 3, 2008. The lease was recorded at the Lycoming County courthouse on January 27, 2009, deed book No. 6549, pages 140—209, instrument No. 200900001189. Contract No. M-110726-20 may be viewed online at contracts.patreasury.org/Admin/Upload/20390_M11072620Tr726.pdf.

Questions regarding this lease should be directed to the Bureau of Forestry, Minerals Section at (717) 787-2703.

MICHAEL DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 09-365. Filed for public inspection February 27, 2009, 9:00 a.m.]

Execution of Oil and Gas Lease for State Forest Lands

Effective January 5, 2009, an Oil and Gas Lease for State Forest Lands, Contract No. M-110729-12 was executed by and between the Commonwealth, acting through the Department of Conservation and Natural Resources (lessor) and Exxon Mobil Corporation (lessee), with its principal place of business located at 222 Benmar Drive, CORP-GP8-367, Houston, TX 77060.

The lease is for Tract 729, located in Cummings Township, Lycoming County, within the Tiadaghton State Forest. The lease was issued to the highest winning and qualified bidder for the tract at the lessor's competitive lease sale held on September 3, 2008. The lease was recorded at the Lycoming County courthouse on January 27, 2009, deed book No. 6549, pages 210—283, instrument No. 200900001190. Contract No. M-110729-12 may be viewed online at contracts.patreasury.org/Admin/Upload/20393_M11072912Tr729.pdf.

Questions regarding this lease should be directed to the Bureau of Forestry, Minerals Section at (717) 787-2703.

MICHAEL DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 09-366. Filed for public inspection February 27, 2009, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Application of Neumann College for Approval of Change to University Status, Name Change and Amendment and Restatement of its Articles of Incorporation

Notice of Opportunity for Hearing and Invitation to Protest

Under 24 Pa.C.S. § 6503(e) (relating to certification of institutions), the Department of Education (Department) will consider the application of Neumann College for a Certificate of Authority approving the institution's change to university status with a corresponding change of name to Neumann University. Additionally and in tandem, the Department will consider the request to amend and restate the institution's Articles of Incorporation.

In accordance with 24 Pa.C.S. § 6503(e), the Department will act upon these items without hearing, unless within 30 days after the publication of this notice in the *Pennsylvania Bulletin* a written request for public hearing is filed with the Department, along with a notice of intervention, a petition to intervene or protest in accordance with 1 Pa. Code §§ 35.23 and 35.24 (relating to protest) or 1 Pa. Code §§ 35.27—35.32 (relating to intervention).

Petitions to intervene, protest and request for hearing shall be filed with Carol M. D. Gisselquist, Higher Education Specialist (717) 787-4448, 333 Market Street, Harrisburg, PA 17126-0333 on or before 4 p.m. on the due date prescribed by this notice. Persons wishing to review the

application should phone or write to the aforementioned office to schedule a time for an in-office review. Duplicate copies of the application are not available.

Persons with a disability who wish to attend the hearing, if held, and require an auxiliary aid, service or other accommodation to participate, should contact Carol Gisselquist at (717) 787-4448 to discuss how the Department may best accommodate their needs.

GERALD L. ZAHORCHAK, D.Ed.,
Secretary

[Pa.B. Doc. No. 09-367. Filed for public inspection February 27, 2009, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

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

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

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

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

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

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

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

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0063100 (Sewage Municipal)	Harford Township Board of Supervisors P. O. Box 250 Harford, PA 18823	Susquehanna County Harford Township	Nine Partners Creek 04F	Y

Chesapeake Bay nutrient monitoring requirements for Ammonia Nitrogen, Kjeldahl Nitrogen, Nitrite-Nitrate as N, Total Nitrogen and Total Phosphorus are being added to this permit.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0063258 (Industrial)	Mahanoy Township Authority Water Treatment Plant 46 North Main Street Mahanoy City, PA 17948	Schuylkill County Mahanoy Township	UNT to North Mahanoy Creek 06B	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0209651 SN	Columbia Investment Corporation 6009 Columbia Boulevard Bloomsburg, PA 17815	Columbia County Main Township	UNT of Catawissa Creek 5E	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0222887	Deb Adams, d/b/a Gateway Lodge P. O. Box 36 Route 36 Cooksburg, PA 16217	Barnett Township Jefferson County	UNT to the Clarion River 17-B	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.

PA0040321, Industrial Waste, SICs 3423 and 3644, **Thomas and Betts Corporation**, 8155 T&B Boulevard, Memphis, TN 38125. This facility is located in East Rockhill Township, **Bucks County**.

The application is for renewal of an NPDES permit to discharge 43,000 gpd of treated groundwater from the groundwater remediation system at the former Thomas and Betts—Perkasie facility located in East Rockhill Township, Bucks County. This is an existing discharge to a UNT to East Branch Perkiomen Creek. At the point of discharge, the stream is intermittent, which discharges into East Branch of Perkiomen Creek in the State Water Plan Watershed 3E and classified for TSF.

The proposed effluent limits for Outfall 001 are based on an average annual design flow of 43,000 gpd:

<i>Parameter</i>	<i>Instantaneous Minimum</i>	<i>Annual Average</i>	<i>Instantaneous Maximum</i>
Tetrachloroethylene (Influent)			Monitor and Report
Tetrachloroethylene			Monitor and Report
1,1,1 Trichloroethane (Influent)			Monitor and Report
1,1,1 Trichloroethane			Monitor and Report
Trichloroethylene (Influent)			Monitor and Report
Trichloroethylene		0.003	0.036
pH (Standard Units)	6.0		9.0

Other Requirements:

Quarterly Groundwater Monitoring Requirements

The EPA waiver is in effect.

PA0051004, Sewage, SIC 4952, **Lower Salford Township Authority**, P. O. Box 243, Harleysville, PA 19438. The facility is located in Lower Salford Township, **Montgomery County**.

This application is for renewal of an NPDES permit to discharge treated sewage from the Indian Hill STP located at Fawn Drive in Upper Salford Township, Montgomery County.

The receiving stream, West Branch Skippack Creek, is in the State Water Plan Watershed 3E and is classified for TSF. The nearest downstream public water supply intake for Aqua Pennsylvania is located on Perkiomen Creek and is 11.52 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.007 mgd:

<i>Parameters</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
Ammonia as N			
(5-1 to 10-31)	2.0		4.0
(11-1 to 4-30)	6.0		12.0
Phosphorus as P	1.0		2.0
Fecal Coliform	200 #/100 ml		1,000 #/100 ml
Dissolved Oxygen	5.0 Minimum at all times		
pH (Standard Units)	Within Limits of 6.0 to 9.0 Standard Units at all times		

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

1. Remedial Measures.
2. Operations and Maintenance Plan.
3. Operator Certification.
4. Laboratory Certification.
5. TMDL/WLA Analysis.
6. Proper Sludge Disposal.

The EPA waiver is in effect.

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

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

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

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

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

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

1. Change in Ownership.
2. Stormwater Requirements.

The EPA waiver is in effect.

PA0052434, Sewage, SIC 4952, **Coventry Crossing, LP**, 4900 South Broad Street, Philadelphia, PA 19122. This proposed facility is located in Chester Heights Borough, **Delaware County**.

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

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

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

<i>Parameters</i>	<i>Mass (lb/day)</i>	<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Average Monthly</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅			
(5-1 to 10-31)	3.3	10	20
(11-1 to 4-30)	6.7	20	40
TSS	3.3	10	20
NH ₃ -N			
(5-1 to 10-31)	0.6	1.7	3.4
(11-1 to 4-30)	1.7	5.1	10.2
Phosphorus, Total			
(Years 1—2)		Monitor and Report	Monitor and Report
(Years 3—5)			
(5-1 to 10-31)	0.3	1.0	2.0
(Years 3—5)			
(11-1 to 4-30)	0.7	2.0	4.0
Fecal Coliform		# 200/100 ml	# 1,000/100 ml
Dissolved Oxygen			6.0 (Instantaneous Minimum)
TRC		0.04	0.1
pH		6.0 to 9.0 Standard Units at all times	

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

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

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

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

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

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

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

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

1. Discharge to Special Protection Waters.

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

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

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

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

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

The EPA waiver is in effect.

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

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

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

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

<i>Parameters</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Instantaneous Maximum</i>
CBOD ₅	10		20
Total Suspended Solids	10		20
Ammonia as N	3.0		9.0
Phosphorus as P	Monitor and Report		
Fecal Coliform	200 #/100 ml		1,000 #/100 ml
Dissolved Oxygen		4.0 Minimum at all times	

Parameters	Concentration (mg/l)		
	Average Monthly	Average Weekly	Instantaneous Maximum
pH (Standard Units)	Within Limits of 6.0 to 9.0 Standard Units at all times		
Total Residual Chlorine	0.5		1.2

The EPA waiver is in effect.

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

PA-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 listed.

Outfall 001—0.038 mgd

Parameter	Monthly Average (mg/l)	Daily Maximum (mg/l)	Daily Maximum (lbs/day)
BOD ₅		26.0	8.2
Total Suspended Solids		19.0	6.0
Oil and Grease	15.0	29.0	9.2
Dissolved Oxygen	A minimum of 5.0 mg/l at all times		
pH	6.0 to 9.0 at all times		

Outfall 002—0.156 mgd

Parameter	Monthly Average (mg/l)	Daily Maximum (mg/l)	Daily Maximum (lbs/day)
BOD ₅		26.0	33.8
Total Suspended Solids		19.0	24.7
Oil and Grease	15.0	29.0	37.7
Dissolved Oxygen	A minimum of 5.0 mg/l at all times		
pH	6.0 to 9.0 at all times		

Outfall 003—0.096 mgd

Parameter	Monthly Average (mg/l)	Daily Maximum (mg/l)	Daily Maximum (lbs/day)
BOD ₅		26.0	20.8
Total Suspended Solids		19.0	15.2
Oil and Grease	15.0	29.0	23.2
Dissolved Oxygen	A minimum of 5.0 mg/l at all times		
pH	6.0 to 9.0 at all times		

Outfall 004—0.019 mgd

Parameter	Monthly Average (mg/l)	Daily Maximum (mg/l)	Daily Maximum (lbs/day)
BOD ₅		26.0	4.1
Total Suspended Solids		19.0	3.0
Oil and Grease	15.0	29.0	4.6
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.

PA122204, Industrial Stormwater, **Samuel Adams Pennsylvania Brewery Company**, 7880 Penn Drive, Brienigsville, PA 18031. This proposed facility is located in Upper Macungie Township, **Lehigh County**.

Description of Proposed Activity: Renewal of Industrial Stormwater Permit.

The receiving stream, Iron Run Creek, is in the State Water Plan Watershed 2C and is classified for: HQ-CWF.

The proposed effluent limits for Outfall 001—003 are as follows:

(Appendix J Facilities)

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

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

1. Requirements applicable to stormwater outfalls along with identified best management practices.

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

PA0000183, Amendment No. 1, Industrial Waste, **GE Transportation Systems Erie, d/b/a General Electric Company**, 2901 East Lake Road, Erie, PA 16351. This proposed facility is located in Lawrence Park Township, **Erie County**.

Description of Proposed Activity: discharge of miscellaneous wastewater, stormwater and groundwater. The facility is being reclassified as a minor discharge.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply (stream and Public Water Supplier) considered during the evaluation is the Pennsylvania/Canadian international boundary located in Lake Erie.

The receiving streams, UNTs to Lake Erie, Fourmile Creek and Lake Erie are in Watershed 15 and are classified for: WWF, MF (except for Lake Erie), aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 1.225 mgd.

Parameter	Concentrations		
	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX		
Oil and Grease	15	30	30
Dissolved Iron		7	7
pH	6.0 to 9.0 Standard Units at all times		

The proposed effluent limits for Suboutfall 201 are based on a design flow of n/a mgd.

Parameter	Concentrations		
	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX		
Oil and Grease	15	30	30
pH	6.0 to 10.0 Standard Units at all times		

The proposed effluent limits for Outfall 002 are based on a design flow of n/a mgd.

Parameter	Concentrations		
	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX		
Dissolved Iron		7	7
pH	6.0 to 9.0 Standard Units at all times		

The proposed effluent limits for Outfalls 003, 004, 006 and 007 are based on a design flow of n/a mgd.

Parameter	Concentrations		
	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX		
Dissolved Iron		7	7
pH	6.0 to 9.0 Standard Units at all times		

This discharge shall consist of stormwater runoff only and shall be controlled in accordance with the latest Preparedness, Prevention and Contingency Plan.

XX—Monitor and report on monthly DMRs.

The EPA waiver is not in effect.

PA0239003, Sewage, **H & H Property Investments, LLC, Perry Lake Estates Mobile Home Park**, 21 Winnow Drive, Clayton, DE 19938. This existing facility is located in Lancaster Township, **Butler County**.

Description of Proposed Activity: New NPDES permit for an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Beaver Falls Municipal Water Authority in Beaver County, located on the Beaver River, approximately 33.0 miles below point of discharge.

The receiving stream, the Connoquenessing Creek, is in Watershed 20-C and classified for: WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0065 mgd.

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (mgd)	XX		
CBOD ₅	25		50
Total Suspended Solids	30		60
NH ₃ -N			
(5-1 to 10-31)	3.75		7.5
(11-1 to 4-30)	11.25		22.5
Phosphorus as "P"	2.0		4.0
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a Geometric Average	
(10-1 to 4-30)		2,000/100 ml as a Geometric Average	
Total Residual Chlorine	0.5		1.2
pH		6.0 to 9.0 Standard Units at all times	

XX—Monitor and report on monthly DMRs.

The EPA waiver is in effect.

PA0101087, Sewage, **Twilight MHP, Norman J. Cutri**, 1324 South Shore Drive, No. 601, Erie, PA 16505-2536. This proposed facility is located in Mahoning Township, **Lawrence County**.

Description of Proposed Activity: New permit for an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the New Castle District Pennsylvania American Water Company is located on the Shenango River and is approximately 5 miles below point of discharge.

The receiving stream, the UNT to Sanky Run, is in Watershed 20-A and classified for: WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0175 mgd.

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (mgd)	XX		
CBOD ₅	25		50
Total Suspended Solids	30		60
NH ₃ -N			
(5-1 to 10-31)	5		10
(11-1 to 4-30)	15		30
Phosphorus as "P"	1		2
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a Geometric Average	
(10-1 to 4-30)		2,000/100 ml as a Geometric Average	
Total Residual Chlorine	0.5		1.2
pH		6.0 to 9.0 Standard Units at all times	

XX—Monitor and report on monthly DMRs.

The EPA waiver is in effect.

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

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

WQM Permit No. WQG016171, Sewerage, **George Beck**, 300 Lutz Road, Oakdale, PA 15071. This proposed facility is located in North Fayette Township, **Allegheny County**.

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

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

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI010909001	Eleanor D. Baumner 13035 93rd Avenue Seminole, FL 33776	Bucks	Haycock and Springfield Townships	Cooks Creek EV

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

Wayne County Conservation District: 648 Park Street, Honesdale, PA 18431, (570) 253-0930.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI026409001	Indian Orchard Holdings Co. Attn: Christopher A. Langel 1065 Highway 315 Suite 102 Wilkes-Barre, PA 18702	Wayne	Texas Township	Tributary to Lackawaxen River HQ-CWF, MF
PAI026409002	Lobolito, Inc. P. O. Box 225 Gouldsboro, PA 18424	Wayne	Lehigh Township	Tributary to Lehigh River HQ-CWF

Lehigh County Conservation District: Lehigh Agriculture Center, Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023909009	Lehigh Carbon Community College Attn: Donald Synder 4525 Education Park Drive Schnecksville, PA 18078	Lehigh	North Whitehall Township	Tributary to Jordan Creek HQ-CWF, MF Jordan Creek TSF, MF Little Lehigh Creek HQ-CWF Lehigh River TSF
PAS10Q071R(2)	Dorney Park and Wildwater Kingdom Attn: Brad Nesland 3830 Dorney Park Road Allentown, PA 18104	Lehigh	South Whitehall Township	Cedar Creek HQ-CWF Little Lehigh Creek HQ-CWF
PAS10Q191R(1)	Jaindl Land Co. Attn: David Jaindl 3150 Coffeetown Road Orefield, PA 18069	Lehigh	Lower Macungie Township Borough of Albutis	Swabia Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024509001	Spread Eagle Associates 447 Office Plaza Plaza Court Suite A East Stroudsburg, PA 18301	Monroe	Coolbaugh Township	Hawkey Run HQ-CWF

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

Crawford County Conservation District: Woodcock Creek Nature Center, 21742 German Road, Meadville, PA, (814) 763-5269.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI062009001	Lancelot Construction, Inc. P. O. Box 5176 Conneaut Lake, PA 16316	Crawford	Conneaut Lake Borough	UNT Conneaut Lake HQ-WWF

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

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

PUBLIC WATER SUPPLY (PWS) PERMIT

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

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

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

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

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

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Permit No. 3609502, Public Water Supply.

Applicant	K & S Group
Municipality	East Lampeter Township
County	Lancaster
Responsible Official	Daniel L. Stoltzfus, Partner 233 Becker Road Leola, PA 17540
Type of Facility	Public Water Supply
Consulting Engineer	Charles A. Kehew II, P. E. James A. Holley & Associates, Inc. 18 South George Street York, PA 17401
Application Received:	January 27, 2009
Description of Action	Installation of treatment for removal of radium, gross alpha and manganese.

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

Permit No. 0309501, Public Water Supply.

Applicant	Buffalo Township Municipal Authority
	707 South Pike Road Sarver, PA 16055-9201
Township or Borough	Freeport Borough

Responsible Official Donald Amadee
General Manager
Buffalo Township Municipal
Authority
707 South Pike Road
Sarver, PA 16055-9201

Type of Facility Water treatment plant

Consulting Engineer Gibson-Thomas Engineering Co.,
Inc.
1004 Ligonier Street
P. O. Box 853
Latrobe, PA 15650

Application Received Date February 5, 2009

Description of Action Renovation of the Municipal
Authority of Buffalo Township's
Freeport filtration plant.

Permit No. 0409502, Public Water Supply.

Applicant **Creswell Heights Joint
Authority**
3961 South Jordan Street
Box 301
South Heights, PA 15081

Township or Borough Freeport Borough

Responsible Official George McElhanney
General Manager
Creswell Heights Joint Authority
3961 South Jordan Street
Box 301
South Heights, PA 15081

Type of Facility Water treatment plant

Consulting Engineer Rabosky & Associates, Inc.
104 Wynview Drive
Moon Township, PA 15108

Application Received Date February 3, 2009

Description of Action Construction of replacement Well
No. 7.

Permit No. 0209502, Public Water Supply.

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

Township or Borough Neville Township

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

Type of Facility Water treatment plant

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

Application Received Date February 2, 2009

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

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

Application No. 2509501, Public Water Supply.

Applicant **Erie City Water Works**

Township or Borough McKean Township
Erie County

Responsible Official Craig Palmer
Engineering Services Manager

Consulting Engineer Keith R. Straight, P. E.
Project Engineer
KLH Engineers, Inc.
5173 Campbells Run Road
Pittsburgh, PA 15205

Application Received Date February 9, 2009

Description of Action Installation of sodium
hypochlorite feed system at
existing meter vault.

Application No. 3709501, Public Water Supply.

Applicant **Volant Borough**

Township or Borough Volant Borough
Lawrence County

Responsible Official Carmen Gates
Borough Secretary

Consulting Engineer Thomas L. Thompson, P. E.
Senior Project Manager
Gannett Fleming, Inc.
554 South Erie Street
Mercer, PA 16137

Application Received Date February 10, 2009

Description of Action Construction of 72,000 gallon
water treatment plant, and 4,000
LF waterline.

MINOR AMENDMENT

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

Application No. 5609501MA, Minor Amendment.

Applicant **Borough of Somerset**
340 West Union Street
Somerset, PA 15501

Township or Borough Somerset Borough

Responsible Official Benedict Vinzani, Jr.
Manager
Borough of Somerset
340 West Union Street
Somerset, PA 15501

Type of Facility State Hospital water storage
tank

Consulting Engineer The EADS Group, Inc.
450 Aberdeen Drive
Somerset, PA 15501

Application Received Date February 5, 2009

Description of Action Demolition of an existing 1.0 mg
water storage tank and
construction of the new 1.0 mg
State Hospital water storage
tank.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

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

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

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

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

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

Reedy Property, 43 King Fisher Drive, Barry Township, **Schuylkill County**. David Crowther, BlackRock Environmental, LLC, P. O. Box 288, Nazareth, PA 18064 has submitted a Notice of Intent to Remediate (on behalf of his client, Lawrence Reedy, 43 King Fisher Drive, Ashland, PA 17921), concerning the remediation of soils, groundwater and surface water found to have been impacted by kerosene as a result of an accidental release from a 275-gallon aboveground storage tank. The applicant proposes to remediate the site to meet the Statewide Health Standard. The 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.

Maiden Creek Motel, Greenwich Township, **Berks County**. Liberty Environmental, Inc., 50 North Fifth Street, 5th Floor, Reading, PA 19601 on behalf of Effective Services, LLC, 3215 Stein Lane, Lewisburg, PA 17837, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with leaded gasoline released from an underground tank. The motel and former gas station will continue to operate as a motel. The site will be remediated to the Residential Statewide Health Standard.

Former Pinto Tract, South Middleton Township, **Cumberland County**. Alternative Environmental Solutions, Inc., 480 New Holland Avenue, Suite 8203, Lancaster, PA 17602, on behalf of LIT Industrial Limited Partnership, 2650 Cedar Springs Road, Suite 850, Dallas, TX 75201, submitted a Notice of Intent to Remediate groundwater contaminated with chlorinated solvents. The property is residential but will be developed for commercial use. The site will be remediated to the Site-Specific Standard.

DETERMINATION FOR APPLICABILITY FOR MUNICIPAL WASTE GENERAL PERMITS

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

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

General Permit Application No. WMGM025SE 001A. Accurate Recycling Corporation, 508 East Baltimore Pike, Lansdowne, PA 19050. This permit application is for Determination of Applicability (DOA) under General Permit WMGM025. General Permit WMGM025SE001A is for the beneficial use of construction waste from new residential and commercial construction sites at Accurate Recycling Corporation Lansdowne Facility located at 508 East Baltimore Pike, Lansdowne, PA 19050, Lansdowne Borough, **Delaware County**. The application for DOA was determined to be administratively complete by the Southeast Regional Office on February, 17, 2009.

DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

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

South Central Regional Office: Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.

The Southcentral Regional Office, Waste Management Program has received an application for a Determination of Applicability (DOA) under Residual Waste General Permit WMGR019 for Frush Valley Holdings, LLC located at the former Empire Steel Castings, Inc. Facility, 1501 Frush Valley Road, Muhlenberg, PA 19605. This General Permit is for the beneficial use of waste foundry sand as an aggregate in road construction and concrete building material. The application for DOA was determined to be administratively complete by the Southcentral Regional Office on February 17, 2009.

Persons interested in reviewing the general permit may contact John Oren, Facilities Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

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 to 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.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

30-00077C: Texas Eastern Transmission, LP. (P. O. Box 1642, Houston, TX 77251-1642) for installation of a Solar Mars 100-150002S III turbine and abandonment of an Ingersoll-Rand KVS-412 internal combustion engine at the Holbrook Compressor Station located in Richhill Township, **Greene County**. This is a Title V facility.

03-00244: Dominion Transmission, Inc. (445 West Main Street, Clarksburg, PA 26301) for installation of compressor station in Valley Township, **Armstrong County**.

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

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

48-399-060: Steel Management Systems, LLC (3045 Bath Pike, Nazareth, PA 18064) for construction and operation of a shot blast machine and baghouse at their facility in Upper Nazareth Township, **Northampton County**. This facility is a Title V facility. The company will install the shot blast machine with a baghouse to control emission into the atmosphere. The sources main emission is PM. The plan approval will include all appropriate testing, monitoring, recordkeeping and reporting requirements designed to keep the operations within all applicable air quality requirements.

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

17-00020A: Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823) to replace: 1) the existing 300 tph asphalt drying drum mixer with a new 400 tph asphalt drying drum mixer; 2) the existing 93 mmBtu/hr dryer/mixer burner and associated burner blower with a 120 mmBtu/hr burner and associated burner blower; 3) the existing dust silo with a 1,000-barrel dust silo; 4) the existing knock-out box with a new knock-out box; 5) the existing exhaust fan associated with the existing fabric collector with an equivalent exhaust fan; and 6) the existing 4' by 8' double deck screen with a 5' by 12' double deck screen. This plan approval authorizes the use of waste asphalt shingles in the hot mix asphalt, process a combination of RAP and/or asphalt shingles at a rate not to exceed 40% of the total weight of all materials charged into the drum at any time, and to use recycled/reprocessed oil as fuel in the dryer/mixer burner. This plan approval also authorizes the construction of a recycled asphalt pavement (RAP) material handling system that includes seven conveyors, lengthening one conveyor, two single deck screens, one crusher and one bin. Additionally, this plan approval authorizes the construction of a portable stone crushing and screening plant and associated 400 horsepower diesel engine, construction of a portable stone crushing plant and associated 440 horsepower diesel engine, and the construction of a portable stone screening plant and associated 100 horsepower diesel engine at the Dubois facility (Plant No. 4) in Sandy Township, **Clearfield County**.

The portable stone crushing and screening plant will be equipped with a water spray dust suppression system for fugitive dust control. The air contaminant emissions from this plant will not exceed 0.4 ton of PM/PM₁₀, 0.47 ton of NO_x, 0.12 ton of CO, 0.16 ton of SO_x and 0.03 ton of nonmethane hydrocarbons per year. The portable stone crushing plant will be equipped with a water spray dust suppression system for fugitive dust control. The air contaminant emissions from this plant will not exceed 0.07 ton of PM/PM₁₀, 0.77 ton of NO_x, 0.21 ton of CO, 0.17 ton of SO_x and 0.04 ton of nonmethane hydrocarbons per year. The air contaminant emissions from the portable stone screening plant will not exceed 0.08 ton of PM/PM₁₀, 0.21 ton of NO_x, 0.02 ton of CO, 0.08 ton of SO_x and zero nonmethane hydrocarbons per year. The 1,000-barrel dust storage silo and associated truck loadout spout will be ducted to an existing fabric collector for PM control. The recycled asphalt pavement bin, crusher, screens and conveyors will not be equipped with any air cleaning device due to the low associated PM emission potential. The emission of PM from the bin, crusher, screens and conveyors will be minimal.

The Department of Environmental Protection's (Department) review of the information submitted by Glenn O. Hawbaker, Inc. indicates that the air contamination sources to be constructed will comply with all regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the fugitive air contaminant emission requirements of 25 Pa. Code § 123.1, 40 CFR 60.90–60.93, 40 CFR 60.670–60.676, and the BAT requirement of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue a plan approval for the proposed modifications and construction.

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 regulatory requirements:

1. Under 25 Pa. Code § 127.441, conditions contained in State-only Operating Permit 17-00020 remain in effect

unless amended or superseded by a condition contained herein. If there is a conflict between a condition contained herein and a condition contained in State-only Operating Permit 17-00020, the permittee shall comply with the condition contained herein rather than with the conflicting condition contained in State-only Operating Permit 17-00020.

2. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, open top trucks loaded with dust from the dust storage silo truck loadout spout shall be tarped, or otherwise covered, during loading and/or the loadout spout shall be monitored and adjusted as necessary during loading such that the bottom of the spout is as close to the top of the material in the truckbed at all times as is reasonably possible. Following the completion of loading, all open top trucks shall be tarped, or otherwise covered, before being moved from the silo area.

3. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the portable stone crushing and screening plant shall be equipped with a water spray dust suppression system incorporating spray nozzles at the inlet and outlet of the crusher, the inlet of the screen and the discharge of the product conveyor. The water spray dust suppression system shall be connected to an ondemand water source capable of delivering an adequate supply of water at any time the respective plant is in use. The water spray dust suppression system shall also be equipped with strainers to prevent nozzle plugging. If the water source cannot deliver an adequate supply of water to properly operate the water spray dust suppression system or if the water spray dust suppression system is incapable of operation due to weather conditions or any other reason, the portable stone crushing and screening plant shall not be operated.

4. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the diesel engine and the portable stone crushing and screening plant shall not operate more than 400 hours in any 12-consecutive month period nor shall it emit more than 2.68 grams of NO_x per brake horsepower-hour, 0.67 gram of CO per brake horsepower-hour, 0.93 gram of SO_x per brake horsepower-hour, 0.07 gram of PM per brake horsepower-hour, and 0.15 gram of nonmethane hydrocarbons per brake horsepower-hour nor shall it emit more than 2.37 pounds of NO_x per hour, 0.59 pound of CO per hour, 0.82 pound of SO_x per hour, 0.07 pound of PM per hour, and 0.13 pound of nonmethane hydrocarbons per hour.

5. Under 40 CFR 60.670–60.676, the portable stone crushing and screening plant shall comply with all applicable requirements specified in Subpart OOO of the Federal Standards of Performance for New Stationary Sources, 40 CFR Part 60.670–60.676 at all times.

6. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the portable stone crushing plant shall be equipped with a water spray dust suppression system incorporating spray nozzles at the inlet and outlet of the crusher and the discharge of the under-crusher conveyor. The water spray dust suppression system shall be connected to an ondemand water source capable of delivering an adequate supply of water at any time the respective plant is in use. The water spray dust suppression system shall also be equipped with strainers to prevent nozzle plugging. If the water source cannot deliver an adequate supply of water to properly operate the water spray dust suppression system or if the water spray dust suppression system is incapable of operation

due to weather conditions or any other reason, the portable stone crushing and screening plant shall not be operated.

7. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the diesel engine and the portable stone crushing plant shall not operate more than 400 hours in any 12-consecutive month period nor shall it emit more than a combined total of 4.10 grams of NOx and nonmethane hydrocarbons per bhp/hr, 1.10 grams of CO per bhp/hr, 0.93 gram of SOx per bhp/hr, and 0.11 gram of PM per bhp/hr nor shall it emit more than 3.84 pounds of NOx per hour, 1.03 pounds of CO per hour, 0.87 pound of SOx per hour, and 0.10 pound of PM per hour.

8. Under 40 CFR 60.670–60.676, the portable stone crushing plant shall comply with all applicable requirements specified in Subpart OOO of the Federal Standards of Performance for New Stationary Sources, 40 CFR Part 60.670–60.676 at all times.

9. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the material to be processed by the portable stone screening plant shall be thoroughly wetted prior to being processed to prevent fugitive emissions in violation of the applicable standards.

10. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the diesel engine and the portable stone screening plant shall not operate more than 400 hours in any 12-consecutive month period nor shall it emit more than 4.71 grams of NOx per bhp/hr, 0.45 gram of CO per bhp/hr, 1.72 grams of SOx per bhp/hr, 0.18 gram of PM per bhp/hr, and 0.13 gram of nonmethane hydrocarbons per bhp/hr nor shall it emit more than 1.04 pounds of NOx per hour, 0.10 pound of CO per hour, 0.38 pound of SOx per hour, 0.04 pound of PM per hour, and 0.03 pound of nonmethane hydrocarbons per hour.

11. Under 40 CFR 60.670–60.676, the portable stone screening plant shall comply with all applicable requirements specified in Subpart OOO of the Federal Standards of Performance for New Stationary Sources, 40 CFR Part 60.670–60.676 at all times.

12. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, no more than 1,000,000 tons of asphalt concrete shall be produced at this facility in any 12-consecutive month period.

13. Records shall be maintained of the number of hours each of the diesel engines and the portable stone crushing and screening plant, portable stone crushing plant, and portable stone screening plant operated each month.

14. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the emission of NOx, CO and VOCs from the asphalt plant shall not exceed 0.054, 0.108 and 0.033 pound per ton of asphalt concrete produced, respectively, nor shall they exceed 21.6, 43.2 and 13.2 pounds per hour, respectively.

15. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the emission of PM from the asphalt plant shall not exceed 0.01 gr/dscf of effluent gas volume.

16. The permittee shall perform stack testing on the asphalt plant sometime between April 1, 2009, and September 30, 2010, to determine its NOx, CO, VOC and PM emission rates.

17. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, following the completion of the modifications and construction approved herein, the total combined emission of NOx from all sources existing at this facility shall not exceed 29.3 tons in any 12-

consecutive month period, the total combined emission of CO shall not exceed 54.97 tons in any 12-consecutive month period, the total combined emission of SOx shall not exceed 76.35 tons in any 12-consecutive month period, the total combined emission of VOCs shall not exceed 16.97 tons in any 12-consecutive month period, the total combined emission of PM/PM10 shall not exceed 62.51 tons in any 12-consecutive month period.

A copy of the plan approval application is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at (570) 327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Manager, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

08-00002D: E.I. DuPont de Nemours and Company, Inc. (Patterson Boulevard, Towanda, PA 18848) has submitted an application (No. 08-00002D) to utilize an existing regenerative thermal oxidizer (Control Device C159) to control the air contaminant emissions from Source IDs P142, P150 and P159 at their Towanda facility located in North Towanda Township, **Bradford County**. The respective facility is a major facility for which a Title V operating permit 08-00002 has been issued.

The Department of Environmental Protection's (Department) review of the information submitted by E.I. DuPont de Nemours and Company, Inc. indicates that the installation satisfies all applicable air quality regulatory requirements pertaining to air contamination sources and the emission of air contaminants. Based on these findings, the Department intends issue plan approval. Additionally, if the Department determines that the air contaminant sources and control device are operating in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into Title V operating permit No. 08-00002 by means of an administrative amendment under 25 Pa. Code § 127.450.

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

1. The conditions as specified in Title V operating permit No. 08-00002 for Source IDs P142, P150, P159 and Control Device C159 shall remain in effect unless superseded or amended by a condition contained herein. If there is a conflict between a condition contained in the Title V operating permit No. 08-00002 and a condition contained herein, the permittee shall comply with the condition contained herein rather than the conflicting condition contained in the Title V operating permit No. 08-00002.

2. Under 25 Pa. Code § 127.12b, Source IDs P142, P150 and P150 shall be equipped with instrumentation to monitor the exhaust gas from each source on a continuous basis as well as interlocks to prevent the operation of any one of these sources if the total combined exhaust gas flow rate to Control Device C159 is in excess of 66,500 SCFM.

3. Under 25 Pa. Code § 127.12b, Source IDs P142, P150 and P159 shall be equipped with fail safe switches

or interlocks which shall shut down the respective source if the inlet exhaust gas flow rate to Control Device C159 is in excess of 66,500 SCFM.

4. Under 25 Pa. Code § 127.12b, the capture efficiency of the VOC capture system associated with Source IDs P142, P150 and P159 shall be 100%. The VOCs captured shall be ducted to Control Device C159. The VOC destruction efficiency of Control Device C159 shall be equal to, or greater than, 98% at all times.

5. Under 25 Pa. Code § 127.12b, Source IDs P142, P150 and P159 shall not be operated, at any time, without the simultaneous operation of Control Device C159.

6. Under 25 Pa. Code § 127.12b, within 120 days from completion of the modification to Source IDs P142, P150 and P159 to be controlled by Control Device C159, the permittee shall perform simultaneous stack testing (consisting of three runs) on the inlet and outlet of Control Device C159 to determine its VOC destruction efficiency. The testing is to be performed using reference method test procedures acceptable to the Department while operating Source IDs P142, P150 and P159 and Control Device C159 under normal operating conditions.

A copy of the plan approval application is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at (570) 327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Manager, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

14-00014D: Glenn O. Hawbaker, Inc. (711 College Avenue, Bellefonte, PA 16823) for construction of a mineral filler storage silo and associated bulk truck loadout spout, a 100 tph RAP crusher, two RAP screens, a 400 tph cone crusher, various conveyors, feeders and bins, three 200 ton storage silos, a 4,200,000 gallon liquid asphalt storage tank, a portable crushing plant and associated diesel engine, two water pumps and associated diesel engines at their quarry in Spring Township, Centre County. The plan approval application also proposes to modify an aggregate unloading operation to authorize the loading of aggregate into railcars and to modify the Kolberg and the Warrior portable plants to limit each of their hours of operation to 2,000 hours per year. The facility is a State-only facility.

The Department of Environmental Protection's (Department) review of the information contained in the application submitted by Glenn O. Hawbaker indicates that the sources and their associated air-cleaning devices will comply with all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the fugitive air contaminant emission requirement of 25 Pa. Code § 123.1, the PM emission limitation of 25 Pa. Code § 123.13, the SOx emission limitation of 25 Pa. Code § 123.21 and the visible emission limitation of 25 Pa. Code § 123.41, as well as the requirements of Subpart I of the Federal Standards of Performance for Hot Mix Asphalt Facilities, 40 CFR 60.90—60.93, Subpart Kb of the Federal Standards of Performance for Volatile Organic Liquid Storage Vessels for Which Construction Commenced after July 23,

1984, 40 CFR 60.110b—60.117b, Subpart OOO of the Federal Standards of Performance for Nonmetallic Mineral Processing Plants, 40 CFR 60.670—60.676 and 40 CFR Part 89. The plan approval, if issued, will subsequently be incorporated in an operating permit by means of an administrative amendment in accordance with 25 Pa. Code § 127.450 at a later date.

Based upon this finding, the Department proposes to issue plan approval for the construction of a 1,000 barrel mineral filler storage silo and associated bulk truck loadout spout, a 100 tph RAP crusher, two RAP screens, a 400 tph cone crusher, various conveyors, feeders and bins, three 200 ton storage silos, a 4,200,000 gallon liquid asphalt storage tank, a portable crushing plant and associated 425 horsepower diesel engine, a 3,200 gpm water pump and associated 105 horsepower diesel engine and a 3,200 gpm water pump and associated 115 horsepower diesel engine, and the modification of an aggregate unloading operation to authorize the loading of aggregate into railcars and the modification of the Kolberg and the Warrior portable plants to limit each of their hours of operation to 2,000 hours per year. 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 regulatory requirements:

1. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, material shall not be transferred into, or removed from, the mineral filler storage silo incorporated in the asphalt concrete plant (Source P101) unless the Amerex RP-10-800 D6 fabric collector (Control Device C101) controlling the silo and associated loadout spout is operating.

2. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the mineral filler storage silo incorporated in the asphalt concrete plant (Source P101) shall not be vented to the atmosphere other than through Control Device C101. Additionally, material shall not be removed from this silo other than by introduction back into the mixing drum of the asphalt concrete plant or by unloading by means of the bulk loading spout into an enclosed or covered bulk solids truck.

3. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, all open-topped trucks hauling dust from the mineral filler storage silo incorporated in the asphalt concrete plant (Source P101) shall have their loads securely tarped and a sign or signs stating the existence of this requirement shall be posted in a prominent location near the storage silo.

4. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the recycled asphalt pavement (RAP) processing system associated with the asphalt concrete plant (Source P101) shall process RAP material only.

5. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, Source P101 is a 500 tph CMI Corporation SVM 2,500 drum mix asphalt concrete plant incorporating a Maxum Solo counter-flow drum and an associated pneumatic dust handling system, mineral filler silo and DCL bulk truck loadout spout, the air contaminant emissions from all of which shall be controlled by an Amerex RP-10-800 D6 pulse jet fabric collector (Control Device C101). Source P101 also includes a recycled asphalt pavement (RAP) processing system which incorporates a Telsmith 3036 HIS RAP crusher, a 10' by 16' RAP bin with associated 30" belt feeder, a 4' by 8' single deck screen, a high frequency 6' by 18' single deck screen, a 36" belt conveyor, four 30" belt conveyors and a

24" belt conveyor. Source P101 also incorporates a 33,000 gallon fuel oil storage tank, as well as two 10' by 14' aggregate storage bins with associated 30" belt conveyors, four 10' by 14' RAP bins with associated belt feeders and two 30" belt conveyors.

6. The mineral filler storage silo, the four 10' by 14' RAP bins, the associated 30" feeder conveyors and the two 30" by 150' belt conveyors incorporated in the asphalt concrete plant (Source P101) shall comply with all requirements specified in Subpart I of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.90—60.93. The permittee shall comply with all applicable requirements of this Subpart as well as any other applicable Subpart of the Standards of Performance.

7. The RAP crusher and associated discharge bin, the RAP screens and all belt conveyors up to, but not including, the four 10' by 14' RAP bins and subsequent conveyors incorporated in the recycled asphalt pavement (RAP) processing system associated with the asphalt concrete (Source P101) shall comply with all requirements specified in Subpart OOO of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.670—60.676. The permittee shall comply with all applicable requirements of this Subpart as well as any other applicable Subpart of the Standards of Performance.

8. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the only material which may be processed by the Metso/Nordberg cone crusher incorporated in the primary crushing operation (Source P102) shall be material to which sufficient water has first been applied in a wet screen to render the material dust free.

9. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, Source ID P102 is a primary crushing operation for limestone consisting of the following equipment:

- (a) 600 tph Hazemag 1620/QL impact crusher—ID No. 100-008.
- (b) 62" by 24' Simplicity vibrating feeder—ID No. 134-018.
- (c) 6' by 12' Simplicity double deck scalping screen—ID No. 111-024.
- (d) Simplicity 8' by 16' triple deck screen—ID No. 111-007.
- (e) 30" by 100' radial stacking conveyor (GOH)—ID No. 123-019.
- (f) 30" by 115' radial stacking conveyor (GOH)—ID No. 123-003.
- (g) 42" by 120' truss conveyor (GOH)—ID No. 122-032.
- (h) 36" by 170' truss conveyor (Barber-Greene)—ID No. 122-002.
- (i) 42" by 8' Steel Systems forward/reversing channel frame conveyor—ID No. 120-077.
- (j) 30" by 125' ABBCO truss frame conveyor—ID No. 122-048.
- (k) 60" by 32' Steel Systems channel frame conveyor—ID No. 120-078.
- (l) 30" by 150' 2RC transfer conveyor—ID No. 120-004.
- (m) 42' by 12' undersize transfer conveyor—ID No. 120-099.

(n) 30" by 325' ABBCO/equal transfer conveyor No. 3—ID No. 122-047.

(o) 44" by 20' McLanahan aggregate conditioner—ID No. 125-044.

(p) 8' by 20' Simplicity triple deck screen—ID No. 111-037.

(q) 10' by 32' McLanahan sand tank—ID No. 242-019.

(r) 44" by 33' McLanahan fine material screw—ID No. 125-043.

(s) 30" by 25' Eagle fine material screw—ID No. 125-041.

(t) 24" by 100' GOH/equal sand No. 1 stacker—ID No. 123-017.

(u) 24" by 100' Mellott Enterprises, Inc. sand stacker—ID No. 123-051.

(v) 24" by 365' Mellott Enterprises, Inc. 2B transfer conveyor—ID No. 122-042.

(w) 24" by 100' Mellott Enterprises, Inc. 2B stacker—ID No. 123-042.

(x) 24" by 170' Mellott Enterprises, Inc. 1B transfer conveyor—ID No. 122-041.

(y) 24" by 100' Mellott Enterprises, Inc. 1B stacker—ID No. 123-043.

(z) 400 tph Metso/Nordberg HP400 cone crusher (no ID).

(aa) 24" by 125'-6" channel/truss frame conveyor—ID No. 122-051.

(bb) 30" by 155 truss frame conveyor—ID No. 122-052.

(cc) 30" by 120 Dover truss frame conveyor—ID No. 122-064.

(dd) Universal vibrating feeder (no ID).

(ee) 42" by 30' channel frame belt conveyor (no ID).

(ff) 30" by 210' truss frame belt conveyor (no ID).

(gg) 30" by 210' truss/channel belt conveyor (no ID).

(hh) 36" by 12' belt feeder (no ID).

(ii) 42" by 110' truss frame conveyor (no ID).

(jj) 42" by 310' truss conveyor (no ID).

(kk) 42" by 410' truss/channel belt conveyor (no ID).

The air contaminant emissions from Source P102 shall be controlled by a water spray dust suppression system (Control Device C01) incorporating the following spray nozzles:

(a) 3 spray nozzles located at the inlet of the Simplicity 62" by 24' feeder (ID No. 134-018).

(b) 2 spray nozzles located at the discharge of the Hazemag 1620/QL impact crusher (ID No. 100-008).

(c) 1 spray nozzle located at the discharge of the Steel Systems 42" by 8' forward/reversing channel frame conveyor (ID No. 120-077).

(d) 2 spray nozzles located at the discharge of the Steel Systems 60" by 32' channel frame conveyor (ID No. 120-078).

(e) 2 spray nozzles located at the discharge of the 42" by 120' truss conveyor (ID No. 122-032).

(f) 1 spray nozzle located at the discharge of the 42" by 12' channel conveyor (ID No. 120-099).

(g) 1 spray nozzle located at the discharge of the 30" by 76' 2RC to wash conveyor (ID No. 122-025).

(h) 1 spray nozzle located at the discharge of the 30" by 100' ABBCO/equal 2 RC stacker (ID No. 123-050).

(i) 2 spray nozzles located at the discharge of the (ee) 42" by 300' channel frame conveyor (no ID).

(j) 2 spray nozzles located at the discharge of the (ff) 30" by 210' truss frame conveyor (no ID).

(k) 2 spray nozzles located at the discharge of the (ii) 42" by 110' truss frame conveyor (no ID).

(l) 2 spray nozzles located at the discharge and 1 spray nozzle located at the center of the (jj) 42" by 310' truss conveyor (no ID).

At a minimum, the water spray dust suppression system (Control device C01) associated with the aforementioned equipment shall incorporate the spray nozzles specifically described. More spray nozzles may be added to Control Device C01 at any time, but none of the nozzles identified previously may be omitted, deleted or removed without prior Department approval. Control Device C01 shall be equipped with strainers to prevent nozzle plugging.

Any of the previous equipment, with the exception of the air pollution control devices, can be replaced without obtaining plan approval provided that the replacement equipment is of equal or smaller size as defined in Subpart 000 of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.670—60.676, and provided that the replacement equipment is of equivalent design and function (that is, an impact crusher may be replaced with an impact crusher, and the like). The permittee shall notify the Department prior to the replacement.

10. Sources incorporated in the primary crushing operation (Source P102), with the exception of the Barber-Greene 36" by 170' truss conveyor, shall comply with all requirements specified in Subpart 000 of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.670—60.676. The permittee shall comply with all applicable requirements of this Subpart as well as any other applicable Subpart of the Standards of Performance.

11. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, Source ID P103 is a secondary crushing operation for limestone consisting of the following equipment:

(a) Iowa Manufacturing Co. model 3645 double impeller impact crusher (or Hazemag 1315/QL APPH impact crusher) (ID No. 100-004).

(b) 250 tph Frog-Switch model 50CE cagemill crusher—ID No. 120-001.

(c) Simplicity/Diester 8' by 24' four deck screen equipped with a Telex(R) cover—ID No. 111-022.

(d) two General Electric GI-90 inertial air classifiers—ID Nos. 254-004 and 254-005.

(e) three 24" by 100' radial stacking conveyors (Producers Supply)—ID Nos. 123-020, 123-002 and 123-001.

(f) 24" by 45' channel frame conveyor (Producers Supply)—ID No. 120-053.

(g) 6,400 cubic foot Columbian Steel dust storage silo—ID No. 201-012.

(h) DCL model SOV-24-10 bulk loadout spout—ID No. 203-004.

(i) Universal bucket elevator—ID No. 230-006.

(j) 400 tph Syntron F-450-C-DT feeder—ID No. 134-017.

(k) 36" by 140' truss conveyor (GOH)—ID No. 122-003.

(l) 30" by 92' channel frame conveyor (GOH)—ID No. 120-006.

(m) 30" by 125' truss frame conveyor (GOH)—ID No. 122-004.

(n) 24" by 110' mast type radial stacking conveyor (GOH)—ID No. 124-002.

(o) 24" by 40'-2" channel frame conveyor (Producers Supply)—ID No. 120-075.

(p) 24" by 32'-6" channel frame conveyor (Producers Supply)—ID No. 120-074.

(q) 24" by 48'-3" channel frame conveyor (Producers Supply)—ID No. 120-076.

(r) 24" by 15' channel frame conveyor (GOH)—ID No. 120-010.

(s) 24" by 30' channel frame conveyor (GOH)—ID No. 120-009.

(t) 24" by 132' truss conveyor (GOH)—ID No. 122-005.

(u) new 6,400 cubic foot Columbian Steel dust storage silo (no ID).

(v) new DCL model SOV-24-10 bulk loadout spout (no ID).

(w) 36" diameter Eagle Iron Works pug mill (no ID).

The air contaminant emissions from the secondary crushing operation (Source P103) shall be controlled by an 8' diameter cyclone precleaner (Control Device C103A) connected in series with an Astec model RBH-30-7-MOD fabric collector (Control Device C103E) incorporating dust pickups at each of the two inertial air classifiers, one dust pickup at the discharge end of the 24" by 132' truss conveyor, one dust pickup at the discharge end of the 30" by 92' channel frame conveyor and one dust pickup at the discharge end of the 24" by 45' channel frame conveyor; an Amerex RP-12-429-D6 fabric collector (Control Device C103B) incorporating one dust pickup at the discharge end of the 36" by 140' truss conveyor, one dust pickup at the receiving end of the 30" by 92' channel frame conveyor, one dust pickup at the Hazemag crusher, two dust pickups at the Simplicity/Diester 8' by 24' four deck screen, one dust pickup at the discharge end of the Producers Supply 24" by 32'-6" channel frame conveyor, one dust pickup at the receiving end of the Producers Supply 24" by 32'-6" channel frame conveyor, one dust pickup at the Frog-Switch cagemill crusher, one dust pickup at the receiving end of the 24" by 15' channel frame conveyor, one dust pickup at the receiving end of the Producers Supply 24" by 40'-2" channel frame conveyor, one dust pickup at the receiving end of the 24" by 30' channel frame conveyor, one dust pickup at the receiving end of the Producers Supply 24" by 48'-3" channel frame conveyor, one dust pickup at the receiving end of the 24" by 132' truss conveyor, one dust pickup at the discharge end of the 24" by 132' truss conveyor; dust pickups at each of the two 6,400 cubic foot Columbian Steel dust storage silos (new and existing), one dust pickup at the Universal bucket elevator and dust pickups at each of the two DCL model SOV-24-10 bulk loadout spouts (new and existing); and water spray dust suppression nozzles (Control Device C01) at the Hazemag impact crusher discharge and at each stacking conveyor. Additional dust pickup points and dust suppression nozzles

may be added at any time but none of the pickup points or nozzles identified herein may be omitted, deleted or removed without Departmental approval. Control Device C01 shall be equipped with strainers to prevent nozzle plugging.

Any of the previous equipment, with the exception of the air pollution control devices and any associated engines or generators, can be replaced without obtaining plan approval provided that the replacement equipment is of equal or smaller size as defined in Subpart 000 of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.670—60.676, and provided that the replacement equipment is of equivalent design and function (that is, an impact crusher may be replaced with an impact crusher, and the like). The permittee shall notify the Department prior to the replacement.

12. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, material shall not be transferred into, or removed from, the aggregate storage silos incorporated in the limestone conveying operation (Source P105) unless the water spray dust suppression system (Control Device C01) controlling the silo and associated loadout spout is operating.

13. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, all open-topped trucks hauling aggregate from the aggregate storage silos incorporated in the limestone conveying operation (Source P105) shall have their loads securely tarped and a sign or signs stating the existence of this requirement shall be posted in a prominent location near the storage silo.

14. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, Source P105 is a limestone conveying operation consisting of the following equipment:

- (a) 30" by 180' truss conveyor (GOH)—ID No. 122-011.
- (b) 30" by 245' channel frame/truss conveyor—ID No. 120-050.
- (c) 36" by 12' underground belt feeder—ID No. 133-011.
- (d) 30" belt tripper—No. 126-001.
- (e) 30" by 210' channel frame/truss conveyor (no ID).
- (f) 30" by 12" underground belt feeder (no ID).
- (g) two 30" by 160' channel frame/truss conveyors (no IDs).
- (h) 30" by 120' channel frame/truss conveyor (no ID).
- (i) three 200 ton aggregate storage silos and associated loadouts (no ID).

The air contaminant emissions from Source P105 shall be controlled by a water spray dust suppression system (Control Device C01) incorporating the following spray nozzles:

- (a) one spray nozzle located at the discharge of the (f) 30" by 12" underground belt feeder (no ID).
- (b) one spray nozzle located at the discharge of the 36" by 12' underground belt feeder—ID No. 133-011.
- (c) one spray nozzle located at the discharge of the 30" by 245' channel frame/truss conveyor—ID No. 120-050.
- (d) one spray nozzle (two total) located at the discharge of each of the (g) two 30" by 160' channel frame/truss conveyors (no IDs).
- (e) one spray nozzle located at the discharge of the (h) 30" by 120' channel frame/truss conveyor (no ID).

(f) one spray nozzle (three total) located at the loadout of each of the (i) three 200 ton aggregate storage silos (no ID).

At a minimum, the water spray dust suppression system (Control device C01) associated with the aforementioned equipment shall incorporate the spray nozzles specifically described. More spray nozzles may be added to Control Device C01 at any time, but none of the nozzles identified above may be omitted, deleted or removed without prior Department approval. Control Device C01 shall be equipped with strainers to prevent nozzle plugging.

15. Sources incorporated in the limestone conveying operation (Source P105) shall comply with all requirements specified in Subpart 000 of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.670—60.676. The permittee shall comply with all applicable requirements of this Subpart as well as any other applicable Subpart of the Standards of Performance.

16. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, there shall be no visible fugitive air contaminant emissions at any time from either of the dump hoppers incorporated in the railcar loading/unloading operation (Source P107) or from the railcars while the railcars are in the process of being loaded or unloaded.

17. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the total amount of aggregate loaded into railcars in the railcar loading/unloading operation (Source P107) shall not exceed 500,000 tons in any 12-consecutive month period. Additionally, the total amount of aggregate loaded into and unloaded from railcars in the railcar loading/unloading operation shall not exceed 1,200,000 tons in any 12-consecutive month period.

18. The permittee shall maintain comprehensive and accurate records of the amount of material loaded into railcars and the amount of material unloaded from railcars in the railcar loading/unloading operation (Source P107) each month.

These records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

19. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the 4,200,000 gallon storage tank incorporated in the oil/liquid asphalt operation (Source P108) shall not be used to store any material other than liquid asphalt nor shall any material ever be stored in the storage tank which has a vapor pressure in excess of 1.5 psi under actual storage conditions.

20. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, Source P108 is a liquid asphalt and recycled/reprocessed oil storage facility comprised of two 4,200,000 gallon (100,000 barrel) liquid asphalt storage tanks, a 1,512,000 gallon (36,000 barrel) liquid asphalt storage tank, a 1,512,000 gallon (36,000 barrel) reprocessed/recycled oil storage tank, a two-bay truck loading rack and a six-station railcar unloading rack.

21. The two 4,200,000 gallon storage tanks incorporated in the oil/liquid asphalt operation (Source P108) shall comply with all requirements specified in Subpart Kb of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.110b—60.117b. The permittee shall comply with all applicable requirements of

this Subpart as well as any other applicable Subpart of the Standards of Performance.

22. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the Cummins diesel engine incorporated in the Kolberg portable crushing and screening plant (Source P109) shall not be operated more than 2,000 hours in any 12-consecutive month period.

23. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the Caterpillar diesel engine incorporated in the Warrior portable screening plant (Source P110) shall not be operated more than 2,000 hours in any 12-consecutive month period.

24. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the water spray dust suppression system (Control Device C111) controlling the PM emissions from the Nordberg portable crushing plant (Source P111) shall be equipped with strainers to prevent nozzle plugging.

25. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the water spray dust suppression system (Control Device C111) shall be connected to an on-demand water source capable of delivering an adequate supply of water at any time any of the Nordberg portable crushing plant (Source P111) is in operation. Ondemand shall be interpreted as meaning that adequate water can be provided to all spray nozzles at any time with no more effort than turning a valve. If at any time the water source cannot deliver an adequate supply of water to properly operate the water spray dust suppression system, the permittee shall immediately cease plant operation.

26. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the Nordberg portable crushing plant (Source P111) shall not be operated without the simultaneous operation of the water spray dust suppression system (Control Device C111), except in those unusual instances where conditions are such that operation of the portable crushing plant without the simultaneous operation of the water spray dust suppression system can take place without creating visible fugitive air contaminant emissions in excess of the limitations specified in any applicable Department rule or regulation or in Subpart 000 of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.670–60.676. If, however, the water spray dust suppression system is incapable of operation due to weather conditions or any other reason the portable crushing plant may not be operated at all.

27. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the emission of air contaminants from the 2004 vintage, 425 horsepower (317 kilowatts) Caterpillar diesel engine incorporated in the Nordberg portable crushing plant (Source P111) shall not exceed the following limitations:

a. Nitrogen oxides and nonmethane hydrocarbons (NO_x + NMHC)—4.10 grams per horsepower-hour and 3.84 pounds per hour.

b. CO—1.10 grams per horsepower-hour and 1.03 pounds per hour.

c. PM/PM₁₀—0.11 grams per horsepower-hour and 0.10 pounds per hour.

Compliance with the PM limitations specified herein ensures compliance with 25 Pa. Code § 123.13. Additionally, compliance with the air contaminant limitations specified herein ensures compliance with 40 CFR 89.112.

28. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the 2004 vintage, 425 horsepower (317 kW) Caterpillar diesel engine incorporated in the Nordberg portable crushing plant (Source P111) shall only be fired on virgin diesel fuel with a maximum sulfur content of 0.3% (by weight) and to which no recycled/reprocessed oil or waste oil or other waste materials have been added.

29. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the 2004 vintage, 425 horsepower (317 kW) Caterpillar diesel engine incorporated in the Nordberg portable crushing plant (Source P111) shall not be operated more than 1,500 hours in any 12-consecutive month period.

30. The permittee shall maintain comprehensive and accurate records of the number of hours the Caterpillar diesel engine incorporated in Source P111 is operated each month.

These records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

31. The permittee shall submit semiannual reports of the number of hours the Caterpillar diesel engine incorporated in Source P111 is operated each month.

The semiannual reports shall be submitted to the Department by no later than September 1 (for the immediately-preceding July 1 through June 30 12-consecutive month period) and March 1 (for the immediately preceding January 1 through December 31 12-consecutive month period).

32. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, Source P111 is a Nordberg portable crushing plant which incorporates a 6 cubic yard hopper with vibrating feeder, a 400 tph Nordberg NP1213M impact crusher, a 47" by 43' main discharge belt conveyor and a 18" by 10' side discharge conveyor, the PM emissions from which shall be controlled by a wet suppression system (Control Device C111) which incorporates spray nozzles at the discharge of the vibrating feeder, at the discharge of the crusher and at the discharge of the main discharge conveyor. Control Device ID C109 shall be equipped with strainers to prevent nozzle plugging. Source P111 also incorporates a 425 horsepower (317 kW) Caterpillar model C-12 diesel engine.

Additional dust suppression spray nozzles may be added to Control Device C111 at any time, but none of the nozzles identified previously may be omitted, deleted or removed without prior Department approval.

Any of the previous equipment, with the exception of the air pollution control devices and the diesel engine, can be replaced without obtaining plan approval provided that the replacement equipment is of equal or smaller size as defined in Subpart 000 of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.670–60.676, and provided that the replacement equipment is of equivalent design and function (that is, an impact crusher may be replaced with an impact crusher, and the like). The permittee shall notify the Department prior to the replacement.

33. The limestone handling equipment incorporated in the Nordberg portable crushing plant (Source P111) shall comply with all requirements specified in Subpart 000 of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.670–60.676. The permittee shall comply with all applicable requirements of this Subpart as well as any other applicable Subpart of the Standards

of Performance. The permittee shall comply with all applicable requirements of this Subpart as well as any other applicable Subpart of the Standards of Performance.

34. The 2004 vintage, 425 horsepower (317 kW) Caterpillar diesel engine incorporated in the Nordberg portable crushing plant (Source P111) shall comply with all applicable requirements specified in 40 CFR Part 89.

35. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the emission of air contaminants from the 2002 vintage, 105 horsepower (78.5 kW) Caterpillar diesel engine incorporated in the first of two Godwin water pumps (Source P112) shall not exceed the following limitations:

- a. NO_x (NO_x, expressed as NO₂)—4.20 grams per hp/hr and 0.97 pound per hour.
- b. CO—3.03 grams per hp/hr and 0.70 pound per hour.
- c. PM/PM10—0.20 gram per hp/hr and 0.05 pound per hour.

Compliance with the PM limitations specified herein ensures compliance with 25 Pa. Code § 123.13. Additionally, compliance with the NO_x limitations specified herein ensures compliance with 40 CFR 89.112.

36. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the emission of air contaminants from the 2006 vintage, 115 horsepower (82 kW) John Deere diesel engine incorporated in the second of two Godwin water pumps (Source P112) shall not exceed the following limitations:

- a. NO_x and nonmethane hydrocarbons (NO_x + NMHC)—5.52 grams per hp/hr and 1.40 pounds per hour.
- b. CO—3.70 grams per hp/hr and 0.94 pound per hour.
- c. PM/PM10—0.20 gram per hp/hr and 0.05 pound per hour.

Compliance with the PM limitations specified herein ensures compliance with 25 Pa. Code § 123.13. Additionally, compliance with the air contaminant limitations specified herein ensures compliance with 40 CFR 89.112.

37. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the 105 horsepower Caterpillar diesel engine and the 115 horsepower John Deere diesel engine incorporated in the two Godwin fire pumps (Source P112) shall only be fired on virgin diesel fuel with a maximum sulfur content of 0.3% (by weight) and to which no recycled/reprocessed oil or waste oil or other waste materials have been added.

38. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the 105 horsepower Caterpillar diesel engine and the 115 horsepower John Deere diesel engine incorporated in the two Godwin fire pumps (Source P112) shall each not be operated more than 2,000 hours in any 12-consecutive month period.

39. The permittee shall maintain comprehensive and accurate records of the number of hours the 105 horsepower Caterpillar diesel engine and the 115 horsepower John Deere diesel engine incorporated in the two Godwin fire pumps (Source P112) are operated each month.

These records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

40. The permittee shall submit semiannual reports of the number of hours the 105 horsepower Caterpillar diesel engine and the 115 horsepower John Deere diesel

engine incorporated in the two Godwin fire pumps (Source P112) are operated each month.

The semiannual reports shall be submitted to the Department by no later than September 1 (for the immediately-preceding July 1 through June 30 12-consecutive month period) and March 1 (for the immediately preceding January 1 through December 31 12-consecutive month period).

41. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, Source P112 is comprised of two 3,200 gallon per minute, 8" Godwin CD225M Dri-Prime water pumps. The first of the two water pumps incorporates a 2002 vintage, 105 horsepower (78.5 kW) Caterpillar model 3054C diesel engine and the second of the two water pumps incorporates a 2006 vintage, 115 horsepower (82 kW) John Deere diesel engine.

42. The 2002 vintage, 105 horsepower (78.5 kW) Caterpillar diesel engine and the 2006 vintage, 115 horsepower (82 kW) John Deere diesel engine incorporated in the two Godwin fire pumps (Source P112) shall comply with all applicable requirements specified in 40 CFR Part 89.

43. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the total combined facility-wide emission of air contaminants shall not exceed the following limitations:

- a) The total combined NO_x (NO_x, expressed as NO₂) emissions from all sources located at the facility shall not exceed 37.53 tons in any 12-consecutive month period.
- b) The total combined CO emissions from all sources located at the facility shall not exceed 50.40 tons in any 12-consecutive month period.
- c) The total combined SO_x (SO_x, expressed as SO₂) emissions from all sources located at the facility shall not exceed 36.14 tons in any 12-consecutive month period.
- d) The total combined VOCs emissions from all sources located at the facility shall not exceed 13.50 tons in any 12-consecutive month period.
- e) The total combined PM10 emissions from all sources located at the facility shall not exceed 83.24 tons in any 12-consecutive month period.
- f) The total combined PM emissions from all sources located at the facility shall not exceed 112.86 tons in any 12-consecutive month period.

44. The conditions contained in Operating Permit 14-00014 and Plan Approval 14-00014C remain in effect unless superseded or amended by conditions contained herein. If there is a conflict between a condition or requirement contained in the plan approval and a condition contained in Operating Permit 14-00014 or Plan Approval 14-00014C, the permittee shall comply with the condition or requirement contained in this plan approval rather than the conflicting condition or requirement contained in Operating Permit 14-00014 or Plan Approval 14-00014C.

A copy of the plan approval application and the Department's review is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at (570) 327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Manager,

Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

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

42-184I: Keystone Powdered Metal Co. (8 Hanley Drive, Lewis Run, PA 16738) for relocation of an induction heat treater from their facility in the City of St. Marys, **Elk County** to their facility in Lewis Run Borough, **McKean County**.

Under 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue Plan Approval 42-184I to Keystone Powdered Metal Co. for the relocation of an induction heat treater from their facility in the City of St. Marys, Elk County to their facility located at 8 Hanley Drive, Lewis Run Borough, McKean County. The Plan Approval will subsequently be incorporated into the facility's Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. 42-184I is for the relocation of the No. 7812 Induction Heat Treater from Keystone Powdered Metal's St. Marys facility to their Lewis Run facility. This induction heat treater will be used in place of the existing No. 3892 Induction Heat Treater, and will exhaust to an existing electrostatic precipitator (Source ID C3892). Based on the information provided by the applicant and the Department's own analysis, the proposed source will emit a total of 0.033 ton of PM per year, all of which will be PM less than PM10.

The Plan Approval will contain additional recordkeeping and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, the Department's analysis, and other documents used in the evaluation are available for public inspection between 8 a.m. and 4 p.m. weekdays at the address shown. To make an appointment, contact Records Management at (814) 332-6340.

Anyone wishing to provide the Department with additional information they believe should be considered may submit the information to the address shown. Comments must be received by the Department within 30 days of the last day of publication. Written comments should include the following:

1. Name, address and telephone number of the person submitting comments.
2. Identification of the proposed Plan Approval; No. 42-184I.
3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted on the comments received during the public comment period. The persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to John Guth, Regional Air Quality Manager,

Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6940.

62-032E: Ellwood National Forge Co. (1 Front Street, Irvine, PA 16329) for modification of natural gas and product throughput restrictions, and for installation of a replacement dust collector at their facility in Brokenstraw Township, **Warren County**. This is a Title V facility.

Under 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue Plan Approval 62-032E to Ellwood National Forge Co. for the modification of natural gas and product throughput restrictions, and for the installation of a replacement dust collector at the company's facility located at 1 Front Street, Brokenstraw Township, Warren County. The facility currently has a Title V permit No. 62-00032. The Plan Approval will subsequently be incorporated into the Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. 62-032E is for the increase in natural gas throughput restrictions associated with Source IDs 034 (Package Heating Boilers), 101A (Horizontal Preheater, Vertical Dryer, Oxyfuel Preheater), 111 (ENF Heat Treat), 112 (ENC Heat Treat); the decrease in natural gas throughput restrictions associated with Source IDs 032 (Union Boiler), 033 (Space Heaters), 035 (Degasser Boiler), 103 (Annealing Furnaces); the increase in product throughput restrictions associated with Source ID 120 (Shotblast Finishing); and the installation of a replacement dust collector associated with Source ID 114 (Crankshaft File & Grind). Based on the information provided by the applicant and the Department's own analysis, the proposed modifications will result in a net increase of 0.35 ton of CO per year, and 0.03 ton of PM per year, all of which will be PM10, and a net decrease of 0.09 ton of NOx per year, 0.08 ton of VOCs per year, and 0.008 ton of SOx per year. This Plan Approval will supersede Plan Approval 62-032B, issued by the Department on August 18, 2006.

The Plan Approval will contain additional monitoring, recordkeeping and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, the Department's analysis, and other documents used in the evaluation are available for public inspection between 8 a.m. and 4 p.m. weekdays at the address shown. To make an appointment, contact Records Management at (814) 332-6340.

Anyone wishing to provide the Department with additional information they believe should be considered may submit the information to the address shown. Comments must be received by the Department within 30 days of the last day of publication. Written comments should include the following:

1. Name, address and telephone number of the person submitting comments.
2. Identification of the proposed Plan Approval; No. 62-032E.
3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted on the comments received during the public comment period.

The persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to John Guth, Regional Air Quality Manager, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6940.

OPERATING PERMITS

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

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

09-00124: Fairless Energy, LLC (50 Sinter Road, Fairless Hills, PA 19030) for operation of an electric generating station in Falls Township, **Bucks County**. The permit is for a Title V facility. The facility is considered a major source of NOx, CO, VOCs and PM emissions, with maximum potential emissions of 424.7 tpy, 360.5 tpy, 88.4 tpy and 387.6 tpy, respectively. Fairless Energy, LLC owns and operates four natural gas-fired combined-cycle electric generation units. Other sources include two natural gas preheaters, one auxiliary boiler and four cooling towers. The facility is subject to the requirements of 40 CFR Part 60, New Source Performance Standards, Subpart GG, Subpart Da, and Subpart Dc, as well as Acid Rain Requirements of 40 CFR Part 72 and Clean Air Interstate Rules of 40 CFR Part 97. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the plant operating within all applicable air quality requirements.

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

66-00001: Proctor & Gamble Paper Co. (P. O. Box 32, Route 87, Mehoopany, PA 18629) for renewal of a Title V Operating Permit in Washington Township, **Wyoming County**. The facility's major source of emissions is NOx and VOC. The facility's major sources of operation are; eight paper machines, converting lines, natural gas fired turbine, diaper production lines and five boilers.

40-00002: Transcontinental Gas Pipeline Corp. (P. O. Box 1396, Houston, TX 77251-1396) for operation of Bear Creek Compressor Station 515 in Buck Township, **Luzerne County**. This is a renewal of a Title V Operating Permit.

40-00005: UGI Development Co. (390 Route 11, P. O. Box 224, Hunlock Creek, PA 18621) for operation of the electric generating plant in Hunlock Township, **Luzerne County**. This is a renewal of the Title V Operating Permit and Acid Rain Permit.

39-00019: Buckeye Pipeline Co., LP (5 TEK Park, 9999 Hamilton Boulevard, Breinigsville, PA 18031) for operation of the Macungie Station facility in Lower Macungie Township, **Lehigh County**. This is a renewal of a Title V Operating Permit.

39-00016: Buckeye Energy Services, LLC (P. O. Box 146, 5285 Shippers Road, Macungie, PA 18062) for operation of a bulk gasoline storage and distribution terminal in Lower Macungie Township, **Lehigh County**. This is a renewal of a Title V Operating Permit.

45-00005: Sanofi Pasteur (Discovery Drive, Swiftwater, PA 18370-0187) for operation of a pharmaceutical preparations facility in Pocono Township, **Monroe County**. This is a renewal of a Title V Operating Permit to include plan approvals 45-302-074; 45-399-014; 45-302-073; 45-329-001; 45-399-016; 45-302-076 and general Permit 45-302-071.

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

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

46-00044: Glasgow, Inc. (Church and Flint Hill Roads, King of Prussia, PA 19406) for operation of a batch hot mix asphalt (HMA) plant and various operations of a stone crushing plant at their McCoy facility in Upper Merion Township, **Montgomery County**. The permit is for a non-Title V (State-only) facility. The potentials to emit NOx and VOCs from the facility each exceed 25 tpy. However, the amount of HMA produced at the facility is restricted to 576,000 tpy to restrict NOx and VOC emissions from the facility to less than 25 tpy each. Therefore, the facility is categorized as Synthetic Minor. The permit will contain monitoring, recordkeeping, reporting and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

46-00084: Pilgrim's Pride Corp. (471 Harleysville Pike, P. O. Box 8, Franconia, PA 18924) for a renewal of a State-only, Natural Minor Operating Permit in Franconia Township, **Montgomery County**. The permit is for a non-Title V (State-only) facility. The main sources are four dual-fired boilers and one cold cleaning machine. The permit will include monitoring, recordkeeping and reporting requirements to address all applicable air quality requirements.

09-00183: Donaldson Company, Inc. (85 Railroad Drive, Ivyland, PA 18974) for a State-only, Synthetic Minor Operating Permit in North Hampton Township, **Bucks County**. The company has one polytetrafluoroethylene extrusion line controlled by a Regenerative Thermal Oxidizer. The pollutant of concern is VOCs. The estimated VOC emissions after control are less than 4.4 tpy. The permit will include monitoring, recordkeeping and reporting requirements designed to address all applicable air quality requirements.

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

40-00041: Brock C. Phillips (732 Center Hill Road, Dallas, PA 18612) for operation of a Veterinary Services facility in Dallas Township, **Luzerne County**. This is a State-only Synthetic Minor operating permit.

40-00110: Quality Collision, Inc. (365 Courtdale Avenue, Courtdale, PA 18704) for operation of a spray coating operation in Courtdale Borough, **Luzerne County**. This is the initial issuance of a State-only Operating Permit to include Plan Approval 40-318-056.

35-00017: Art Print Co. (6 Stauffer Industrial Park, Taylor, PA 18517-9620) for operation of a lithographic printing facility in Taylor Borough, **Lackawanna County**. This is a renewal of a State-only Operating Permit.

45-00021: Pocono Medical Center (206 East Brown Street, East Stroudsburg, PA 18301-3094) for operation of boilers and emergency generators at their facility in East Stroudsburg, **Monroe County**. This is a renewal of a State-only Operating Permit.

45-00013: All American Sports Corp. (140 Second Street, Stroudsburg, PA 18360) for operation of a spray coating operation at their facility in Stroudsburg Borough, **Monroe County**. This is a renewal of a State-only Operating Permit.

45-00030: United Envelope, LLC (1200 Industrial Park Drive, P. O. Box 37, Mount Pocono, PA 18344) for operation of an envelope manufacturing operation at the facility in Coolbaugh Township, **Monroe County**. This is a renewal of a State-only Operating Permit.

48-00093: Oldcastle APG Northeast, Inc. (800 Uhler Road, Easton, PA 18040-6617) for operation of a concrete block and brick operation in Forks Township, **Northampton County**. This is the initial issuance of a State-only Operating Permit.

35-00036: SNF Polychemie (P. O. Box 250, Riceboro, GA 31323) for operation of an industrial organic chemical manufacturing facility in Taylor Borough, **Lackawanna County**. This is the renewal of a State-only operating Permit.

35-00015: Metso Paper USA (P. O. Box 155, Clarks Summit, PA 18411-0155) for operation of a fabricated rubber products facility in Clarks Summit Borough, **Lackawanna County**. This is the renewal of a State-only operating Permit.

48-00012: American Nickeloid Co. (131 Cherry Street, Walnutport, PA 18088-1608) for operation of an electro-plating facility in Walnut Borough, **Northampton County**. This is the renewal of a State-only operating Permit.

54-00043: Goulds Pumps ITT Ind. (500 East Centre Street, Ashland, PA 17921) for operation of a pump manufacturing facility in Ashland Borough, **Schuylkill County**. This is the renewal of a State-only operating Permit.

54-00063: Greater Pottsville Area Sewer Authority (401 North Centre Street, P. O. Box 1163, Pottsville, PA 17901-7163) for operation of a wastewater treatment plant in the City of Pottsville, **Schuylkill County**. This is the initial issuance of a State-only Operating Permit.

45-00029: Transistor Devices (1901 West Main Street, Stroudsburg, PA 18360) for operation of a primary metal production facility in Stroudsburg Borough, **Monroe County**. This is the initial issuance of a State-only Operating Permit.

40-00107: Allegheny Energy Supply Company, LLC (800 Cabin Hill Drive, Greensburg, PA 15601) for operation of a simple cycle combustion turbine for electric power generation in Hunlock Township, **Luzerne County**. This is the initial issuance of a State-only Operating Permit.

40-00118: Valmont Newmark (225 Kiwanis Boulevard, West Hazleton, PA 18202) for operation of a fabricated metal product manufacturing facility in West Hazleton Borough, **Luzerne County**. This is the initial issuance of a State-only Operating Permit.

13-00016: Haulmark Industries, Inc. (6 Banks Avenue, McAdoo Industrial Park, McAdoo, PA 18237-0147) for operation of a spray coating operation in Banks

Township, **Carbon County**. This is the initial issuance of a State-only Operating Permit.

58-00002: Donald Dean and Sons, Inc. (99 Grow Avenue, Montrose, PA 18801) for operation of a wood-working facility in Montrose Borough, **Susquehanna County**. This is the renewal of a State-only Operating Permit.

39-00003: Apollo Metals LTD. (1001 14th Avenue, Bethlehem, PA 18018-0045) for operation of a plating and polishing facility located in the City of Bethlehem, **Lehigh County**. This is an initial application for a State-only Operating Permit changing the existing Title V Operating Permit to a State-only Operating Permit.

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

36-03048: Hubbard Feeds, Inc. (3349 Hempland Road, Lancaster, PA 17601) for their animal feed mill in East Hempfield Township, **Lancaster County**. This is a renewal of the State-only operating permit issued in January 2004.

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

49-00019: Sunoco Partners Marketing & Terminals, LP (525 Fritztown Road, Sinking Spring, PA 19608) for their petroleum bulk storage and distribution (Northumberland Terminal) in Point Township, **Northumberland County**. The facility's main sources include a six storage tanks and two loading racks. The facility has taken restrictions to limit potential VOCs and HAPs emissions below Title V thresholds. The proposed State-only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

08-00017: Northern Tier Solid Waste Authority (P. O. Box 10, Burlington, PA 18814-0010) for operation of their municipal solid waste landfill in West Burlington Township, **Bradford County**. The facility's main sources include a landfill gas collection and extraction system with the air contaminant emissions controlled by an enclosed flare or a 1,600 kW landfill gas fired engine; and the Leachate and Septage Treatment Operations consisting of an anaerobic biotower and ancillary equipment. The air contaminants from which controlled by an activated carbon absorber and an enclosed flare. This facility has the potential to emit SO_x, NO_x, CO, VOCs, HAPs and PM₁₀ below the major emission thresholds. The proposed State-only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

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

S09-002: Smurfit Stone Container Enterprises (9820 Bluegrass Road, Philadelphia, PA 19114) for manufacturing of corrugated boxes from raw materials involving flexographic printing process in the City of Philadelphia, **Philadelphia County**. The Synthetic Minor Facility's Air Emission sources include two 12.55 mmBtu/hr boilers, two cyclones, one 50" flexographic printing press.

The operating permit will be issued under the 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS,

321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

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

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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

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

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

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

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

Where a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity

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

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

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

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

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

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

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

Coal Applications Received

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

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

¹The parameter is applicable at all times.

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

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

30841316 and NPDES Permit No. PA0213535, Consol Pennsylvania Coal Company, LLC, (P. O. Box J, 1525 Pleasant Grove Road, Clayville, PA 15323), to revise the permit for the Bailey Mine and Prep Plant in Richhill Township, **Greene County** to construct two boreholes and pipeline at the Bailey Mine. Surface Acres Proposed 23.2. No additional discharges. Application received December 5, 2008.

32991301 and NPDES Permit No. PA0215228, AMFIRE Mining Company, LLC, (One Energy Place, Latrobe, PA 15650), to revise the permit for the Nolo Deep Mine in Buffington, Pine, Cherryhill and Brush Valley Townships, **Indiana County** and related NPDES permit to add underground and subsidence control plan acres to the permit areas. Underground Acres Proposed 1,490.0, Subsidence Control Plan Acres Proposed 1,490.0. No additional discharges. The first downstream potable water supply intake from the point of discharge is Central Indiana Water Authority and intake Yellow Creek. Application received December 30, 2008.

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

56090102 and NPDES No. PA0262722. Fieg Brothers, 3070 Stoystown Road, Stoystown, PA 15563, commencement, operation and restoration of a bituminous surface and auger mine in Somerset Township, **Somerset County**, affecting 83.5 acres. Receiving stream: Wells Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 30, 2009.

56970105 and NPDES No. PA0234630. Hoffman Mining, Inc., P. O. Box 130, 118 Runway Road, Friedens, PA 15541, transfer of an existing bituminous surface mine from Sherpa Mining Contractors, Inc. located in Paint Township, **Somerset County**, affecting 171.0 acres. Receiving streams: UNTs to/and Stonycreek River classified for the following uses: CWF and TSF. There are no potable water supply intakes within 10 miles downstream. Application received February 4, 2009.

56970105 and NPDES No. PA023460. Sherpa Mining Contractors, Inc., 337 Benny Road, Hooversville, PA 15936, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in

Shade Township, **Somerset County**, affecting 95.1 acres. Receiving streams: UNT to/and Stonycreek River classified for the following uses: CWF and TSF. There are no potable water supply intakes within 10 miles downstream. Application received February 10, 2009.

56803093 and NPDES No. PA0124656. Croner, Inc., P. O. Box 260, Friedens, PA 15541, permit renewal for reclamation only of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 79.6 acres. Receiving streams: UNTs to Buffalo Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received February 6, 2009.

32090101 and NPDES No. PA0262731. Britt Energies, Inc., 2450 Philadelphia Street, Indiana, PA 15701, commencement, operation and restoration of a bituminous surface mine in Conemaugh Township, **Indiana County**, affecting 43.3 acres. Receiving streams: Sulfur Run and UNT to Sulfur Run classified for the following use: CWF. The application includes stream encroachments to construct a stream crossing and E & S controls within the barrier of a UNT to/and Sulfur Run. There are no potable water supply intakes within 10 miles downstream. Application received January 29, 2009.

32803010 and NPDES No. PA0124834. Keystone Coal Mining Corporation, P. O. Box 219, Shelocta, PA 15774, permit renewal for reclamation only of a bituminous surface mine in Blacklick Township, **Indiana County**, affecting 89.9 acres. Receiving streams: UNT to 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. Application received February 11, 2009.

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

63880102 and NPDES Permit No. PA0591025. Robinson Coal Company (P. O. Box 9391, Pittsburgh, PA 15225). Renewal application for reclamation only of a bituminous surface mine, located in Robinson Township, **Washington County**, affecting 55 acres. Receiving stream: UNT to Robinson Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received February 9, 2009.

GP12-63080103. Amerikohl Mining, Inc. (1384 SR 711, Stahlstown, PA 15687). Application for a GP-12 Portable Coal Crusher to be placed at a bituminous surface mine, located in Somerset and Fallowfield Townships, **Washington County**, affecting 205.5 acres. Receiving streams: UNTs to North Branch Pigeon Creek. Application received February 10, 2009.

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

33813012 and NPDES Permit No. PA0603210. P. and N. Coal Co., Inc. (P. O. Box 332, Punxsutawney, PA 15767). Renewal of an existing bituminous surface strip and auger operation in Gaskill Township, **Jefferson County** affecting 598.0 acres. Receiving streams: UNT to Clover Run and UNTs to East Branch Mahoning Creek and Lost Run, classified for the following: HQ-CWF. The first downstream potable water supply intake from the point of discharge is Western Pennsylvania Water Company. Application for reclamation only. Application received February 9, 2009.

24980105 and NPDES Permit No. PA0227871. Tamburlin Bros. Coal Co., Inc. (P. O. Box 1419, Clearfield, PA 16830). Renewal of an existing bituminous surface strip and auger operation in Horton Township, **Elk County** affecting 139.0 acres. Receiving streams: Karnes Run, Johnson Run and UNT to Brandy Camp Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received February 11, 2009.

24980102 and NPDES Permit No. PA0227781. Tamburlin Bros. Coal Co., Inc. (P. O. Box 1419, Clearfield, PA 16830). Renewal of an existing bituminous surface strip and auger operation in Fox Township, **Elk County** affecting 196.0 acres. Receiving streams: Limestone Run and Little Toby Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received February 11, 2009.

33070108 and NPDES Permit No. PA0258474. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127). Revision to an existing bituminous surface strip operation in McCalmont Township, **Jefferson**

County affecting 50.0 acres. The Department of Environmental Protection has made a tentative determination to impose effluent limitations within the ranges specified on Table 1 for Iron, Manganese, Total Suspended Solids and Aluminum. 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. Revision to add 10.0 acres to the permit which includes 2.0 acres within the original permit area and 5.0 acres additional for extracting coal. Application received February 12, 2009.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

54900101R3 and NPDES Permit No. PA0594725. Blackwood, Inc., (P. O. Box 639, Wind Gap, PA 18091), renewal of an existing anthracite surface mine, coal refuse reprocessing, prep plant and coal ash/biosolids utilization operation in Branch, Reilly and Tremont Townships, **Schuylkill County** affecting 1,847.6 acres, receiving streams: Panther and Swatara Creeks. Application received January 26, 2009.

54090101 and NPDES Permit No. PA0224740. Premium Fine Coal, Inc., (P. O. Box 2043, Hazleton, PA 18201), commencement, operation and restoration of an anthracite surface mine and coal refuse reprocessing operation and NPDES Permit for discharge of treated mine drainage in Blythe Township, **Schuylkill County** affecting 429.2 acres, receiving streams: Silver Creek and UNT of Schuylkill River, classified for the following use: CWF. Application received February 12, 2009.

Noncoal Applications Received

Effluent Limits—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

<i>Parameter</i>	<i>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.

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

01930302 and NPDES Permit No. PA0223239. ISP Minerals, Inc., P. O. Box O, Blue Ridge Summit, PA 17214, renewal of NPDES Permit, Hamiltonban Township, **Adams County**. Receiving streams: UNT to Tom's Creek classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received February 9, 2009.

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

2966BSM50 and NPDES Permit No. PA0202851. Potato Ridge, LLC (520 West Short Street, Lexington, KY 40507). NPDES Renewal application for continued treatment of a large noncoal surface mine, located in Stewart Township, **Fayette County**, affecting 65 acres. Receiving streams: Laurel Run and a UNT to Laurel Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received February 9, 2009.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301–303, 306 and 307 of the FWPCA (33

U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

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

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

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the 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

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E14-516. College Township, 1481 East College Avenue, State College, PA 16801. Walnut Run Pedestrian Bridge, in College Township, **Centre County**, United States Army Corps of Engineers, Baltimore District (State College, PA Quadrangle Latitude: 40° 48' 22"; Longitude: 77° 50' 13").

To construct and maintain a 4-foot wide by 28.5 foot long wooden bank-to-bank pedestrian bridge with a maximum underclearance of 4 feet over Walnut Run located 75 feet southwest of the intersection of East College Avenue and Puddintown Road. This project should have no direct impact to Walnut Run, which is classified as a HQ-CWF.

E17-448. Eagle Environmental II, LP, 354 Alexander Spring Road, Suite 3, Carlisle, PA 17105. Harmony Residual Waste Landfill and Leachate Transmission Line, Chest Township, **Clearfield County**, United States Army Corps of Engineers, Baltimore District (Westover, PA Quadrangle Latitude: 40° 45' 52.97"; Longitude: 78° 37' 58.21").

Eagle Environmental II, LP proposes to construct, operate and maintain a residual waste landfill and leachate transmission line requiring wetland impacts for the landfill and two leachate transmission line crossings beneath Pine Run and associated wetlands. Pine Run, contributory watercourses and waterbodies are designated

as Exceptional Value through Chapter 93 Rules and Regulations. Construction of the residual waste landfill will result in 0.17-acre of permanent isolated wetland impacts. Construction of the leachate transmission line shall be completed by boring beneath the watercourse and wetlands that will result in temporary floodplain impacts for boring launch and exit. No permanent impacts shall be incurred at Pine Run and its associated wetlands for the leachate transmission, since there shall be no stream, riparian corridor or wetland vegetation disturbances within the 25-foot right-of-way between boring launch and exit locations. The applicant has proposed constructing 0.42-acre of replacement wetlands for mitigation of the 0.17-acre isolated wetland impacts incurred for construction of the landfill. The project is located along the northeastern right-of-way of SR 3006 approximately 4,500-feet northwest of SR 3003 and SR 3006 intersection.

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

E25-726. Millcreek Town Center Limited Partnership, 1330 Boylston Street, Chestnut Hill, MA 02467. Millcreek Town Center Development, in Millcreek Township, **Erie County**, United States Army Corps of Engineers, Pittsburgh District (Swanville, PA Quadrangle N: 42° 4' 2"; W: 80° 11' 46").

The applicant proposes to construct a commercial development on 57 acres consisting of 350,000 square feet of retail space, parking, stormwater facilities and associated infrastructure involving: 1) to fill 2.58 acres of PEM wetlands; 2) to fill a 0.23 acre pond and a 0.11 acre pond; 3) to construct and maintain a watercourse relocation of 2,000 feet of a UNT Wilkins Run to a relocated length of 2,437 feet; 3) to construct and maintain a 90-foot long culvert in the reconstructed watercourse; 4) to remove the existing culvert and to construct and maintain a 4-foot diameter culvert in a UNT Wilkins Run under SR 20; 5) to construct and maintain a 3.31 acre wetland mitigation area consisting of 1.37 acres of PEM wetland, 1.24 acres of PSS wetland and 0.70 acre of PSS/PFO wetland; and 6) to construct and maintain various associated stormwater outfalls and utility line crossings. UNT Wilkins Run is a perennial stream classified as a WWF and MF. The project proposes to directly impact 2.58 acres of PEM wetlands.

E33-234. Department of Transportation, District 10-0, 2550 Oakland Avenue, P. O. Box 429, Indiana, PA 15701. SR 0080, Section 545 Brookville Interchange in Brookville Borough and Rose Township, **Jefferson County**, United States Army Corps of Engineers, Pittsburgh District (Brookville, PA Quadrangle N: 41° 10' 13.4"; W: 79° 05' 53.5").

To construct and maintain the following as part of the improvements to the Brookville Interchange, SR 0080, Section 545:

1. Fill 0.233 acre of wetland (PEM) associated with roadway embankment for the extension of the eastbound exit ramp (Ramp D).

2. Install a 40-inch diameter HDPE lining within the existing 270-foot long, 48-inch diameter corrugated metal pipe stream enclosure in a tributary to Clement Run at station 23+44.21 associated with extension of the westbound entrance ramp (Ramp A).

3. Install a 40-inch diameter HDPE lining within the existing 243-foot long, 48-inch diameter corrugated metal pipe stream enclosure and extend by 17 feet on the downstream end bringing the structure to a total length

of 260 feet in a tributary to Clement Run at station 112+40.08 associated with extension of the eastbound exit ramp (Ramp D).

4. To extend the existing 160-foot long, 54-inch diameter corrugated metal pipe stream enclosure at station 35+64.76 associated with extension of the eastbound entrance ramp (Ramp A) by adding an additional 12 feet onto upstream end bringing the structure to a total length of 172 feet in Clement Run.

5. To extend the existing 174-foot long, 54-inch diameter corrugated metal pipe stream enclosure at station 106+41.43 associated with the extension of the westbound exit ramp (Ramp D) by adding an additional 31 feet onto the downstream end, bringing the structure to a total length of 205 feet in Clement Run.

Project proposes to deduct 0.233 acre from Department of Transportation's Jefferson County Advance Wetland Mitigation Bank.

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

D10-004EA. Wild Waterways Conservation, 101 East Street, Zelenople, PA 16063. Jackson Township

Butler County, United States Army Corps of Engineers, Pittsburgh District. Project proposes to breach and remove Harmony Junction Dam across Connoquenessing Creek (WWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 1,200 linear feet of stream channel. The dam is located approximately 800 feet north of the intersection of SR 68 and Hartman Road (Evans City, PA Quadrangle Latitude: 40° 47' 50"; Longitude: 80° 06' 16")

DAM SAFETY

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.

D45-032. Analomink Rod and Gun Club, Analomink Rod and Gun Club c/o George Meyner, P. O. Box 100, Analomink, PA 18320. To operate, and maintain the Analomink Lake Dam across a tributary to Broadhead Creek (HQ-CWF), impacting 0.00 acres of wetlands (PEM) with no proposed impacts to the stream channel, for the purpose obtaining a permit to operate and maintain this dam in accordance with State law (East Stroudsburg, PA Quadrangle N: 10.9 inches; W: 13.8 inches) in Stroud Township, **Monroe County**.

ACTIONS

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

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0061654	Wallenpaupack Area School District HC 6 Box 6075 Hawley, PA 18428-9045	Wayne County Dreher Township	Wallenpaupack Creek 01C	N
PA-0029432 (Minor Sewage)	Department of Public Welfare Clarks Summit State Hospital 1451 Hillside Drive Clarks Summit, PA 18411	Newton Township Lackawanna County	Falls Creek 04G	Y
PA0063711 (Major Sewage)	Central Carbon Municipal Authority 1000 Lehigh Drive Lehighon, PA 18235	Mahoning Township Carbon County	Lehigh River 02B	N

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0024091 SP	Millville Borough P. O. Box 30 Millville, PA 17846-0030	Columbia County Millville Borough	Little Fishing Creek 5C	Y
PA0110272 SN	Cogan Valley Farms, Inc. 480 Route 973 West Cogan Station, PA 17728	Lycoming County Hepburn Township	Lycoming Creek 10A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0100625	TA Operation Corporation Suite 200 24601 Center Ridge Road Westlake, OH 44145	Brookville Borough Jefferson County	Clement Run 17-C	Y
PA0104141	Jay Township Weedville STP 1766 Redwood Avenue Weedville, PA 15868	Jay Township Elk County	Bennett Branch Sinnemahoning Creek 8-A	Y

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

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

NPDES Permit No. PA0031208, Sewage, **Garnet Valley School District**, 80 Station Road, Glen Mills, PA 19342. This proposed facility is located in Concord Township, **Delaware County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage from Garnet Valley High School into Green Creek in Watershed 3G.

NPDES Permit No. PA0030112, Sewage, **Methacton School District**, 1001 Kriebel Mill Road, Norristown, PA 19408. This proposed facility is located in Worcester Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage to a UNT to Skippack Creek in Watershed 3E-Perkiomen

NPDES Permit No. PA0031747, Sewage, **Glen Mills School**, P. O. Box 5001, Concordville, PA 19331. This proposed facility is located in Thornbury Township, **Delaware County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage into Chester Creek in Watershed 3G.

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

NPDES Permit No. PA0026107-A1, Sewage, **Wyoming Valley Sanitary Authority**, P. O. Box 33A, Wilkes-Barre, PA 18703. This proposed facility is located in Hanover Township, **Luzerne County**.

Description of Proposed Action/Activity: Issuance of NPDES Permit Amendment to revise interim compliance due date for Activity 1, Award Contract for Construction or Begin Implementation, from October 1, 2008, to March 1, 2009.

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

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

WQM Permit No. 3908404, Sewerage, **Lehigh County Authority**, 1053 Spruce Street, P. O. Box 3348, Allentown, PA 18106-0348. This proposed facility is located in Upper and Lower Macungie Townships, **Lehigh County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit for the construction of the Iron Run Pump Station and Force Main Project, including a new 5.5 mgd wastewater pumping station and approximately 19,000 linear feet of 20-inch ductile iron force main.

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

WQM Permit No. WQM6008403, Sewage, SIC 4952, **Gregg Township Municipal Authority**, P. O. Box 192, 16736 Route 15, Allenwood, PA 17810. This facility is located in Gregg Township, **Union County**.

Description of Proposed Action/Activity: Upgrade of the existing treatment facility to replace screening and grit removal and add two more SBRs. This will increase the treatment plant capacity from 0.98 mgd to 1.26 mgd.

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

WQM Permit No. 0307201, Industrial Waste, **Reliant Energy Northeast Management Company**, 121 Champion Way, Suite 200, Canonsburg, PA 15317. This proposed facility is located in Plum Creek Borough, **Armstrong County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of an industrial wastewater treatment plant to treat blowdown from the Flue Gas Desulfurization Scrubber System.

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

Description of Proposed Action/Activity: Permit issuance for the construction and operation of sanitary sewers to replace existing combined sewer subsystems in Freedom Borough.

WQM Permit No. 0288436-A4, Sewerage, **Municipality of Penn Hills**, 12245 Frankstown Road, Pittsburgh, PA 15235. This existing facility is located in Penn Hills Township, **Allegheny County**.

Description of Proposed Action/Activity: Permit amendment issuance to replace existing chlorine disinfection with ultraviolet disinfection and the replacement of the belt filter press with a centrifuge.

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

WQM Permit No. 1008403, Sewerage, **Western Butler County Authority**, 607 Market Street, P. O. Box 427, Zelienople, PA 16063-0427. This proposed facility is located in Jackson Township, **Butler County**.

Description of Proposed Action/Activity: The pump station will serve the proposed Creekside Manor residential plan which will include 163 townhome units, 276 apartment units and a clubhouse facility. The pump station will also serve a future commercial development north of Creekside Manor. These flows are ultimately conveyed to the W.B.C.A. Water Pollution Control Plant in Zelienople.

WQM Permit No. 2508406, Sewerage, **Millcreek Township Sewer Authority**, 3608 West 26th Street, Erie, PA 16506-2509. This proposed facility is located in Millcreek Township, **Erie County**.

Description of Proposed Action/Activity: This is the first of two phases to increase sewer conveyance capacity in the critical sections of Millcreek Township Sewer Authority's system in the Glenwood Area. About 1,050 feet of 12" sewer on Old Perry Highway and Perry Highway will be replaced by 15" gravity sewer segments, thereby allowing adequate carrying capacity for the combined peak flows from both Millcreek and Summit Townships. This project will abate a projected hydraulic overload in those areas.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1507007	Upper Uwchlan Township 140 Pottstown Pike Chester Springs, PA 19425	Chester	Upper Uwchlan Township	UNT Pickering Creek HQ
PAI01 1508043	Trustees of University of Pennsylvania 250 King of Prussia Road Radnor, PA 19087	Chester	Tredyffrin Township	UNT Valley Creek EV

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1508049	Robert L. Cone P. O. Box 120 Elverson, PA 19520	Chester	West Nantmeal Township	South Branch French Creek EV

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024508014	Pocono Mountain School District P. O. Box 200 Pocono Mountain School Road Swiftwater, PA 18370	Monroe	Barrett Township	Brodhead Creek HQ-CWF
PAI023908021	North Star Real Estate Investment, LP 7562 Penn Drive Suite 100 Allentown, PA 18106	Lehigh	Upper Macungie Township	Iron Run HQ-CWF
PAI025406002	Schuylkill Economic Development Corporation 91 South Progress Avenue P. O. Box 659 Pottsville, PA 17901	Schuylkill	Cass Township	Dyer Run CWF
PAI023909013	Parkland School District 2219 North Cedar Crest Boulevard Allentown, PA 18104	Lehigh	Upper Macungie Township	Spring Creek HQ-CWF

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

Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041403017(3)	Penn State Central Campus Ian Salada/PSU 113 Physical Plant Building University Park, PA 16802	Centre	State College Borough	Slab Cabin Run CWF Thompson Run HQ-CWF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Groundwater Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

*General Permit Type—PAG-2**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Caln Township Chester County	PAG200 1503118-R	Caln Nether Co., LP P. O. Box 690 West Chester, PA 19381-0690	UNT Valley Creek CWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Kennett Township Chester County	PAG200 1508058	Kennett Development Co., LP 128 East State Street Suite 110 Kennett Square, PA 19348	East Branch Red Clay Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
London Grove Township Chester County	PAG200 1508071	Avon Grove School District 375 South Jennersville Road West Grove, PA 19390 London Grove Township 372 Rose Hill Road Suite 100 West Grove, PA 19390	East Branch White Clay Creek CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG201 5105006-1	Aegis Property Group 123 South Broad Street Suite 1930 Philadelphia, PA 19109	Schuylkill River CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Old Forge Borough Lackawanna County	PAG2003509003	Thomas McDermott P. O. Box 67 Coxton Road Duryea, PA 18642	St. Johns Creek CWF	Lackawanna County Conservation District (570) 281-9495
Jenkins Township Luzerne County	PAG2004008007	John Giambra 144 Crystal Creek Road West Pittston, PA 18643-9600	Gardner Creek CWF	Luzerne County Conservation District (570) 674-7991
Clearfield County Lawrence Township	PAG2001708016	Lawrence Township Supervisors P. O. Box 508 Clearfield, PA 16830	West Branch Susquehanna River WWF Clearfield Creek WWF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629
Clearfield County Sandy Township	PAG2001709001	Glenn O. Hawbaker, Inc. 1952 Waddle Road State College, PA 16803	Clear Run CWF UNT to Sandy Lick Creek CWF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629
Butler County Forward Township	ESCGP1-001009001	Wylie-Smith Gas Well No. 1 Gary Clark P. C. Exploration, Inc. 502 Keystone Drive Warrendale, PA 15086	Connoquenessing Creek WWF	Butler County Conservation District (724) 284-5270
Butler County Forward Township	ESCGP-1001008002	Baron-Bond-Thackray- Marburger gas well Gary Clark P. C. Exploration, Inc. 502 Keystone Drive Warrendale, PA 15086	UNT of Glade Run WWF	Butler County Conservation District (724) 284-5270
Jefferson County Punxsutawney Borough	PAG2003308002	Department of Transportation District 10-0 2550 Oakland Avenue P. O. Box 429 Indiana, PA 15701	Mahoning Creek WWF	Jefferson County Conservation District (814) 849-7463

*Facility Location:
Municipality &
County**Permit No.**Applicant Name &
Address**Receiving
Water/Use**Contact Office &
Phone No.*Mercer County
Sharon City

PAG2004309001

Department of
Transportation 1-0
255 Elm Street
P. O. Box 398
Oil City, PA 16301Shenango River
WWFMercer County
Conservation District
(724) 662-2242*General Permit Type—PAG-3**Facility Location:
Municipality &
County**Permit No.**Applicant Name &
Address**Receiving
Water/Use**Contact Office &
Phone No.*Lower Mount Bethel
Township
Northampton
County

PAR122208

ConAgra Flour Milling
Company
P. O. Box 193
Martins Creek, PA 18063

Delaware River

DEP—NERO
Water Management
Program
2 Public Square
Wilkes-Barre, PA
18711-2511
(570) 826-2511Salem Township
Luzerne County

PAR602242

E.F.S. Inc./Ed Spencer
Auto Parts
350 Salem Boulevard
Berwick, PA 18603-6462UNT of Susquehanna
River and Susquehanna
River
WWFDEP—NERO
Water Management
Program
2 Public Square
Wilkes-Barre, PA
18711-2511
(570) 826-2511Snyder County
McClure Borough

PAR204805

Lozier Corporation
48 East Ohio Street
McClure, PA 17841South Branch Middle
Creek
TSFNorthcentral Regional
Office
Water Management
Program
208 West Third Street
Suite 101
Williamsport, PA 17701
(570) 327-3664Wilmont Township
Bradford County

PAR604813

Vernon Ambrosius
R. D. 1
Box 145
New Albany, PA 18833UNT to North Fork
Mehoopany Creek
CWFWater Management
Program Manager
208 West Third Street
Williamsport, PA 17701
(570) 327-3664Cambria Township
Cambria County

PAR806218

FedEx Freight East, Inc.
2200 Forward Drive
DC: 2270
Harrison, AZ 72601

Howells Run

Southwest Regional Office
Water Management
Program Manager
400 Waterfront Drive
Pittsburgh, PA
15222-4745
(412) 442-4000Marshall Township
Allegheny County

PAR116123-A1

Mitsubishi Electric
Power Products, Inc.
530 Keystone Drive
Warrendale, PA
15086-7537

Monongahela River

Southwest Regional Office
Water Management
Program Manager
400 Waterfront Drive
Pittsburgh, PA
15222-4745
(412) 442-4000Delaware Township
Mercer County

PAG048406

Amber Hunt-Rieger
2002 Rutledge Road
Transfer, PA 16154UNT of the Shenango
Reservoir
20-ADEP—NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6942Otto Township
McKean County

PAG049467

Dale L. Littlefield
541 Main Street
Duke Center, PA
16729-9739Tram Hollow Run
16-CDEP—NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6942

General Permit Type—PAG-7

Facility Location:

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Springettsbury Township York County	PAG073503	Springettsbury Township 1501 Mt. Zion Road York, PA 17402	Springettsbury Township Wastewater Treatment Facility 3501 North Sherman Street York, PA 17406	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

General Permit Type—PAG-10

Facility Location:

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Industry Borough Beaver County	PAG106101	Buckeye Pipe Line Company, LP Tek Park 5 9999 Hamilton Boulevard Breinigsville, PA 18031	Ohio River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

STATE CONSERVATION COMMISSION

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

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

Persons aggrieved by any action may appeal under section 517 of Act 38, section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachael Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for pro bono representation. Call the Secretary of the Board at (717) 787-3483 for more information.

NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET—ACTIONS

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Application or Action</i>
Jonathan Dietrich 5931 Buffalo Road Mifflinburg, PA 17844	Union	84.2	1,647.8	Swine	NA	Action/approved
Gary Pfleeger 560 Goodman Road Lewisburg, PA 17837	Union	80	533.79	Swine	NA	Action/approved

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Permit No. 5289408MA, Minor Amendment, Public Water Supply.

Applicant	Pennsylvania Utilities, Inc. 234 The Glen Tamiment, PA 18371 Lehman Township
County	Pike
Type of Facility	PWS
Consulting Engineer	Charles H. Niclaus, P. E. Niclaus Engineering Corporation 804 Sarah Street Suite 201 Stroudsburg, PA 18360
Permit to Construct Issued	January 28, 2009

Permit No. 2406498, Operations Permit, Public Water Supply.

Applicant	Nature's Way Springs, LP 164 Commerce Road Pittston, PA 18640 Foster Township
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County	Luzerne
Type of Facility	Bulk Water Hauling Facility
Consulting Engineer	N/A
Permit to Operate Issued	January 27, 2009

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

Permit No. 3608510, Public Water Supply.

Applicant	Northwestern Lancaster County Authority
Municipality	Penn Township
County	Lancaster
Type of Facility	Installation of an interconnection with Manheim Borough.
Consulting Engineer	Daniel J. Becker, P. E. Becker Engineering, LLC 115 Millersville Road Lancaster, PA 17603
Permit to Construct Issued	February 10, 2009

Permit No. 3608519, Public Water Supply.

Applicant	King's River Haven MHP and Campsite
Municipality	Conoy Township
County	Lancaster
Type of Facility	Change in disinfection from iodine to sodium hypochlorite.
Consulting Engineer	Stephen R. Morse, P. E. Skelly and Loy, Inc. 2601 North Front Street Harrisburg, PA 17110-1185
Permit to Construct Issued	February 10, 2009

Permit No. 2208508 MA, Minor Amendment, Public Water Supply.

Applicant	United Water Pennsylvania
Municipality	Swatara Township
County	Dauphin
Type of Facility	Construction of a new 2 mg. Chambers Hill Storage Tank.
Consulting Engineer	Arthur Saunders, P. E. United Water Pennsylvania 4211 East Park Circle Harrisburg, PA 17111
Permit to Construct Issued	February 12, 2009

Permit No. 2208509 MA, Minor Amendment, Public Water Supply.

Applicant	Pennsylvania American Water Co.
Municipality	South Hanover Township
County	Dauphin
Type of Facility	Change in filter media (GAC and Sand) for Filter Nos. 1—3.

Consulting Engineer Scott M. Thomas, P. E.
 Pennsylvania American Water
 Company
 800 West Hersheypark Drive
 Hershey, PA 17033

Permit to Construct February 10, 2009
 Issued

Operations Permit issued to **Shippensburg Borough Authority**, 7210043, Southampton Township, **Cumberland County** on February 12, 2009, for the operation of facilities approved under Construction Permit No. 2106503.

Operations Permit issued to **Pennsylvania American Water Co.**, 7220017, South Hanover Township, **Dauphin County** on February 10, 2009, for the operation of facilities approved under Construction Permit No. 2207512.

Operations Permit issued to **Perry Manor, LLC**, 7500026, Oliver Township, **Perry County** on February 10, 2009, for the operation of facilities approved under Construction Permit No. 5008503.

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

Permit No. MA-7346—Construction, Public Water Supply.

Applicant	Pike Township Municipal Authority
Township or Borough	Curwensville Borough
County	Clearfield
Responsible Official	F. Michael Smeal, Manager Pike Township Municipal Authority P. O. Box 27 Curwensville, PA 16833
Type of Facility	Public Water Supply—Construction
Consulting Engineer	Patrick J. Ward, P. E. Uni-Tec Consulting Engineers, Inc. 2007 Cato Avenue State College, PA 16801
Permit Issued Date	February 10, 2009
Description of Action	Construction of a 1,026,000 gallon glass-coated, bolted-steel finished water storage tank. The existing two adjacent interconnected covered concrete basins having a capacity of 1.126 million gallons will be abandoned.

WATER ALLOCATIONS

Actions taken on applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of this Commonwealth

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

Change of ownership

WA-675—Succession of Water Rights. The Department of Environmental Protection has acknowledged that

Aqua Pennsylvania, Inc., Bryn Mawr, **Montgomery County**, has given notice that it succeeded to all rights and obligations under the permit issued to the former Emlenton Water Company, Emlenton Borough, **Venango County** on December 31, 2008.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Bethlehem Commerce Center—Corporate Campus Drive and Harvard Avenue Extension, 530 East Third Street, Bethlehem City, **Northampton County**. Jacqueline F. Beck, HDR Engineering, Inc., 1720 Spillman Drive, Suite 280, Bethlehem, PA 18015-2165 has submitted a Cleanup Plan (on behalf of her client, Lehigh Valley Industrial Park, Inc., 1720 Spillman Drive, Suite 150, Bethlehem, PA 18015-2164), concerning the remediation of soils found to have been impacted by heavy metals

as a result of historical manufacturing operations at the site. The report was submitted in partial fulfillment for demonstrating attainment of the Site-Specific Standard for soils. A public notice regarding the submittal of the Cleanup Plan was published in *The Morning Call* and *The Express-Times* on January 26, 2009.

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

Kingston House Apartments, West York Borough, **York County**. Groundwater Services International, Inc., 443 McCormick Road, Mechanicsburg, PA 17055, on behalf of Delphia Management Corporation/York Area Development Corporation, 118 North George Street, York, PA 17401, submitted a Final Report concerning remediation of site soils and groundwater contaminated with metals and SVOCs from historical industrial activities. The report is intended to document remediation of the site to meet the Residential 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, P. O. Box 129, Bellwood, PA 16617, resubmitted a Remedial Investigation Report 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.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

James Estate Farm, Turbot Township, **Northumberland County**. Molesevich Environmental, LLC, P. O. Box 654, Lewisburg, PA 17837 on behalf of Century 21 Mertz & Assoc. Real Estate, 1817 Market Street, Lewisburg, PA 17837 has submitted a Final Report concerning remediation of site soil contaminated with gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report,

include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Rock Hill Trucking Route 145 Spill, Northbound and Southbound Lanes of PA Route 145, North Whitehall Township, **Lehigh County**. Thomas Martinelli, JMT Environmental Technologies, Inc., P. O. Box 22044, Lehigh Valley, PA 18002 submitted a Final Report (on behalf of his client, Rock Hill Trucking, 339 School Street, Suite 2, Catasauqua, PA 18032), concerning the remediation of soils found to have been impacted by diesel fuel and hydraulic oil as a result of a vehicular accident. The report documented attainment of the Residential Statewide Health Standard for soil and was approved on February 9, 2009. The report was originally submitted within 90 days of the release.

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

J. H. Brubaker Lumber Company, East Hempfield Township, **Lancaster County**. Converse Consultants, 2738 West College Avenue, State College, PA 16801, on behalf of J. H. Brubaker Lumber Company, 2008 Marietta Avenue, Lancaster, PA 17603, submitted a Final Report concerning remediation of site soils contaminated with VOCs and SVOCs. The Final Report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department of Environmental Protection on February 11, 2009.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Wills Property, Harris Township, **Centre County**. Blazosky Assoc., Inc., 2525 Green Tech Drive, Suite D, State College, PA 16803 on behalf of Terry Wills, 203 Homestead Lane, Boalsburg, PA 16827 has submitted a

Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on February 11, 2009.

Mifflinburg Lanes, Mifflinburg Borough, **Union County**, Molesevich Environmental, LLC, P. O. Box 654, Lewisburg, PA 17837 on behalf of Mifflinburg Bank & Trust Company, 250 East Chestnut Street, Mifflinburg, PA 17844 has submitted a combined Remedial Investigation Report/Final Report concerning remediation of site soil contaminated with No. 2 heating oil. The Remedial Investigation/Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department of Environmental Protection on February 11, 2009.

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

Armco Sawhill Tube (John Maneely Company—Sharon Pipe Plant), City of Sharon, **Mercer County**, ENVIRON, 214 Carnegie Center, Princeton, NJ 08540-6284 on behalf of John Maneely Company, 1 Council Avenue, Wheatland, PA 16161 has submitted a Risk Assessment Report concerning remediation of site soil contaminated with ethyl benzene, tetrachlorethene, trichloroethene, xylenes (total), benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, dibenzofuran, naphthalene, N-nitroso-di-n-propylamine, Aroclor-1248, Aroclor-1254, antimony, arsenic, cadmium, chromium (total), cobalt, lead, mercury, selenium, zinc and site groundwater contaminated with 1,2,4-Trichlorobenzene, 1,4-Dichlorobenzene, 2,3,7,8-TCDD equivalent, benzene, chlorobenzene, cis-1,2-dichloroethene, tetrachloroethene, trichloroethene, vinyl chloride, 2-Picoline, benzo(a)pyrene, bis(2-Ethylhexyl)phthalate, dibenz(a,h)anthracene, phenanthrene, Aroclor-1242, Aroclor-1254, Aroclor-1260, antimony, arsenic, barium, beryllium, cadmium, chromium III, chromium VI, copper, lead, manganese, mercury, nickel, selenium, sulfate, thallium and zinc. The Risk Assessment Report was disapproved by the Department of Environmental Protection on February 9, 2009.

Trinity Ind. Soil (Former Trinity Industries Site), City of Butler, **Butler County**, Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 on behalf of the Community Development Corporation of Butler County, 112 Woody Drive, Butler, PA 16001 has submitted a Final Report concerning the remediation of site soil contaminated with arsenic, barium and compounds, iron, lead, nickel, polychlorinated biphenyls (aroclor) (PCBs) and thallium. The Final Report demonstrated attainment of the Site-Specific and Statewide Health Standards and was approved by the Department of Environmental Protection on February 10, 2009.

Sheetz Store 367 (Buffalo Road Property), Harborcreek Township, **Erie County**, Mountain Research, LLC, 825 25th Street, Altoona, PA 16601 on behalf of BFB Buffalo Road, LLC, 116 Union Avenue, Altoona, PA 16602 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with benzene, ethylbenzene, toluene, total xylene (BETX), naphthalene, 1,2-dichloroethane and lead. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on August 21, 2008.

Walker Fuel Oil Spill Site, Fairfield Township, **Crawford County**, Moody & Associated, Inc., 11548 Cotton Road, Meadville, PA 16335, on behalf of Fortunata

Walker, 704 Sara Lane, Verona, PA 15147 has submitted a Final Report concerning the remediation of site soils contaminated with benzene, isopropylbenzene (cumene), ethylbenzene, fluorene, naphthalene, phenanthrene and toluene. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on February 12, 2009.

**OPERATE WASTE PROCESSING OR DISPOSAL
AREA OR SITE**

Permit Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 101494. Waste Management of Pennsylvania, Inc., 1000 New Ford Mill Road, Morrisville, PA 19067. This permit modification includes the approval of a gabion lining option for Vertical Channel No. 1 as an alternate to the designated articulated block linings that were previously specified in the permit for the Tullytown Resource Recovery Landfill located in Falls Township and the Borough of Tullytown, **Bucks County**. The permit was issued by the Southeast Regional Office on January 29, 2009.

Permit Approved under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Permit Application No. 101358. East Penn Transfer Station, East Penn Sanitation, Inc., P. O. Box 150, Phillipsburg, NJ 08865. A Major Permit Modification approval for the expansion of this municipal waste transfer station located in Lower Nazareth Township, **Northampton County**, to include the western construction demolition waste handling area, an increase in the daily volume limits and the transfer of construction demolition waste by rail. The permit was issued in the Regional Office on February 3, 2009

Permit Returned under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 101682. HJH Transfer Station, P. O. Box 345, Huntingdon Valley, PA 19006, Bensalem Township, **Bucks County**. This application is being returned for the proposed HJH Transfer Station facility because the application, at a minimum, is not complete or accurate with regard to land owner consent and right of entry, as required by 25 Pa. Code § 271.201(2), and section 502(a) of the solid Waste Management Act (35 P. S.

§ 6018.502(a)). The permit was returned by the Southeast Regional Office on February 2, 2009.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

GP3-46-0078: Highway Materials, Inc. (1750 Walton Road, Blue Bell, PA 19422) on February 12, 2009, to operate a portable crusher in Whitemarsh Township, **Montgomery County**.

GP9-46-0033: Highway Materials, Inc. (1750 Walton Road, Blue Bell, PA 19422) on February 12, 2009, to operate a combustion engine in Whitemarsh Township, **Montgomery County**.

GP7-09-0062: TAVO Packaging, Inc. (2 Canal Road, Fairless Hills, PA 19030) on February 13, 2009, to operate under GP7-09-0062 for the printing facility in Falls Township, **Bucks County**.

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

GP1-28-03021: Department of Public Welfare—South Mountain Restoration Center (10058 South Mountain Road, South Mountain, PA 17261-0999) on February 10, 2008, for Small Gas and No. 2 Oil Fired Combustion Units under GP1 in Quincy Township, **Franklin County**. This is a renewal of the GP1 permit.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Gorog and Barb Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

GP5-26-00584: Atlas Pipeline Pennsylvania, LLC (1550 Coraopolis Heights Road, 2nd Floor, P. O. Box 611, Moon Township, PA 15108) on February 12, 2009, received authorization under GP-5 for installation and operation of a natural gas production facility at the Dunbar Compressor Station in Dunbar Township, **Fayette County**.

GP5-63-00947: MarkWest Liberty Gas Gathering Co., LLC (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202-2126) on February 13, 2009, was authorized under GP-5 to install and operate four natural-gas fired Caterpillar engines, each rated at 1,340 bhp and controlled by a catalytic converter and a triethylene glycol dehydrator controlled by an open flare at the Lowry Compressor Station in Hopewell Township, **Washington County**.

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

GP27-038A: Catalyst Energy, Inc.—Watson Farm Gas Processing Plant (Route 66, Sheffield, PA 16347) on February 11, 2009, to operate a natural gas fired compressor engine (BAQ-GPA/GP-5) in Howe Township, **Forest County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

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

09-0084A: Grand View Hospital (700 Lawn Avenue, Sellersville, PA 18960) on January 5, 2009, for replacement of the current burners in three boilers with “low NOx” burners, which will result in a decrease in the amount of NOx emissions from their medical facility in West Rockhill Township, **Bucks County**. As a result of potential emissions of NOx, the facility is a State-only facility. The Plan Approval and Operating Permit will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

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

21-05021F: Arnold Fuel Oil, Inc. (P. O. Box 2621, Harrisburg, PA 17105-2621) on February 11, 2009, to construct a loading rack controlled by a vapor combustion unit at Mechanicsburg North Terminal at 127 Texaco Road, Silver Spring Township, **Cumberland 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.

04-00065C: WHEMCO-Steel Casting, Inc. (5 Hot Metal Street, Pittsburgh, PA 15203-2351) on February 12, 2009, to construct a new torch cutting operation at their Midland Facility, at Midland Borough, **Beaver County**.

32-00398A: Western Allegheny Energy, LLC (301 Market Street, Kittanning, PA 16201) on February 17, 2009, to construct a coal processing facility consisting of conveyors, a screen, radial stackers, stockpiles and a haul road at the Knob Creek Mine, in Young Township, **Indiana County**.

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, Saint Marys, PA 15857) on February 10, 2009, to install a new car bottom kiln and thermal oxidizer and a new scrubber at their facility in the City of Saint Marys, **Elk County**. This is a Title V facility.

25-025N: General Electric Transportation Systems—Erie Plant (2901 East Lake Road, Room 9-201, Erie, PA 16531) on February 2, 2009, to replace the existing VPI system (Source 178) and expand the source by adding another VPI tank and six ovens in Lawrence Park Township, **Erie County**. This is a Title V facility.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

09-0007B: Waste Management Disposal Services of PA, Inc. (1000 New Ford Mill Road, Morrisville, PA 19067) on February 9, 2009, to operate a flare to back-up control device in Falls Township, **Bucks County**.

09-0124F: Fairless Energy, LLC (5000 Dominion Boulevard, Glen Allen, VA 23060) on February 9, 2009, to operate an auxiliary boiler retrofit in Falls Township, **Bucks County**.

23-0001Z: Sunoco, Inc.—R&M (100 Green Street, Marcus Hook, PA 19061-0426) on February 9, 2009, to operate four auxiliary boilers in Marcus Hook Borough, **Delaware County**.

09-0124B: Fairless Energy, LLC (5000 Dominion Boulevard, Glen Allen, VA 23060) on February 9, 2009, to operate a combined cycle combustion turbine in Falls Township, **Bucks County**.

09-0124E: Fairless Energy, LLC (5000 Dominion Boulevard, Glen Allen, VA 23060) on February 9, 2009, to operate a 31.9 mmBtu/hr gas fired preheater in Falls Township, **Bucks County**.

09-0174: Liberty Coating Co., LLC (21 South Steel Road, Morrisville, PA 19067-3614) on February 9, 2009, to operate a surface coating in Falls Township, **Bucks County**.

09-0024E: Waste Management Disposal Services of PA, Inc. (1000 New Ford Mill Road, Morrisville, PA 19067) on February 9, 2009, to operate a flare to back-up control device in Tullytown Borough, **Bucks County**.

09-0175: Hanson Aggregates BMC, Inc. (2900 Terminal Avenue, Richmond, VA 23234) on February 9, 2009, to operate new pit conveyors in Wrightstown Township, **Bucks County**.

46-0069C: Highway Materials, Inc. (1750 Walton Road, Blue Bell, PA 19422) on February 9, 2009, to operate a shaker style baghouse in Whitemarsh Township, **Montgomery County**.

23-0024D: Hanson Aggregates PA, Inc. (2900 Terminal Avenue, Richmond, VA 23234) on February 9, 2009, to operate two baghouses in Middletown Township, **Delaware County**.

46-0261A: U. S. Tape Company, Inc. (2452 Quakertown Road, Pennsburg, PA 18073) on February 12, 2009, to operate a painting operation in Upper Hanover Township, **Montgomery County**.

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

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

15-00015: Sartomer Co., Inc. (610 Bolmar Street, West Chester, PA 19382) on February 11, 2009, for renewal of the Title V Operating Permit in West Chester Borough, **Chester County**. The initial permit was issued on October 10, 2001. The facility manufactures acrylate and methacrylate oligomers and polymers that are used in inks, coatings and adhesives. As a result of potential emissions of VOCs and HAPs, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments and is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The Title V Operating Permit will contain Compliance Assurance Monitoring conditions under 40 CFR Part 64 for certain reactors and

strippers in the Title V Operating Permit. This addition of regulatory requirements does not reflect any change in air emissions from this facility.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, Muhammad Zaman, Facilities Permitting Chief, (570) 327-3637.

49-00003: ACF Industries, LLC (417 North Arch Street, Milton, PA 17847-1320) on February 10, 2009, to issue a renewal Title V Operating Permit for their railcar manufacturing facility in Milton Borough, **Northumberland County**. The renewal title V operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

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

20-00123: Lord Corp.—Mechanical Products Division (124 Grant Street, Cambridge Springs, PA 16403) on February 10, 2009, to re-issue a Title V Operating Permit to operate a Fabricated Rubber Products manufacturing facility, in the Borough of Cambridge Springs, **Crawford County**.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

09-00126: Air Liquide Electronics U. S., LP (19 Steel Road West, Morrisville, PA 19067) on February 11, 2009, a non-Title V, Natural Minor facility in Falls Township, **Bucks County**. The facility is involved in the gas cylinder cleaning processes, the purification of industrial gases and the distribution of compressed specialty gases and liquefied chemicals. This permit incorporates the conditions for plan approvals PA-09-0126A and 09-0126B for the S-7 Process Hoods and S-5 Process Hoods respectively. The facility operates seven process hood lines for processing hydride gases, pyrophoric gases, hydrocarbon gases, chloride gases and fluoride gases, and each process line is set with a specific control device combination. The facility has an annual limit on PM of 55 pounds on a 12-month rolling period and has an annual limit on VOCs of 279 pounds on a 12-month rolling period. Monitoring and recordkeeping requirements have been added to the permit to address applicable limitations.

46-00202: Elan Corp. (3500 Horizon Drive, King of Prussia, PA 19406) on February 11, 2009, to operate a pharmaceutical research and development facility, in Upper Merion Township, **Montgomery County**. This action is a renewal of the original State-only Operating Permit (Natural Minor), which was issued on December 16, 2003. Several typographical changes have been made to the permit. No sources have been added to or removed from the permit. The facility shall continue to remain a natural minor. The permit includes monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

09-00090: Praxair Distribution Mid-Atlantic, LLC—d/b/a GTS-Welco (1 Steel Road East, Morrisville, PA 19067) on February 11, 2009, a renewal of a Non-Title V Facility, State-only, Natural Minor Permit in Falls Township, **Bucks County**. GTS-Welco owns and operates

a facility for filling and recycling gas cylinders for industry. A catalytic oxidizer is used to control emissions of ethylene oxide. Base Products and Acid Product emissions are controlled through the use of wet scrubber systems. Gases containing boron or silanes are processed in the Guardian Gas Cylinder Manifold, and the emissions from this unit are controlled through the use of a thermal oxidizer, a baghouse and a wet scrubber. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

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

54-00059: Magdalene (P. O. Box 215, Ringtown, PA 17967) on February 10, 2009, to operate a funeral service and crematory facility in Ringtown Borough, **Schuylkill County**. This is a State-only Natural Minor operating permit.

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

67-03018: Penn Mar Castings, Inc. (500 Broadway, Hanover, PA 17331-2001) on February 9, 2009, to operate an iron foundry in Hanover Borough, **York County**. This is a renewal of the State-only operating permit.

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

49-00047: Furman Foods (P. O. Box 500, Northumberland, PA 17857) on February 6, 2009, issued a State-only (Synthetic Minor) operating permit for their vegetable cannery in Point Township, **Northumberland County**. The facility's main sources include two natural gas/No. 2 fuel oil fired boilers, one No. 2 fuel oil fired boiler, one emergency generator and six parts washers. The facility has taken restrictions to limit potential SO_x emissions below Title V thresholds. The State-only (Synthetic Minor) operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

18-00024: Excel Homes, LLC (P. O. Box 420, Avis, PA 17721) on February 10, 2009, issued a renewal State-only operating permit for their facility in Pine Creek Township, **Clinton County**. This facility manufactures modular homes. The State-only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping, and report conditions.

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

04-00034: Engineered Polymer Solutions—d/b/a Valspar Coatings (372 Cleveland Street, Rochester, PA 15074-1662) on February 12, 2009, for operation of seven reactors, six weigh tanks, nine thin tanks, and seven mixers controlled by 24 condensers and six scrubbers, approximately 65–70 storage tanks, one air stripper, three boilers, and associated pumps, blowers, loading arms, and the like, at Valspar Coatings' Rochester Plant in Rochester Township, **Beaver County**. Applicable emission restrictions, monitoring requirements, recordkeeping requirements, reporting requirements, and work practice standards have been placed in the permit. This is a synthetic minor.

32-00102: Homer-Center School District (65 Wildcat Lane, Homer City, PA 15748-1602) on February 11, 2009, to operate natural gas-fired boilers, water heaters and

diesel-fired emergency generators at their Junior/Senior High School located in Homer City Borough, **Indiana County**. This is a renewal of the State-only operating permit issued in 2003.

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

61-00191: Seneca Printing & Label, Inc. (1642 Debence Drive, Franklin, PA 16323) on February 10, 2009, to re-issue the Synthetic Minor permit to operate a commercial printing facility in Sandycreek Township, **Venango County**. The significant sources included, plant heating system, pressroom (Lithographic presses) (34), miscellaneous fugitive emission sources and three degreaser units. The facility has taken restriction on VOC emission. The VOC emission from the facility shall not exceed 49.5 tpy to qualify as synthetic minor.

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

N08-002: Verizon-Pennsylvania, Inc.—Sherwood Office (5650 Chestnut Street, Philadelphia, PA 19103) on February 6, 2009, to operate a telecommunications facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include one 200-kW, one 350-kW and one 750-kW emergency generators firing diesel fuel oil.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

46-00112: Palmer International, Inc. (2036 Lucon Road, Skippack, PA 19474) on February 11, 2009, a non-Title V, Synthetic Minor facility located in Skippack Township, **Montgomery County**. The Synthetic Minor Operating Permit No. 46-00112 has been amended to include the requirements of Plan Approval No. PA-46-0112C, for numerous modifications to equipment in Building A, along with the installation of one new piece of equipment. The equipment in Building A is used to make products from cashew nutshell liquid. Modifications are to the handling and transport of particle production and materials. Excluding emissions from the Building A boiler, thermal oxidizer (from combustion), emergency generator, storage tanks and polymerization vats (from combustion), the processes in Building A will now be subject to the following emission limits: 21.0 tpy for VOCs, 8.85 tpy for HAPs (formaldehyde), 12.11 tpy for NO_x, 47.12 tpy for CO, 18.78 tpy year for PM and 36.65 tpy for SO_x. The existing thermal oxidizer will control emissions of VOCs and HAPs. Emissions of PM will be controlled by a combination of dust collectors, in-line filters and the existing thermal oxidizer. The Synthetic Minor Operating Permit contains monitoring, recordkeeping and operating conditions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

15-00010: ArcelorMittal Plate, LLC, (139 Modena Road, Coatesville, PA 19320) on February 12, 2009, for an Administrative Amendment to Title V Operating Permit No. TVOP-15-00010 in the City of Coatesville. The previously issued Title V Operating Permit has been amended

to incorporate changes approved under Plan Approval No. 15-0010C, for the modification of the ACA Powder Cutting and Baghouse, Source ID 182. The Administrative Amendment of Title V Operating Permit No. TVOP-15-00010 is issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

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

22-03052: Harman Home Heating (352 Mountain Road, Halifax, PA 17032-9531) on February 10, 2009, to construct three paint booths for stove and heating appliance coating operations in Jackson Township, **Dauphin County**. This State-only operating permit was administratively amended to incorporate three new booths constructed under plan approval 22-03053C. This is Revision No. 3.

31-05018: Texas Eastern Transmission, LP (P. O. Box 1642, Houston, TX 77251-1642) on February 10, 2009, to remove a redundant continuous emissions monitoring requirement in the existing permit for the facility in Todd Township, **Huntingdon County**. This State-only operating permit was administratively amended to incorporate plan approval 31-05018A. This is Revision No. 1.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

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

56823008 and NPDES No. PA0608637. Croner, Inc., P. O. Box 260, Friedens, PA 15541, permit renewal for reclamation only of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 176.0 acres. Receiving streams: UNTs to Buffalo Creek and to Tubs Run classified for the following uses: CWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received December 11, 2008. Permit issued February 10, 2009.

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

41080101 and NPDES No. PA0256714. Fisher Mining Company (40 Choate Circle, Montoursville, PA 17754). Commencement, operation and restoration of a bituminous surface coal mine in Pine Township, **Lycoming County**, affecting 254.0 acres. Receiving streams:

Buckeye and Right Fork Otter Runs, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received February 22, 2008. Permit issued February 5, 2009.

17070107 and NPDES No. PA0256536. P & N Coal Company, Inc. (P. O. Box 332, Punxsutawney, PA 15767), commencement, operation and restoration of a bituminous surface mine in Penn Township, **Clearfield County**, affecting 47.2 acres. Receiving stream: UNTs to Kratzer Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 2, 2007. Permit issued February 3, 2009.

17823101 and NPDES No. PA0609412. Hepburnia Coal Company (P. O. Box 1, Grampian, PA 16838). Permit renewal for the continued operation and restoration of a bituminous surface mine in Union Township, **Clearfield County**, affecting 128.0 acres. Receiving stream: two UNTs to LaBorde Branch and Anderson Creek, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received December 22, 2008. Permit issued February 6, 2009.

17783017 and NPDES No. PA0079618. Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849). Permit renewal for reclamation only of a bituminous surface mine in Brady Township, **Clearfield County**, affecting 178.8 acres. Receiving streams: UNT of Rock Run, Rock Run, a UNT of Rock Run to Rock Run, Rock Run to Little Anderson Creek to West Branch Susquehanna River, West Branch Susquehanna River to the Susquehanna River, to Laborde Branch, Laborde Branch to Sandy Lick Creek, Sandy Lick Creek to Redbank Creek, Redbank Creek to the Allegheny River. There are no potable water supply intakes within 10 miles downstream. Application received January 8, 2009. Permit issued January 15, 2009.

17060104 and NPDES No. PA0256358. RES Coal, LLC (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920). Transfer of an existing bituminous surface mine, and to add 14.6 acres, from Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849), located in Morris Township, **Clearfield County**, affecting 132.0 acres. Receiving streams: Hawk Run to Moshannon Creek to West Branch Susquehanna, classified for the following uses: CWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received July 1, 2008. Permit issued February 9, 2009.

Noncoal Applications Returned

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

03070801. William L. Traister (4393 St. Charles Road, New Bethlehem, PA 16242). Application for commencement, operation and reclamation of a small noncoal surface mining site located in Madison Township, **Armstrong County**, proposed to affect 5.0 acres, is hereby cancelled. Receiving streams: Redbank Creek to Allegheny River. Application received December 19, 2007. Application cancelled February 10, 2009.

Noncoal Permits Actions

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

6476SM10 and NPDES Permit No. PA0594172. John F. Walter Excavating, Inc., P. O. Box 175, Newville, PA 17241, renewal of NPDES Permit,

Middlesex Township, **Cumberland County**. Receiving streams: Conodoguinet Creek classified for the following uses: WWF. There are no potable water supply intakes within 10 miles downstream. Application received December 10, 2008. Permit issued February 10, 2009.

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

Small Noncoal Permit—Final Bond Release

18040801. Benson W. Probst (668 German Road, Lock Haven, PA 17745), noncoal mining operation in Wayne Township, **Clinton County**. Restoration of 2.0 acres completed. Receiving streams: Susquehanna River, tributary to Chesapeake Bay. Application received January 28, 2009. Final bond release February 12, 2009.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

58080833. David Depew, (115 Westwood Drive, Midland, PA 15059), commencement, operation and restoration of a quarry operation in Franklin Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received May 23, 2008. Permit issued February 9, 2009.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151—161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Blasting Permits Actions

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

35094102. Holbert Explosives, Inc., (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for Linde Corp. Pipeline in the City of Scranton, Archbald and Dunmore Boroughs, **Lackawanna County** with an expiration date of January 31, 2010. Permit issued February 10, 2009.

36094105. Warren's Excavating & Drilling, Inc., (P.O. Box 1022, Honey Brook, PA 19344), construction blasting for Preferred Self Storage in the City of Lancaster, **Lancaster County** with an expiration date of February 10, 2010. Permit issued February 11, 2009.

45094106. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Skyline Heights in Smithfield Township, **Monroe County** with an expiration date of February 8, 2010. Permit issued February 11, 2009.

52094102. Holbert Explosives, Inc., (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for Hemlock Farms in Dingman, Blooming Grove and Porter Townships, **Pike County** with an expiration date of February 3, 2010. Permit issued February 11, 2009.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality

Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania 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

Northeast Regional Office: Watershed Management Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E66-140. Dwight Lewis Lumber Company, Inc., Box A, Hillsgrove, PA 18619. Tunkhannock Township, **Wyoming County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a private steel I-beam bridge, having a span of 26 feet and an underclearance of approximately 9.25 feet across Mill Run (CWF) (Tunkhannock, PA Quadrangle Latitude: 41° 30' 44"; Longitude: 75° 53' 33") in Tunkhannock Township, Wyoming County. (Subbasin: 4G)

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E60-200. Gregg Township Municipal Authority, P.O. Box 192, Allenwood, PA 17810-0192. Waste Water

Treatment Plant Expansion, in Gregg Township, **Union County**, United States Army Corps of Engineers, Baltimore District (Allenwood, PA Latitude: 41° 6' 22"; Longitude: 76° 53' 38").

To construct, maintain and operate: 1) a 10,982 square foot Sequence Batch Reactor tank directly upstream of an existing tank; 2) a 969 square foot pump and valve room attached to the west wall of the new tank; 3) a 784 square foot grit building a few feet to the west of the new tank; 4) 825 linear feet of 18-foot wide at grade access road that encircles the plant; and 5) minor upgrades to the stormwater collection, conveyance and detention facilities, to supplement the existing waste water treatment plant, which is located 1,500 feet southeast of the SR 15 and SR 44 intersection. This permit was issued under section 105.13(e) "Small Projects."

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

E42-341, Tuna Valley Trail Association, 300 Campus Drive, Bradford, PA 16701. Bennett Brook Pedestrian Bridge, in the City of Bradford, **McKean County**, United States Army Corps of Engineers, Pittsburgh District (Pittsburgh, PA Quadrangle N: 42° 57' 23"; W: 79° 38' 50").

To construct and maintain a pedestrian bridge having a clear span of 24 feet and an underclearance of 7.0 feet across Bennett Brook in the Bradford Federal flood control project approximately 100 feet upstream of the confluence of Bennett Brook and West Branch of Tunungwant Creek. Bennett Brook is a perennial stream classified as a CWF.

ENVIRONMENTAL ASSESSMENTS

Cambria District: Environmental Program Manager, 286 Industrial Park Road, Ebensburg, PA 15931-4119.

EA1009-011. Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, Cambria Office, 286 Industrial Park Road, Ebensburg, PA 15931. Abandoned Mine Land Reclamation Project, in Cherry and Washington Townships, **Butler County**, United States Army Corps of Engineers, Pittsburgh District.

The applicant proposes to backfill an abandoned surface mine, which includes a total of 7,300 linear feet of dangerous highwall. The project will include the backfilling of 0.64 acre of PEM wetland, 0.23 acre of AMD-

impacted PEM wetlands, 817 linear-feet of channel and 3.67 acres of open water that have developed within the open surface mine pits. The original *Pennsylvania Bulletin* publication listed the impacts as 0.64 acre of PEM wetlands and 1.3 acres of open water. Review of the environmental assessment and site plans revealed additional impacted acreage and impacted channels. The project will also include the construction of 2.25 acres of wetland, 469 linear feet of permanent channel and 2.5 acres of open water as mitigation for the wetland, channel and water body impacts (West Sunbury Quadrangle N: 12.0 inches; W: 2.0 inches).

EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control (ESCP) Permits have been issued.

Any person aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514), and 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth agencies), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

If individuals want to challenge this action, their appeal must reach the Board within 30 days. Individuals do not need a lawyer to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. If individuals cannot afford a lawyer, individuals may qualify for free pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

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

ESCP 0809807	Fortuna Energy, Inc. 337 Daniel Zenker Drive Horseheads, NY 14845	Bradford County
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Troy Township	North Branch Towanda Creek CWF
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SPECIAL NOTICES

Request for Comments and Notice of Public Meeting for the Proposed Total Maximum Daily Loads (TMDLs) Developed for the Buffalo Creek Watershed

The Department of Environmental Protection (Department) and the Susquehanna River Basin Commission (SRBC) are holding a public meeting on March 4, 2009, at 7 p.m., at the Bucknell University—Dana Engineering Building, Gardner Hall, Room 113, 701 Moore Avenue, Lewisburg, PA 17837. For campus mapping refer to www1.bucknell.edu/map/index.html?by_building=dana_engineering. The purpose of the meeting is to discuss and accept comments on the proposed TMDLs developed for

the Buffalo Creek Watershed. In accordance with the requirements of section 303(d) of The Clean Water Act, stream segments in Buffalo Creek Watershed have been identified as impaired due to high levels of nutrients and sediment, as a result of agriculture and small residential land uses.

The proposed TMDLs set allowable loadings to meet water quality standards at specified points in Buffalo Creek for nutrients and sediment. Loads have been allocated to nonpoint sources. The TMDLs were established using ArcView Generalized Watershed Loading Function, a Department-approved method.

The data and all supporting documentation used to develop the proposed TMDLs are available from the Department. The proposed TMDL and information on the

TMDL program can be viewed on the Department's web site (www.dep.state.pa.us/watermanagement_apps/tmdl/). To request a copy of any of the TMDLs, contact Bill Brown, Department of Environmental Protection, Water Quality Assessment and Standards, 400 Market Street, P. O. Box 8467, Harrisburg, PA 17105, (717) 783-2951.

Written comments will be accepted at the previous address and must be postmarked no later than 60 days from the date of this *Pennsylvania Bulletin* notice. The Department will consider all comments in developing the final TMDL, which will be submitted to United States Environmental Protection Agency for approval.

Postponed Public Comment Period for West Branch Susquehanna TMDL

The public comment period for the West Branch Susquehanna River draft TMDL, originally advertised to run from February 14, 2009, through March 16, 2009, has been postponed. Additionally, the public meeting originally scheduled for March 5, 2009, at the Clearfield County Conservation District Office at 7 p.m. has been cancelled. Notice of the draft TMDL availability, dates of the revised public comment period, and the date of the rescheduled public meeting will be published in the *Pennsylvania Bulletin* and posted on the Department's web site (www.dep.state.pa.us/watermanagement_apps/tmdl/) under West Branch Susquehanna on the pull-down menus. For more information, contact Bill Brown, Department of Environmental Protection, Watershed Management, 400 Market Street, P. O. Box 8467, Harrisburg, PA 17105, (717)783-2951.

[Pa.B. Doc. No. 09-368. Filed for public inspection February 27, 2009, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (DEP Keywords: Technical Guidance). The "Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2009.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Final Technical Guidance

DEP ID: 255-5800-001. Title: Guidance for Commonwealth Funded Water Supply Response Actions. Description: This guidance document establishes provisions for using Commonwealth funds to conduct water supply response actions under the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305) and the Storage Tank and Spill Prevention Act (35 P. S. §§ 6021.101—6021.2104). The document provides general guidelines for Department staff regarding when and how Commonwealth funds may be used to provide temporary or permanent replacement water supplies at sites addressed under the Hazardous Sites Cleanup Act or the Storage Tank and Spill Prevention Act, including the allowable criteria, scope, and implementation costs for Commonwealth funded water supply response actions. Notice advertising the draft technical guidance document for public comment was advertised at 38 Pa.B. (December 27, 2008). The Department did not receive comments on the draft technical guidance during the public comment period. Contact: George Hartenstein, Department of Environmental Protection, Bureau of Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471, (717) 783-9475; ghartenste@state.pa.us. Effective Date: February 28, 2009.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-369. Filed for public inspection February 27, 2009, 9:00 a.m.]

Bid Opportunity

BOGM 08-6, Cleaning out and plugging four abandoned oil wells, (United State Department of Agriculture—Allegheny National Forest and Suzanne Anderson Properties), Howe Township, Forest County. The principal items of work include cleaning out and plugging four abandoned oil wells, estimated to be 1,600 feet in depth, to Department of Environmental Protection specifications, preparing and restoring well sites and mobilizing and demobilizing plugging equipment. This project issues on February 27, 2009, and bids will be opened on March 31, 2009, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. A prebid conference is planned for this project but a date has not been set. Use the contact information contained in this advertisement to find out more about the prebid. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-370. Filed for public inspection February 27, 2009, 9:00 a.m.]

Bid Opportunity

OSM 24(0504)101.1, Abandoned mine reclamation project, Tyler Run, Fox Township, Elk County. The principal items of work and approximate quantities include 506,239 cubic yards of grading, 42.4 acres of seeding and 2,520 tons of alkaline addition. This project issues on February 27, 2009, and bids will be opened on

March 26, 2009, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by Pub. L. No. 95-87 dated August 3, 1977, The Surface Mining Control and Reclamation Act of 1977, and is subject to that Law, and to the Federal Grant for this project. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-371. Filed for public inspection February 27, 2009, 9:00 a.m.]

Laboratory Accreditation Advisory Committee; Meeting Cancellation

The Laboratory Accreditation Advisory Committee (Committee) meeting scheduled for Thursday, March 12, 2009, has been cancelled.

The next regulatory scheduled meeting of the Committee will be held on June 11, 2009, in Room 206 of the Bureau of Laboratories Building, 2575 Interstate Drive, Harrisburg, PA 17105-1467. The agenda and meeting materials for the June 11, 2009, meeting will be available through the Public Participation Center on the Department of Environmental Protection's web site at www.depweb.state.pa.us (DEP Keyword: "Participate").

Questions concerning this meeting cancellation can be directed to Aaren S. Alger at (717) 346-8212 or aalger@state.pa.us.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 09-372. Filed for public inspection February 27, 2009, 9:00 a.m.]

DEPARTMENT OF HEALTH

Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee; Public Meetings

The Statewide HIV Community Prevention Planning Committee, established by the Department of Health under sections 301(a) and 317(b) of the Public Health Service Act (42 U.S.C.A. §§ 241(a) and 247(b)), will hold a public meeting on Wednesday, March 18, 2009, and Thursday, March 19, 2009.

The meetings will be held at the Harrisburg Holiday Inn West, 5401 Carlisle Pike, Mechanicsburg, PA 17050 on Wednesday, March 18 from 9 a.m. until 4 p.m. and on Thursday, March 19 from 9 a.m. until 2:30 p.m.

For additional information, contact Kenneth McGarvey, Department of Health, Bureau of Communicable Diseases, 625 Forster Street, Room 1010, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-0572.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so should also contact Kenneth McGarvey at the previous number or at V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

The Department reserves the right to cancel this meeting without prior notice.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-373. Filed for public inspection February 27, 2009, 9:00 a.m.]

Updating the List of Citations to ACIP Recommendations Prescribing Child Immunization Practices and Immunizing Agents and Doses

In accordance with 31 Pa. Code §§ 89.806(a) and 89.807(b) (relating to coverage of child immunizations; and immunizing agents, doses and AWP's), the Department of Health, Bureau of Communicable Diseases, Division of Immunization (Department) is updating 31 Pa. Code Chapter 89, Appendices G and H (relating to ACIP recommendations prescribing child immunization practices; and immunizing agents and doses). The Department has primary responsibility for the interpretation and the implementation of 31 Pa. Code §§ 89.806 and 89.807. See 31 Pa. Code § 89.801(b) (relating to authority and purpose; implementation).

Health insurance policies are required by the Childhood Immunization Insurance Act (40 P.S. §§ 3501—3508) (act) and regulations promulgated thereunder, 31 Pa. Code Chapter 89, Subchapter L (relating to childhood immunization insurance) to include coverage for certain childhood immunizations, unless the policies are exempted by the act and 31 Pa. Code § 89.809 (relating to exempt policies). The childhood immunizations covered are those that meet Advisory Committee on Immunization Practices (ACIP) standards in effect on May 21, 1992. See 31 Pa. Code § 89.806(a). A list of the MMWR publications containing ACIP recommendations issued under the ACIP standards in effect on May 21, 1992, appears in 31 Pa. Code §§ 89.801—89.809, Appendix G.

The Department is required to update the list of these MMWR publications appearing in 31 Pa. Code §§ 89.801—89.809, Appendix G. See 31 Pa. Code § 89.806(a). The additions to the list are as follows, the remainder of the list at Appendix G remains in full force and effect:

August 1, 2008, Vol. 57/No. 30

Newborn Hepatitis B Vaccination Coverage Among Children Born January 2003—June 2005—United States

Hepatitis B vaccine was first recommended for administration to all infants in 1991 by the Advisory Committee on Immunization Practices (ACIP) as the primary focus of a strategy to eliminate hepatitis B virus (HBV) transmission in the United States. The recommended timing of administration of the first dose of hepatitis B vaccine to infants has evolved since then to optimize prevention of perinatal and early childhood HBV infections. In 1991, the first dose was recommended to be administered at birth before hospital discharge or at age 1—2 months. In 2002, ACIP indicated a preference for the first dose to be administered to newborns before hospital discharge. In December 2005, ACIP issued revised recommendations specifying that all medically stable newborns who weigh $\geq 2,000$ g (4.4 lbs) receive their first dose of hepatitis B vaccine before hospital discharge. To measure hepatitis B vaccination coverage during the neonatal period, CDC analyzed data from the 2006 National Immunization

Survey (NIS). This report summarizes the results of this analysis and provides National, State and local data on vaccination coverage for infants who received the hepatitis B vaccine during the first days of life. The findings reveal that, during January 2003–June 2005, before implementation of the 2005 ACIP hepatitis B vaccine recommendation, the National newborn hepatitis B vaccination coverage estimate was 42.8% at age 1 day and 50.1% at age 3 days, with substantial variation by states and local areas. To comply with ACIP recommendations and increase coverage, delivery hospitals should provide hepatitis B vaccination of newborns as a standard of care.

August 8, 2008, Vol. 57/No. RR07

Prevention and Control of Influenza

This report updates the 2007 recommendations by CDC's Advisory Committee on Immunization Practices ACIP regarding the use of influenza vaccine and antiviral agents (CDC. Prevention and control of influenza: recommendations of the Advisory Committee on Immunization Practices [ACIP]. MMWR 2007;56 [No. RR-6]). The 2008 recommendations include new and updated information. Principal updates and changes include: 1) a new recommendation that annual vaccination be administered to all children aged 5–18 years, beginning in the 2008-09 influenza season, if feasible, but no later than the 2009-10 influenza season; 2) a recommendation that annual vaccination of all children aged 6 months through 4 years (59 months) continue to be a primary focus of vaccination efforts because these children are at higher risk for influenza complications compared with older children; 3) a new recommendation that either trivalent inactivated influenza vaccine or live, attenuated influenza vaccine (LAIV) be used when vaccinating healthy persons aged 2 through 49 years (the previous recommendation was to administer LAIV to person aged 5–49 years); 4) a recommendation that vaccines containing the 2008-09 trivalent vaccine virus strains A/Brisbane/59/2007 (H1N1)-like, A/Brisbane/10/2007 (H3N2)-like and B/Florida/4/2006-like antigens be used; and 5) new information on antiviral resistance among influenza viruses in the United States. Persons for whom vaccination is recommended are listed in boxes 1 and 2. These recommendations also include a summary of safety data for United States licensed influenza vaccines. This report and other information are available at CDC's influenza web site (www.cdc.gov/flu), including any updates or supplements to these recommendations that might be required during the 2008-09 influenza season. Vaccination and health-care providers should be alert to announcements of recommendation updates and should check the CDC influenza website periodically for additional information.

August 22, 2008, Vol. 57/No. 33

Update: Measles—United States, January—July 2008

Sporadic importations of measles into the United States have occurred since the disease was declared eliminated from the United States in 2000. During January–July 2008, 131 measles cases were reported to CDC, compared with an average of 63 cases per year during 2000–2007. This report updates an earlier report on measles in the United States during 2008 and summarizes two recent United States outbreaks among unvaccinated school-aged children. Among those measles cases reported during the first 7 months of 2008, 76% were in persons aged < 20 years, and 91% were in persons who were unvaccinated or of unknown vaccination status. Of the 131 cases, 89% were imported from or associated with importations from

other countries, particularly countries in Europe, where several outbreaks are ongoing. The findings demonstrate that measles outbreaks can occur in communities with a high number of unvaccinated persons and that maintaining high overall measles, mumps and rubella (MMR) vaccination coverage rates in the United States is needed to continue to limit the spread of measles.

September 5, 2008, Vol. 57/No. 35

National, State and Local Area Vaccination Coverage Among Children Aged 19–35 Months

The National Immunization Survey (NIS) provides vaccination coverage estimates among children aged 19–35 months for each of the 50 states and selected urban areas. This report describes the results of the 2007 NIS, which provided coverage estimates among children born during January 2004–July 2006. *Healthy People 2010* established vaccination coverage targets of 90% for each of the vaccines included in the combined 4:3:1:3:3:1 vaccine series and a target of 80% for the combined series. Findings from the 2007 NIS indicated that $\geq 90\%$ coverage was achieved for most of the routinely recommended vaccines. The majority of parents were vaccinating their children, with less than 1% of children receiving no vaccines by age 19–35 months. The coverage level for the 4:3:1:3:3:1 series remained steady at 77.4%, compared with 76.9% in 2006. Among states and local areas, substantial variability continued, with estimated vaccination coverage ranging from 63.1% to 91.3%. Coverage remained high across all racial/ethnic groups and was not significantly different among racial/ethnic groups after adjusting for poverty status. However, for some vaccines, coverage remained lower among children living below the poverty level compared with children living at or above the poverty level. Maintaining high vaccination coverage and continued attention to reducing current poverty disparities is needed to limit the spread-preventable diseases and ensure that children are protected.

September 26, 2008, Vol. 57/No. 38

Influenza Vaccination Coverage Among Children Aged 6–59 Months—Eight Immunization Information System Sentinel Sites, United States, 2007-08 Influenza Season

Vaccination is the most effective way to prevent influenza-associated morbidity and mortality. However, influenza vaccination coverage among children historically has been low. The Advisory Committee on Immunization Practices (ACIP) recommends annual vaccination with influenza vaccine for all children aged 6–59 months. Previously unvaccinated children and children who received only one vaccine dose for the first time in the previous influenza season are recommended to receive two influenza vaccine doses. To assess vaccination coverage among children aged 6–59 months during the 2007-08 influenza season, CDC analyzed data from the eight immunization information system (IIS) sentinel sites. For the eight sites, an average (unweighted) of 40.8% of children aged 6–23 months received one or more influenza vaccine doses, and an average of 22.1% were fully vaccinated. Among children aged 24–59 months, an average of 22.2% received 1 or more doses, and an average of 16.5% were fully vaccinated. These results indicate that influenza vaccination coverage among children remains low and highlight the need to identify additional barriers to influenza vaccination and to develop more effective interventions to promote vaccination of children aged 6–59 months who are at high risk for influenza-related morbidity and mortality.

September 26, 2008, Vol. 57/No. 38

State-Specific Influenza Vaccination Coverage Among Adults United States, 2006-07 Influenza Season

Adult groups included in the 2008 Advisory Committee on Immunization Practices (ACIP) recommendation for annual influenza vaccination include all persons aged ≥ 50 years, women who will be pregnant during the influenza season, persons aged 18–49 years with high-risk conditions, and other persons at increased risk for complications from influenza. Health-care personnel and household contacts and caregivers of persons at high risk also should receive annual influenza vaccination, as should adults who want to reduce their risk for becoming ill with influenza or for transmitting it to others. *Healthy People 2010* influenza vaccination coverage targets are 90% among all persons aged ≥ 65 years and 60% among persons aged 18–64 years who have one or more high-risk conditions. Data from the 2006 and 2007 Behavioral Risk Factor Surveillance System (BRFSS) surveys indicate that influenza vaccination coverage among adults for the 2006-07 season increased significantly compared with the 2005-06 season, reaching 35.1% among persons aged 18–49 years with high-risk conditions, 42.0% among all persons aged 50–64 years, and 72.1% among all persons aged ≥ 65 years. However, vaccination coverage remained well below *Healthy People 2010* targets. Increasing influenza vaccination coverage among adults in the United States will require more cooperation among health-care providers, professional organizations, vaccine manufacturers, and public health departments to raise public awareness about influenza vaccination and to ensure continued distribution and administration of available vaccine throughout the vaccination season.

October 3, 2008, Vol. 57/No. 39

Licensure of a Diphtheria and Tetanus Toxoids and Acellular Pertussis Adsorbed, Inactivated Poliovirus, and Haemophilus b Conjugate Vaccine and Guidance for Use in Infants and Children

On June 20, 2008, the Food and Drug Administration (FDA) licensed a combined diphtheria and tetanus toxoids and acellular pertussis adsorbed (DTaP), inactivated poliovirus vaccine (IPV), and *Haemophilus influenzae* type b conjugate (tetanus toxoid [TT] conjugate) vaccine, DTaP-IPV/Hib (Pentacel, Sanofi Pasteur, Swiftwater, Pennsylvania), for use as a four-dose series in infants and children at ages 2, 4, 6 and 15–18 months. This report summarizes the indications for Pentacel and provides guidance from the Advisory Committee on Immunization Practices (ACIP) for its use.

October 3, 2008, Vol. 57/No. 39

Licensure of a Diphtheria and Tetanus Toxoids and Acellular Pertussis Adsorbed and Inactivated Poliovirus Vaccine and Guidance for Use as a Booster Dose

On June 24, 2008, the Food and Drug Administration licensed a combined diphtheria and tetanus toxoids and acellular pertussis adsorbed (DTaP) and inactivated poliovirus (IPV) vaccine, DTaP-IPV (Kinrix, GlaxoSmithKline Biologicals, Rixensart, Belgium). Kinrix is licensed for use as the fifth dose of the DTaP vaccine series and the fourth dose of the IPV series in children aged 4–6 years whose previous DTaP vaccine doses were DTaP (Infanrix, GlaxoSmithKline) and/or DTaP-Hepatitis B-IPV (Pedarix, GlaxoSmithKline) for the first 3 doses and DTaP (Infanrix) for the fourth dose. DTaP-IPV administered to children aged 4–6 years would reduce by one the number of injections needed to complete DTaP and IPV immunization. This report summarizes the indications for

Kinrix and provides guidance from the Advisory Committee on Immunization Practices (ACIP) for its use.

October 10, 2008, Vol. 57/No. 40

Updated Recommendations for Isolation of Persons with Mumps

Mumps, an acute vaccine-preventable viral illness transmitted by respiratory droplets and saliva, has an incubation period most commonly of 16–18 days. The classic clinical presentation of mumps is parotitis, which can be preceded by several days of nonspecific prodromal symptoms; however, mumps also can be asymptomatic, especially in young children. Mumps transmission can occur from persons with subclinical or clinical infections and during the prodromal or symptomatic phases of illness. In 2006, during a mumps resurgence in the United States, the latest National recommendations from CDC and the American Academy of Pediatrics (AAP) stipulated that persons with mumps be maintained in isolation with standard precautions and droplet precautions for 9 days after onset of parotitis. However, the existence of conflicting guidance (that is, that the infectious period of mumps extended through the 4th day after parotitis onset) led to confusion regarding the appropriate length of isolation. In addition, during the 2006 resurgence, compliance with recommendations for isolation in university settings was substantially lower for 9 days (65%) compared with 45 days (86%). In 2007, after a review of the evidence supporting the 9-day isolation guidance by AAP and CDC, AAP changed its isolation guidance for health-care workers in ambulatory settings from 9 days to 5 days. In February 2008, after review of data on mumps in health-care settings, mumps viral load, and mumps virus isolation, the Healthcare Infection Control Practices Advisory Committee (HICPAC) approved changes in its recommendations related to mumps in in-patient settings. As a result, CDC, AAP and HICPAC all now recommend a 5-day period after onset of parotitis, both for isolation of persons with mumps in either community or health-care settings and for use of standard precautions and droplet precautions. This report summarizes the scientific basis for these changes in mumps isolation guidance.

October 10, 2008, Vol. 57/No. 40

Vaccination Coverage Among Adolescents Aged 13–17 Years—United States, 2007

Three new vaccines have been recommended for adolescents by the Advisory Committee for Immunization Practices (ACIP) since 2005: meningococcal conjugate vaccine (MCV4; 1 dose), tetanus, diphtheria, acellular pertussis vaccine (Tdap; 1 dose) and quadrivalent human papillomavirus vaccine (HPV4; 3 doses). ACIP also recommends that adolescents should receive recommended vaccinations that were missed during childhood. Since 2006, CDC has conducted the National Immunization Survey—Teen (NIS—Teen) to estimate vaccination coverage from a National sample of adolescents aged 13–17 years. This report describes the findings from NIS—Teen 2007, which indicated substantial increases in receipt of new adolescent vaccinations compared with 2006, including Tdap (from 10.8% to 30.4%) and MCV4 (from 11.7% to 32.4%), and increases in coverage with childhood vaccinations, including measles, mumps, and rubella (MMR), hepatitis B (HepB) and varicella (VAR) (among those without disease history). An assessment of HPV4 coverage, which is reported for the first time, showed that 25.1% of adolescent females initiated the vaccine series (≥ 1 dose) in 2007. To improve vaccination coverage among adoles-

cents, health-care providers should take advantage of every health-care visit as an opportunity to evaluate vaccination status and administer vaccines when needed.

November 21, 2008, Vol. 57/No. 46

Rotavirus Surveillance—Worldwide, 2001—2008

Rotavirus infection is the leading cause of severe acute diarrhea among young children worldwide. An estimated 527,000 children aged < 5 years die from rotavirus diarrhea each year, with > 85% of these deaths occurring in low-income countries of Africa and Asia. Two licensed rotavirus vaccines have shown efficacy of 85%—98% against severe rotavirus diarrhea in trials conducted in the Americas and Europe, and they have been introduced into routine immunization programs in 11 countries in these regions and in Australia. Additional trials of these vaccines are ongoing to assess efficacy in low-income countries of Asia and Africa, where vaccine performance might be affected by factors such as concurrent enteric infections, greater prevalence of malnutrition, and a greater prevalence of unusual rotavirus strains. Results of these additional trials are expected within the next 1—2 years. To collect epidemiologic and burden-of-disease data that could form the basis of vaccination policy worldwide, beginning in 2001, the World Health Organization (WHO), in collaboration with partners, established networks of hospital-based sentinel surveillance sites for detection of rotavirus diarrhea and characterization of rotavirus strains. This report presents an analysis of results from the WHO surveillance networks for 2001—2008, which indicated that approximately 40% of diarrhea hospitalizations among children aged < 5 years worldwide were attributed to rotavirus infection. The most common rotavirus strains found were G1, G2, G3, G4 and G9, and the distribution of strains varied markedly across regions. These data demonstrate the substantial burden of rotavirus diarrhea worldwide and highlight the potential health impact of vaccination.

November 21, 2008, Vol. 57/No. 46

Continued Shortage of Haemophilus influenzae Type b (Hib) Conjugate Vaccines and Potential Implications for Hib Surveillance—United States, 2008

In December 2007, Merck & Co., Inc. (West Point, Pennsylvania) announced a voluntary recall of certain lots of two *Haemophilus influenzae* type b (Hib) conjugate vaccines, PedvaxHIB® (monovalent Hib vaccine) and Comvax® (Hib-HepB vaccine) and suspended production of both vaccines, disrupting the U. S. supply of Hib vaccine. When the recall was announced, Merck projected restoration of these vaccines to the U. S. market in late 2008. To ensure that enough vaccine would be available for all U. S. children to complete the primary Hib vaccination series, on December 18, 2007, CDC recommended that providers defer the booster dose of Hib vaccine (scheduled for administration at age 12—15 months) for all children except those at increased risk for invasive Hib disease. On October 17, 2008, Merck announced that restoration of the two vaccines to the market would be delayed until mid-2009. Because the continued delay might result in an increase in Hib disease, National surveillance for invasive Hib disease has become particularly important. To assess the current status of surveillance for Hib Nationally, CDC reviewed 4,657 cases of invasive *H. influenzae* infection reported during January 2007—October 2008, including 748 cases among children aged < 5 years. Of those 748 cases, 45 (6.0%) were Hib (serotype b) and 278 (37.2%) were missing serotype information. The continued vaccine shortage heightens

the need for timely reporting and investigation of *H. influenzae* cases and accurate serotyping of all invasive *H. influenzae* isolates in children aged < 5 years.

November 21, 2008, Vol. 57/No. 46

Implementation of Newborn Hepatitis B Vaccination—Worldwide, 2006

Globally, hepatitis B virus (HBV) infections are a major cause of cirrhosis and liver cancer and result in an estimated 620,000 deaths annually. In 1992, the World Health Organization (WHO) set a goal for all countries to introduce hepatitis B (HepB) vaccine into national routine infant immunization programs by 1997. In countries where a high percentage of HBV infections are acquired perinatally (where general population prevalence of chronic HBV infection is $\geq 8\%$), WHO recommends administering the first HepB vaccine dose < 24 hours after birth to prevent perinatal HBV transmission (3). To assess implementation of newborn HepB vaccination, the most recently available data were examined from the Joint Reporting Form used by the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF) to track worldwide vaccine coverage for WHO-recommended infant immunizations. In 2006, a total of 162 (84%) of 193 countries had introduced HepB vaccine into their National infant immunization schedules. Among the 193 countries, 81 (42%) reported using a schedule with a HepB vaccine birth dose (defined as a dose administered within 24 hours of birth). Worldwide, 27% of newborns received a HepB vaccine birth dose in 2006. In the 87 countries with $\geq 8\%$ chronic HBV infection prevalence, HepB vaccine birth dose coverage was 36%. These findings highlight the global need to implement this key hepatitis B prevention strategy more widely.

December 5, 2008, Vol. 57/No. 48

Progress in Global Measles Control and Mortality Reduction, 2000—2007

Despite the availability of a safe and effective vaccine since 1963, measles has been a major killer of children in developing countries (causing an estimated 750,000 deaths as recently as 2000), primarily because of underutilization of the vaccine. At the World Health Assembly in 2008, all World Health Organization (WHO) member states reaffirmed their commitment to achieving a 90% reduction in measles mortality by 2010 compared with 2000, a goal that was established in 2005 as part of the Global Immunization Vision and Strategy. This WHO-UNICEF comprehensive strategy for measles mortality reduction focuses on 47 priority countries. The strategy's components include: 1) achieving and maintaining high coverage (> 90%) with the routinely scheduled first dose of measles-containing vaccine (MCV1) among children aged 1 year; 2) ensuring that all children receive a second opportunity for measles immunization (either through a second routine dose or through periodic supplementary immunization activities [SIAs]); 3) implementing effective laboratory-supported disease surveillance; and 4) providing appropriate clinical management for measles cases. This report updates previously published reports and describes immunization and surveillance activities implemented during 2007. Increased routine measles vaccine coverage and SIAs implemented during 2000—2007 resulted in a 74% decrease in the estimated number of measles deaths globally. An estimated 197,000 deaths from measles occurred in 2007; of these, 136,000 (69%) occurred in the WHO South-East Asian Region. Achievement of the 2010 goal will require full implementation of

measles mortality reduction strategies, especially in the WHO South-East Asian Region.

The Department is also required to update information relating to immunizing agents and doses that the Department has extracted from ACIP recommendations issued under the standards in 31 Pa. Code § 89.806(a). See 31

Pa. Code § 89.807(b). The Department is also to periodically list the average wholesale price (AWP) for immunizing agents. *Id.* This information currently appears in 31 Pa. Code §§ 89.801–89.809, Appendix H (relating to immunizing agents and doses). The updated information is as follows:

2009 List of Immunizing Agents and Average Wholesale Prices

<i>Product Name, Company</i>	<i>Brand/Product Name</i>	<i>NDC Number</i>	<i>Unit</i>	<i>Dose</i>	<i>AWP/ Dose*</i>
Diphtheria Tetanus acellular Pertussis Vaccine (DTaP):					
sanofi pasteur	Tripedia	49281-0298-10	10 × 1	0.5 ml	\$26.37
sanofi pasteur	Daptacel	49281-0286-10	10 × 1	0.5 ml	\$27.19
GlaxoSmithKline	Infanrix	58160-0810-46	5 × 1	0.5 ml	\$23.02
GlaxoSmithKline	Infanrix	58160-0810-11	10 × 1	0.5 ml	\$24.70
Tetanus Diphtheria acellular Pertussis Vaccine (TdaP):					
sanofi pasteur	Adacel	49281-0400-10	10 × 1	0.5 ml	\$44.46
sanofi pasteur	Adacel	49281-0400-15	5 × 1	0.5 ml	\$44.46
GlaxoSmithKline	Boostrix	58160-0842-11	10 × 1	0.5 ml	\$44.61
GlaxoSmithKline	Boostrix	58160-0842-46	5 × 1	0.5 ml	\$44.61
Diphtheria Tetanus pediatric Vaccine (DT pediatric):					
sanofi pasteur	DT Pediatric	49281-0278-10	10 × 1	0.5 ml	\$34.57
Diphtheria Tetanus acellular Pertussis/Haemophilus Influenzae B (DTaP-HIB):					
sanofi pasteur	TriHIBit	49281-0597-05	5 × 1	0.5 ml	\$53.26
Tetanus Diphtheria adult Vaccine (Td adult):					
sanofi pasteur	Decavac	49281-0291-83	10 × 1	0.5 ml	\$23.09
sanofi pasteur	Decavac	49281-0291-10	10 × 1	0.5 ml	\$23.09
Diphtheria, Tetanus, acellular Pertussis, Haemophilus Influenzae B, Polio (DTaP, HIB, IPV):					
sanofi pasteur	Pentacel	49281-0510-05	5 × 1	0.5 ml	\$86.74
Diphtheria, Tetanus, acellular Pertussis, Polio (DTaP, IPV):					
GlaxoSmithKline	Kinrix	58160-0812-46	5 × 1		\$57.00
GlaxoSmithKline	Kinrix	58160-0812-11	10 × 1		\$57.00
Diphtheria, Tetanus, acellular Pertussis, Hepatitis B, Polio (DTaP, Hep B, IPV):					
GlaxoSmithKline	Pediarix	58160-0811-11	10 × 1	0.5 ml	\$84.12
GlaxoSmithKline	Pediarix	58160-0811-46	5 × 1	0.5 ml	\$84.12
Tetanus Toxoid:					
sanofi pasteur	Tetanus toxoid	49281-0820-10	10 × 1	0.5 ml	\$25.99
MassBiologics (Akorn, Inc)	Tetanus toxoid				
Haemophilus Influenzae Type B Vaccine (HIB):					
sanofi pasteur	ActHIB	49281-0545-05	5 × 1	10 mcg	\$27.25
Merck & Co.	Pedvax HIB	00006-4897-00	10 × 1	7.5 mcg	\$27.32
Merck & Co.	Recombivax HB Hepatitis B vaccine (Recombinant) Dialysis Formulation	4992-00-4992	each	1.0 ml	\$165.29
Injectable Polio Vaccine Inactivated (Salk Enhanced IPV):					
sanofi pasteur	IPOL	49281-0860-55	5.0 ml	0.5 ml	\$32.99
sanofi pasteur	IPOL	49281-0860-10	5.0 ml	0.5 ml	\$28.53
Measles Mumps Rubella Vaccine (MMR):					
Merck & Co.	MMR II	00006-4681-00	10 × 0.5	0.5 ml	\$55.40
Measles Vaccine (Rubeola):					
Merck & Co.	Attenuvax	0006-4589-00	10 × 0.5	0.5 ml	\$20.48

<i>Product Name, Company</i>	<i>Brand/Product Name</i>	<i>NDC Number</i>	<i>Unit</i>	<i>Dose</i>	<i>AWP/ Dose*</i>
Meningococcal Conjugate Vaccine (MCV4):					
sanofi pasteur	Menactra	49281-0589-05	5 × 1	0.5 ml	\$118.08
sanofi pasteur	Menactra	49281-0589-15	5 × 1	0.5 ml	\$118.08
Meningococcal Polysaccharide Vaccine:					
sanofi pasteur	Menomune-A/C/Y/W-135	49281-0489-91	10 × 1	0.5 ml	\$118.08
sanofi pasteur	Menomune-A/C/Y/W-135	49281-0489-01	each	0.05 mg	\$120.37
Mumps Vaccine:					
Merck & Co.	Mumpsvox	00006-4584-00	10 × 0.5	0.5 ml	\$26.54
Rubella Vaccine:					
Merck & Co.	Meruvax II	00006-4673-00	10 × 0.5	0.5 ml	\$22.83
Hepatitis A Vaccine (HEP-A):					
Merck & Co.	VAQTA syringe	00006-4096-31	1.0 ml	1.0 ml	\$77.89
Merck & Co.	VAQTA syringe	00006-4096-06	6 × 1	1.0 ml	\$77.87
Merck & Co.	VAQTA	00006-4841-00	1.0 ml	1.0 ml	\$76.21
Merck & Co.	VAQTA	00006-4841-41	10 × 1	1.0 ml	\$71.99
Merck & Co.	VAQTA Pediatric	00006-4831-41	10 × 0.5	0.5 ml	\$36.44
GlaxoSmithKline	Havrix Pediatric	58160-0825-46	5 × 1	0.5 ml	\$34.34
GlaxoSmithKline	Havrix Pediatric	58160-0825-11	10 × 1	0.5 ml	\$34.34
GlaxoSmithKline	Havrix	58160-0826-46	5 × 1	1 ml	\$72.68
GlaxoSmithKline	Havrix	58160-0826-11	10 × 1	1 ml	\$72.68
GlaxoSmithKline					
Varicella Virus Vaccine:					
Merck & Co.	Varivax	00006-4826-00	each	1350 pfu	\$97.41
Merck & Co.	Varivax	00006-4827-00	10 × 1	1350 pfu	\$92.86
Merck & Co.	Zostavax	00006-4963-00	each	19400 pfu	\$193.80
Merck & Co.	Zostavax	00006-4963-41	10 × 1	19400 pfu	\$184.72
Human Papilloma Virus Vaccine:					
Merck & Co.	Gardasil	00006-4045-00	each	0.5 ml	\$150.51
Merck & Co.	Gardasil	00006-4045-41	10 × 1	0.5 ml	\$150.18
Merck & Co.	Gardasil syringe	00006-4109-06	6 × 1	0.5 ml	\$152.54
Merck & Co	Gardasil syringe w/o needle	00006-4109-09	6 × 1	0.5 ml	\$152.54
Rotavirus Vaccine:					
Merck & Co.	Rotateq	00006-4047-41	10 × 1	2 ml	\$83.35
GlaxoSmithKline	Rotarix	58160-0805-11	10 × 1	1.0 ml	\$122.85
Influenza Virus Vaccine:					
Novartis	Fluvirin	66521-0109-01	10 × 1	0.5 ml	\$18.24
Novartis	Fluvirin	66521-0109-10	10 × 1	0.5 ml	\$14.81
Sanofi pasteur	Fluzone	49281-0008-10	10 × 1	0.5 ml	\$19.16
Sanofi pasteur	Fluzone	49281-0008-50	10 × 1	0.5 ml	\$19.16
Sanofi pasteur	Fluzone	49281-0382-15	10 × 1	0.5 ml	\$13.91
Sanofi pasteur	Fluzone Pediatric	49281-0008-25	10 × 1	0.25 ml	\$17.77
GlaxoSmithKline	Fluarix	58160-0873-46	5 × 1	0.5 ml	\$15.75
MedImmune	Flumist	66019-0106-01	10 × 1	0.2 ml	\$24.44
CSL Biotherapies	Afluria	33332-0108-10	Multidose	0.5 ml	\$13.20
CSL Biotherapies	Afluria	33332-0008-01	10 × 1	0.5 ml	\$17.40
Hepatitis B Vaccine (HEP-B):					

<i>Product Name, Company</i>	<i>Brand/Product Name</i>	<i>NDC Number</i>	<i>Unit</i>	<i>Dose</i>	<i>AWP/ Dose*</i>
Merck & Co.	Recombivax HB Pediatric	00006-4981-00	10 × 0.5 ml	0.5 ml	\$27.85
Merck & Co.	Recombivax HB	00006-4995-00	1.0 ml	1.0 ml	\$71.64
Merck & Co.	Recombivax HB	00006-4995-41	10 × 1.0 ml	1.0 ml	\$70.81
Merck & Co.	Recombivax HB syringe	00006-4094-31	1.0 ml	1.0 ml	\$73.31
Merck & Co.	Recombivax HB syringe	00006-4094-06	6 × 1.0 ml	1.0 ml	\$73.31
Merck & Co.	Recombivax HB syringe w/o needle	00006-4094-09	6 × 1.0 ml	1.0 ml	\$73.31
GlaxoSmithKline	Engerix-B Pediatric	58160-0820-11	10 × 1	0.5 ml	\$25.49
GlaxoSmithKline	Engerix-B Pediatric	58160-0820-46	5 × 1	0.5 ml	\$25.49
GlaxoSmithKline	Engerix-B Pediatric	58160-0856-35	5 × 1	0.5 ml	\$25.49
GlaxoSmithKline	Engerix-B	58160-0821-46	5 × 1	1.0 ml	\$62.85
GlaxoSmithKline	Engerix-B syringe	58160-0821-11	10 × 1	1.0 ml	\$62.85
Hepatitis B / HIB:					
Merck & Co.	COMVAX	00006-4898-00	10 × 0.5 ml	0.5 ml	\$52.27
Hepatitis A & Hepatitis B Vaccine:					
GlaxoSmithKline	Twinrix	58160-0815-11	10 × 1.0	1.0 ml	\$103.43
GlaxoSmithKline	Twinrix	58160-0815-46	5 × 1.0	1.0 ml	\$103.43
Pneumococcal Vaccine:					
Wyeth Pharmaceuticals	Prevnar	00005-1970-50	10 × 1	0.5 ml	\$100.51
Merck & Co.	Pneumovax 23	00006-4739-00	2.5 ml	2.5 ml	\$197.93
Merck & Co.	Pneumovax 23	00006-4943-00	10 × 1	0.5 ml	\$44.43
Measles, Mumps, Rubella and Varicella Vaccine					
Merck & Co.	ProQuad	00006-4999-00	10 × 0.5	0.5 ml	\$149.24

* Indicates the Estimated Acquisition Cost (EAC) as stated in the Department of Public Welfare, Office of Medical Assistance Programs, Medical Assistance Regulations at 55 Pa. Code § 1121.55 (relating to method of payment).

Persons with disability who require an alternative format of this notice (for example, large print, audiotape, Braille), should contact Heather Stafford, Director, Division of Immunizations, Department of Health, Room 1026, Health and Welfare Building, 7th and Forster Streets, Harrisburg, PA 17120-0001, (717) 787-5681 or for speech and/or hearing impaired persons, V/TT the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-374. Filed for public inspection February 27, 2009. 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Double It! 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 Double It!.

2. *Price:* The price of a Pennsylvania Double It! instant lottery game ticket is \$1.

3. *Play Symbols:* Each Pennsylvania Double It! instant game ticket will contain two play areas known as "GAME 1" and "GAME 2." Each "GAME" is played separately. The play area for each "GAME" will contain six prize play

symbols. The prize play symbols and their captions located in the play area are: FREE (TICKET), \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20⁰⁰ (TWENTY), \$40⁰⁰ (FORTY), \$100 (ONE HUN), \$400 (FOR HUN), \$1,000 (ONE THO), \$2,000 (TWO THO) and a Star symbol (STAR).

4. *Prizes:* The prizes that can be won in this game are: Free \$1 Ticket, \$1, \$2, \$5, \$10, \$20, \$40, \$100, \$400, \$1,000 and \$2,000. The player can win up to 2 times on a ticket.

5. *Approximate Number of Tickets Printed For the Game:* Approximately 16,800,000 tickets will be printed for the Pennsylvania Double It! instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets with two matching prize play symbols of \$2,000 (TWO THO), in the same "GAME," on a single ticket, shall be entitled to a prize of \$2,000.

(b) Holders of tickets with two matching prize play symbols of \$1,000 (ONE THO) and a Star symbol (STAR), all in the same "GAME," on a single ticket, shall be entitled to a prize of \$2,000.

(c) Holders of tickets with two matching prize play symbols of \$1,000 (ONE THO), in the same "GAME," on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets with two matching prize play symbols of \$400 (FOR HUN), in the same "GAME," on a single ticket, shall be entitled to a prize of \$400.

(e) Holders of tickets with two matching prize play symbols of \$100 (ONE HUN) and a Star symbol (STAR), all in the same "GAME," on a single ticket, shall be entitled to a prize of \$200.

(f) Holders of tickets with two matching prize play symbols of \$100 (ONE HUN), in the same "GAME," on a single ticket, shall be entitled to a prize of \$100.

(g) Holders of tickets with two matching prize play symbols of \$40⁰⁰ (FORTY) and a Star symbol (STAR), all in the same "GAME," on a single ticket, shall be entitled to a prize of \$80.

(h) Holders of tickets with two matching prize play symbols of \$40⁰⁰ (FORTY), in the same "GAME," on a single ticket, shall be entitled to a prize of \$40.

(i) Holders of tickets with two matching prize play symbols of \$20⁰⁰ (TWENTY) and a Star symbol (STAR), all in the same "GAME," on a single ticket, shall be entitled to a prize of \$40.

(j) Holders of tickets with two matching prize play symbols of \$20⁰⁰ (TWENTY), in the same "GAME," on a single ticket, shall be entitled to a prize of \$20.

(k) Holders of tickets with two matching prize play symbols of \$10⁰⁰ (TEN DOL) and a Star symbol (STAR), all in the same "GAME," on a single ticket, shall be entitled to a prize of \$20.

(l) Holders of tickets with two matching prize play symbols of \$10⁰⁰ (TEN DOL), in the same "GAME," on a single ticket, shall be entitled to a prize of \$10.

(m) Holders of tickets with two matching prize play symbols of \$5⁰⁰ (FIV DOL) and a Star symbol (STAR), all in the same "GAME," on a single ticket, shall be entitled to a prize of \$10.

(n) Holders of tickets with two matching prize play symbols of \$5⁰⁰ (FIV DOL), in the same "GAME," on a single ticket, shall be entitled to a prize of \$5.

(o) Holders of tickets with two matching prize play symbols of \$2⁰⁰ (TWO DOL) and a Star symbol (STAR), all in the same "GAME," on a single ticket, shall be entitled to a prize of \$4.

(p) Holders of tickets with two matching prize play symbols of \$2⁰⁰ (TWO DOL), in the same "GAME," on a single ticket, shall be entitled to a prize of \$2.

(q) Holders of tickets with two matching prize play symbols of \$1⁰⁰ (ONE DOL) and a Star symbol (STAR), all in the same "GAME," on a single ticket, shall be entitled to a prize of \$2.

(r) Holders of tickets with two matching prize play symbols of \$1⁰⁰ (ONE DOL), in the same "GAME," on a single ticket, shall be entitled to a prize of \$1.

(s) Holders of tickets with two matching prize play symbols of FREE (TICKET), in the same "GAME," on a single ticket, shall be entitled to a prize of one Pennsylvania Double It! instant game ticket or one Pennsylvania Lottery instant game ticket of equivalent sale price which is currently on sale.

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

Get 2 Like Amounts In The Same Game And Win That Amount. Win With Prize(s) Of:

<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 16,800,000 Tickets</i>
FREE	10	1,680,000
\$1 × 2	60	280,000
\$1 w/STAR	30	560,000
\$2	60	280,000
(\$2 w/STAR) + \$1	85.71	196,000
\$5	85.71	196,000
\$5 × 2	300	56,000
\$5 w/STAR	300	56,000
\$10	300	56,000
\$5 w/STAR × 2	1,000	16,800
\$10 × 2	1,500	11,200
\$10 w/STAR	1,000	16,800
\$20	1,500	11,200
\$10 w/STAR × 2	4,800	3,500
\$20 × 2	4,800	3,500
\$20 w/STAR	4,800	3,500
\$40	4,800	3,500
(\$40 w/STAR) + \$20	4,068	4,130
\$100	4,000	4,200
(\$100 w/STAR) + (\$100 w/STAR)	80,000	210
\$400	80,000	210
\$1,000	240,000	70

Get 2 Like Amounts In The Same Game And Win That Amount. Win With Prize(s) Of:

	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 16,800,000 Tickets</i>
\$1,000 w/STAR	\$2,000	480,000	35
\$2,000	\$2,000	480,000	35

Star (STAR) = Get two like amounts and a Star symbol in the same game, win double that amount.

Prizes, including top prizes, are subject to availability at the time of purchase.

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Double It! instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentive).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Double It!, prize money from winning Pennsylvania Double It! 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 Double It! instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Double It! or through normal communications methods.

STEPHEN H. STETLER,
Acting Secretary

[Pa.B. Doc. No. 09-375. Filed for public inspection February 27, 2009, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations. They are scheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market Street, 14th Floor, in Harrisburg, PA at 10:30 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or you can obtain a copy from our web site, www.irrc.state.pa.us.

Final-Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
7-407	Environmental Quality Board Safe Drinking Water; Pubic Notification Revisions	2/10/09	3/19/09
125-92	Pennsylvania Gaming Control Board Smoking in Licensed Facilities	2/11/09	3/19/09
125-93	Pennsylvania Gaming Control Board Rules of Practice and Procedures	2/11/09	3/19/09
125-86	Pennsylvania Gaming Control Board Slot Machine Licensing	2/11/09	3/19/09
14-510	Department of Public Welfare Payment for Burial and Cremation	2/12/09	3/19/09
41-18	County Probation and Parole Officers' Firearm Education and Training Commission	2/12/09	3/19/09

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 09-376. Filed for public inspection February 27, 2009, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Approval of a Proposed Merger Between T. A. Title Insurance Company and First American Title Insurance Company

T. A. Insurance Company, a domestic stock title insurance company, has filed an application for approval to merge with First American Title Insurance Company, a California domiciled stock title insurance company, with First American Title Insurance Company surviving the merger. The filing was made under the requirements set forth under the Insurance Holding Companies Act of 1921 (40 P. S. §§ 991.1401—991.1413); 15 Pa.C.S. §§ 1921—1932; and the GAA Amendments Act of 1990 (15 P. S. §§ 21101—21404). Persons wishing to comment on the merger are invited to submit a written statement to the Insurance Department (Department) within 7 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-377. Filed for public inspection February 27, 2009, 9:00 a.m.]

Majestic Oaks; Prehearing

Appeal of Majestic Oaks under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM09-02-008

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure).

On or before March 13, 2009, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's December 18, 2008, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for Tuesday, April 14, 2009, at 9:30 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before April 10, 2009. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before March 30, 2009, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any shall be filed on or before April 13, 2009.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director at (717) 705-3873.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-378. Filed for public inspection February 27, 2009, 9:00 a.m.]

PMSLIC; Prehearing

Appeal of PMSLIC under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM09-02-010

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure).

On or before March 13, 2009, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's December 23, 2008, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for Tuesday, April 14, 2009, at 1:30 p.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before April 10, 2009. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before March 30, 2009, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any shall be filed on or before April 13, 2009.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director at (717) 705-3873.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-379. Filed for public inspection February 27, 2009, 9:00 a.m.]

Proclaim America; Prehearing

Appeal of Proclaim America under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM09-02-009

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure).

On or before March 9, 2009, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's December 17, 2008, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for Thursday, April 9, 2009, at 10 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before April 7, 2009. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before March 25, 2009, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any shall be filed on or before April 8, 2009.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director at (717) 705-3873.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-380. Filed for public inspection February 27, 2009, 9:00 a.m.]

Senior Health Insurance Company of Pennsylvania; 40% Rate Increase Filing for Several LTC Policies; Rate Filing

Senior Health Insurance Company of Pennsylvania is requesting a 40% increase on the following forms which were originally issued by American Travelers Life Insurance Company: ATL-LTC-1, ATL-FQ-LTC, ATL-FQ-HHC and ATL-FQ-NH. A total of 3,847 Pennsylvania policyholders will be affected by this rate adjustment.

Unless formal administrative action is taken prior to May 14, 2009, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's web site at www.ins.state.pa.us. Scroll down the home page and click on "Consumer Information" located on the left side. Next scroll down to "General Information," located in the middle of the page, and click on "Notices." The pdf copy of this filing is located at the link "Filing.pdf" following the name of the filing.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@state.pa.us, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-381. Filed for public inspection February 27, 2009, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The Liquor Control Board seeks the following new site:

Montgomery County, Wine & Spirits Store #4647, (New Store), Skippack, PA

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space. Location must be within a 3 mile radius of the intersection of Routes 73 and 113, Skippack, PA.

Proposals due: March 6, 2009, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Robert Jolly, (215) 482-9670

Philadelphia County, Regional #1 Maintenance Shop #8451, (Relocation), Philadelphia, PA

Lease expires: September 30, 2010

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 21,000 net useable square feet of new or existing retail commercial space. Location must be within a 10 mile radius of 4750 Wingate Road, Philadelphia, PA.

Proposals due: March 20, 2009, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Henry Blocker, Jr., (215) 482-9670

Philadelphia County, Wine & Spirits Store #9111, (Relocation), Philadelphia, PA

Lease expires: October 31, 2009

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,000 net useable square feet of new or existing retail commercial space. Location must be within a 1 mile radius of Harbison Avenue and Roosevelt Boulevard, Philadelphia, PA.

Proposals due: March 20, 2009, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Henry Blocker, Jr., (215) 482-9670

Philadelphia County, Wine & Spirits Store #9114, (Relocation), Philadelphia, PA

Lease expires: 90-Day Status since August 31, 2008

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 6,000 net useable square feet of new or existing retail commercial space. Location must be within a 1/4 mile radius of Adams Avenue and Tabor Road, Philadelphia, PA.

Proposals due: March 20, 2009, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Henry Blocker, Jr., (215) 482-9670
 PATRICK J. STAPLETON, III,
Chairperson

[Pa.B. Doc. No. 09-382. Filed for public inspection February 27, 2009, 9:00 a.m.]

PATIENT SAFETY AUTHORITY

Draft Guidance for Healthcare Facility Determinations of Serious Events under Act 13 of 2002

Purpose

This document outlines draft guidance to Pennsylvania healthcare facilities in making determinations about whether specific occurrences meet the statutory definition of a Serious Event as defined in Chapter 3 of the Medical Care Availability and Reduction of Error Act of 2002. This draft guidance was developed by the Patient Safety Authority (Authority) and the Department of Health (DOH) staff to provide more consistent and clearer standards against which determinations about Serious Events may be evaluated. It is being disseminated by the Authority to solicit comments.

This document, approved by the Patient Safety Authority Board of Directors for purposes of public comment, identifies draft interpretations for the terms used in the Serious Event definition. The Authority and DOH are seeking comments regarding this draft guidance. Comments will be accepted for 30 days following the publication of this document. Comments may be submitted in the following manner.

By email to: patientsafetyauthority@state.pa.us
 By fax to: Attention Bulletin Response (717) 346-1090
 By regular mail to: Patient Safety Authority
 Attention Bulletin Response
 P. O. Box 8410
 Harrisburg, PA 17105-8410

Upon review of the comments, this document may be subject to revision. Revisions will be published jointly by the Authority and DOH in the *Pennsylvania Bulletin* as final guidance. Healthcare facilities may rely upon the final guidance as a standard to which they will be held by their DOH surveyors. Final guidance will require approval from the Authority Board of Directors and the Secretary of the DOH.

It is not possible to define and establish unambiguous criteria for every conceivable Serious Event that may occur during the delivery of healthcare. This document does not attempt to do so, and the cases discussed in this document are for illustration purposes only and serve as examples to which the principles outlined in this document may be applied.

Background

Since implementation of Act 13 and initiation of the Pennsylvania Patient Safety Reporting Program (PA-

PSRS), representatives of healthcare facilities have held different interpretations of the definition of Serious Events.

Differences in interpretations among facilities of the Serious Event definition have resulted in an over 100-fold variation in the level of reporting, which has not been sufficiently reduced by previously issued guidance.

Even after adjusting for differences in the volume of care delivered in different hospitals, there are substantial differences in the number of reports submitted by each hospital. Table 1 shows the range of Serious Event report volumes from hospitals by quartile. A small number of hospitals submitted no reports in 2007.

Table 1. Serious Event Reports from Hospitals per 1,000 Patient Days, Quartiles (2007)

<i>Quartile</i>	<i>Serious Event Reports 1,000 Patient Days</i>
Fourth (Top 25%)	1.0 to 9.9
Third	0.5 to 0.9
Second	0.3 to 0.4
First (Lowest 24%)	0.0 to .02

Differences among types of hospitals do not explain the variation in reporting rates. For example, while one large, urban, teaching hospital reports over 5 Serious Events per 1,000 patient days, another similar hospital reports only 0.08. Two 100–200 bed rehabilitation hospitals report 7.9 versus 0.2 Serious Events per 1,000 patient days. There are similar disparities in reporting among other types of specialty hospitals.

The Authority and DOH are concerned with the reporting variation for several reasons:

- There is the potential patients and their families will not be notified when a Serious Event has occurred.
- Unequal reporting creates a distorted picture of patient safety issues in Pennsylvania and detracts from the Authority's ability to assess data and issue accurate reports.
- It can create the false impression that problems don't exist when in fact they are just not reported.
- The variation leaves healthcare facilities open to financial penalties from the DOH for failure to report a Serious Event.

Patient Safety Officers have asked the Authority for additional guidance about whether certain types of events are reportable as Serious Events, and facilities have expressed concern about conflicting advice they have received from the Authority and DOH staff.

Definition of Serious Event

The statutory definition of a Serious Event is: "An event, occurrence or situation involving the clinical care of a patient in a medical facility that results in death or compromises patient safety and results in an unanticipated injury requiring the delivery of additional health care services to the patient."

Draft Interpretations

The following principles are being considered as guidance for facilities regarding reporting of serious events.

Event, occurrence or situation

Principle 1: For a death or unanticipated injury to be a Serious Event, it must result in part from an event, occurrence or situation involving the clinical

care of a patient. Deaths or injuries that are solely the result of the patient's disease, in the absence of any contributing event, occurrence or situation, are not Serious Events.

- *Example:* A patient presents to the Emergency Department (ED) with a ruptured abdominal aortic aneurysm, a condition that gives the patient only 50% odds of survival. The patient is on the operating room or table in less than 30 minutes after presentation, and appropriate clinical care is provided, but the bleeding cannot be controlled quickly enough, and the patient dies on the table. This is not a Serious Event because there is no contributing event, occurrence or situation that resulted in the patient's death.

- *Example:* A patient presents to the ED with a ruptured abdominal aortic aneurysm, a condition that gives the patient only 50% odds of survival. There is a delay in getting an operating room, and the patient remains in the ED for an extended period before being transferred to the OR. The bleeding cannot be controlled, and the patient dies on the table. This is a Serious Event because the delay in getting to the operating room may have contributed to the patient's death.

- *Example:* After induction of labor for a planned vaginal delivery, the fetus is found to be in breech presentation. The fetal monitor shows signs of fetal distress, which are not timely recognized, leading to a delay in converting to a Cesarean section. The infant suffers hypoxic complications as a result. This is a Serious Event because the failure to timely identify the fetal distress represents the event, occurrence or situation resulting in the unanticipated injury.

- *Example:* A terminally ill patient on life support goes into respiratory arrest. A code is called immediately, and the code team responds promptly. Resuscitation is attempted but is unsuccessful, and the patient dies. This is not a Serious Event because the code was called and conducted appropriately in all respects; therefore, there is no event, occurrence or situation and the patient is presumed to have died of their illness.

Principle 2: It is not always necessary for the event, occurrence or situation to be readily apparent in order to make a Serious Event determination.

- *Example:* An otherwise healthy patient undergoing hip replacement has a cardiac arrest intraoperatively, moments after the prosthesis is implanted in the femur. Bone cement implantation syndrome is suspected, but not known conclusively, to be the cause. This is a Serious Event. Though the precise event, occurrence or situation that resulted in the patient's death is not known with certainty, this outcome in an otherwise healthy patient is sufficient evidence of an event, occurrence or situation.

- *Example:* A young and otherwise healthy patient dies unexpectedly during cardiac surgery to repair a congenital defect. A CT scan of the head following surgery shows bilateral air emboli. The bypass equipment is inspected and found to be normal, and it is not known how air entered the patient's circulatory system. This is a Serious Event. The fact the mechanism of injury (such as, the event, occurrence or situation) is not understood does not negate the fact it must have occurred and the injury resulted from the care that was provided.

Principle 3: An event, occurrence, or situation may be a Serious Event even if there was no error in the care provided and even if the injury may have been unpreventable.

- *Example:* A healthy patient suffers a perforated colon during a screening colonoscopy with no discernible error. This is a Serious Event.

- *Example:* A patient with no prior medical history of allergy to penicillin is given penicillin and has an anaphylactic reaction, requiring use of epinephrine. This is a Serious Event. The patient's unknown allergy to penicillin is the situation. Inducing anaphylaxis in the patient is the injury. Administering epinephrine is the additional healthcare service.

- *Example:* A guidewire fragment shears off during cardiac catheterization, with no unusual stress placed on the device and no unusual technique used by the physician. A subsequent procedure is required to retrieve the device fragment. This is a Serious Event even though the cause of the event is unknown, no obvious error was involved, and the event may or may not have been preventable.

- *Example:* Two days following knee replacement surgery, an otherwise healthy patient with no known cardiac history is found unresponsive in their room in a rehab unit. This is a Serious Event even though the cause of the event is unknown, no obvious error was involved, and the event may or may not have been preventable.

... involving the clinical care of the patient ...

Principle 4: The clinical care of the patient includes time in which the patient is in your custody, not only the moments during which care is actively delivered. It also includes a time frame during which the patient's condition can be affected by care provided by your facility. For patients undergoing surgery, the clinical care of the patient includes the standard postoperative period.

- *Example:* Following discharge from an ambulatory surgical facility (ASF), a patient is admitted to an Emergency Department with excessive bleeding. The ASF's investigation reveals the surgical wound was stitched using a suboptimal suture technique. This is a Serious Event that should be attributed to the ASF that performed the surgery.

- *Example:* A patient falls while ambulating in the hospital hallways the day after admission and sustains a fracture. This is a Serious Event.

- *Example:* Seven days after discharge the patient has seizures caused by an incorrect drug given at discharge. This is a Serious Event even though the event was not detected until days after discharge.

... results in death ... injury

Principle 5: The event, occurrence or situation need not be the exclusive cause of the death or unanticipated injury in order to be a Serious Event.

- *Example:* A patient presenting to the ED with a BP of 40 and a history of back pain is immediately and correctly diagnosed as having a rupture of an abdominal aortic aneurysm. He is promptly taken to the OR for emergency laparotomy, with anticipated 50% survival. In the haste to intubate the patient, the anesthesiologist inadvertently intubates the esophagus. The anesthesiologist does not realize the problem until a pulse ox reading a few minutes later shows an O₂ saturation of 60. The anesthesiologist re-intubates the patient properly. The patient dies in the operating room. This is a Serious Event. The reportable clinical event (esophageal intubation) may have resulted in or contributed to the patient's

death, even though death may be anticipated from the ruptured abdominal aortic aneurysm.

Principle 6: If the event, occurrence or situation hastens death (as in a terminally ill patient) or exacerbates a pre-existing injury, this is a Serious Event.

- *Example:* A terminally ill cancer patient receives a 10-fold overdose of morphine and dies within 24 hours. The patient was lucid prior to the overdose, and after the overdose is comatose and never recovers consciousness before dying. This is a Serious Event because the overdose hastened the patient's death.

Principle 7: An incorrect or missed diagnosis resulting in a delay in care that materially affects the patient's condition once the correct diagnosis is made constitutes an injury.

- *Example:* A woman presents to the ED with right lower quadrant abdominal pain. A pregnancy test is reported negative. She is diagnosed as having salpingitis and treated with antibiotics and discharged. The laboratory calls back later the same day saying the pregnancy report was incorrectly labeled and her test is positive. She is called back to the ED. An ultrasound confirms a tubal pregnancy, and she is treated appropriately. This is not a Serious Event because the patient's prognosis was not materially affected by the error. If the individual had suffered an adverse reaction to the antibiotics, this would have been a Serious Event.

- *Example:* A woman presents to the ED with right lower quadrant abdominal pain. A pregnancy test is reported negative. She is diagnosed as having salpingitis and treated with antibiotics and discharged. The patient returns to the ED the following day in profound shock. An ultrasound confirms a tubal pregnancy, and she is treated appropriately for both the tubal pregnancy and the hypovolemic shock. This is a Serious Event because the delay in treatment caused or contributed to a worsening of the patient's condition.

... *compromises patient safety* ...

Principle 8: An event that results in an unanticipated injury requiring additional healthcare services presumes compromise of patient safety, and the absence of such an event presumes patient safety is not compromised. Therefore, this clause in the definition is redundant and not necessary for making Serious Event determinations.

... *unanticipated injury* ...

Principle 9: The disclosure of a potential injury on a patient consent form does not, in itself, constitute anticipation of the injury by the patient. Even though death is a conceivable outcome of an appendectomy, patients undergoing appendectomies do not expect to die as a result of the surgery or aftercare provided. Informing the patient of a risk does not mean the patient or the provider anticipates that the untoward outcome will actually occur.

- *Example:* A patient must undergo a surgical procedure that requires general anesthesia. The standard anesthesia consent form lists many possible complications, including mouth and throat pain, injury to blood vessels, awareness while under anesthesia and death. Following the procedure the patient complains of feeling the incision and being aware of discussions during the surgery. Investigation finds that the dose of anesthesia was low for this patient's weight. This is a Serious Event

because the proper dose of anesthesia medication was not administered and the patient suffered anesthesia awareness. The patient did not anticipate being given too little anesthesia when agreeing to undergo surgery.

- *Example:* A patient must undergo a surgical procedure that requires general anesthesia. During the anesthesia consent process, the anesthesiologist learns that this patient has previously demonstrated awareness while under general anesthesia. The anesthesiologist explains to the patient that their prior history increases their risk of awareness under anesthesia and explains how the care plan will be adjusted to minimize this risk and to monitor the patient intraoperatively for awareness. Following the procedure the patient complains of feeling the incision and being aware of discussions during the surgery. This is not a Serious Event because the patient was aware of their increased risk of anesthesia awareness, the plan of care was adjusted and implemented appropriately, and the outcome was unavoidable despite the care provided because of the patient's history.

Principle 10: A mid-procedure change in the plan of care in response to new information discovered during the procedure does not constitute an injury, so long as this potential change was discussed with the patient at the time of consent.

- *Example:* A patient is scheduled for a laparoscopic cholecystectomy. During the consent process, the surgeon explains that, depending on the difficulty of the procedure, they may decide during the procedure that they need to convert to an open procedure. The surgeon explains an open procedure would result in longer recovery time, more pain and discomfort during recovery and a longer hospital stay. The surgeon further explains an open procedure increases the risk of infection, wound dehiscence, bleeding and other complications. The patient decides to undergo the procedure, and the laparoscopic procedure is converted to an open procedure due to encountering significant adhesions. This is not a Serious Event because the conversion to an open procedure was discussed with the patient pre-operatively.

Principle 11: The unanticipated nature of the injury is from the perspective of the patient. While every provider "anticipates" some rate of complications from the procedures they perform, these complications are rarely anticipated by the patient unless the patient is somehow at increased risk. While we do not specify an exact threshold for the frequency of complications that makes a particular complication transition from unanticipated to anticipated, complications that occur rarely would be unanticipated by most patients.

- *Example:* Two days following an outpatient surgery, a patient suffers a wound dehiscence of the surgical incision. This is a Serious Event. In the absence of any reason to believe this particular patient was at heightened risk of having a wound dehiscence, the patient likely did not anticipate this complication.

- *Example:* A patient with prostate cancer chooses to have a radical prostatectomy with the knowledge that up to 80% of men who have this procedure will experience erectile dysfunction. Following the procedure, this complication occurs and is treated with medication. This is not a Serious Event because the patient understood that this complication was frequent and was likely to occur.

- *Example:* A healthy 50-year-old male patient undergoes his first routine colon cancer screening. While removing a polyp, his colon is perforated, which is quickly

recognized by the physician. He is transferred to a hospital where the perforation is surgically repaired. This is a Serious Event. While this complication is always a possibility with this procedure, the patient had no reason to anticipate his colon would be perforated.

Principle 12: A Serious Event that is within statistical norms or within benchmarks available in the clinical literature must still be reported. There is nothing in the law that allows for reporting Serious Events only when they exceed a statistical norm or benchmark.

- *Example:* A patient falls while ambulating and fractures his ulna. This unit's fall rate (3 per 1,000 patient days) has been steadily decreasing over the past few months, and is well below a benchmark rate of 6 per 1,000 patient days cited in the literature. This is a Serious Event that must be reported. The fall rate is irrelevant to the Serious Event determination.

- *Example:* A healthy elderly male patient is undergoing a routine colon cancer screening. While removing a polyp, his colon is perforated, which is quickly recognized by the physician. He is transferred to a hospital where the perforation is surgically repaired. This gastroenterology practice monitors its rate of colon perforations; their rate is 50 per 100,000 procedures, below the average rates available in the literature. Some level of complications is to be anticipated. This is a Serious Event. The practice's complication rate is irrelevant. The provider's anticipation of some level of complications in general does not mean either that the surgeon anticipated a complication in this particular patient or that the patient anticipated such an injury.

... **additional healthcare services** ...

Principle 13: Healthcare services provided to prevent an injury from occurring are excluded from this term for the purpose of Serious Event determinations.

- *Example:* Four hours following cataract surgery, a patient with glaucoma develops a rise in intraocular pressure (IOP). If left untreated, this rise in IOP could cause serious complications, including blindness. The surgeon reduces the patient's IOP by paracentesis, aspirating some of the vitreous fluid. Thereafter the patient recovers from the procedure normally. This is not a Serious Event. A rise in IOP is not in itself an injury. The paracentesis is performed to avoid an injury that could result from the rise in IOP if it were not reduced.

- *Example:* A postsurgical patient receiving morphine intravenously via patient-controlled analgesia, developed apnea, respiratory arrest and a code is called. The patient is successfully resuscitated after the administration of a reversal agent. This is a Serious Event. The event is the overdose, which caused the respiratory arrest. The respiratory arrest is the unanticipated injury. The use of a reversal agent and resuscitation are the additional healthcare services needed to treat the unanticipated injury.

Principle 14: Any unnecessary procedure or procedure performed in error constitutes an injury, and performance of the correct or intended procedure then constitutes the additional healthcare services.

- *Example:* A patient with breast cancer undergoes a sentinel node biopsy to determine whether the cancer has spread. Following the biopsy, the tissue is lost before reaching pathology, requiring the patient to undergo

another biopsy. The loss of the lab specimen is the event, occurrence or situation and the second procedure is the additional healthcare service. This is a Serious Event.

- *Example:* A hand surgeon performs trigger finger surgery on the wrong finger. Before the dressing is applied, he realizes the mistake. He then performs the procedure on the correct finger. This is a Serious Event.

- *Example:* A left chest tube is placed, in error, to treat a pneumothorax. When the healthy lung is deflated, the wound is repaired and a chest tube is placed on the correct side. This is a Serious Event.

Principle 15: Services that could be provided by someone other than a licensed healthcare practitioner outside the clinical setting—essentially, first aid care—do not constitute additional healthcare services.

- *Example:* A patient falls and sustains a 1 cm by 1 cm skin tear on her forearm, requiring cleansing, steri-strips and a sterile bandage. This is not a Serious Event because the services required to treat the injury did not rise above first aid care.

- *Example:* A patient falls and sustains a 3-inch laceration that requires 10 sutures. This is a Serious Event because the treatment of the injury requires additional healthcare services that must be provided by a licensed healthcare provider.

Principle 16: If a patient sustains an unanticipated injury for which no additional healthcare services are possible, but treatment would be provided if options were available, this is considered a Serious Event.

- *Example:* During surgery on the neck, the surgeon accidentally cuts the nerve to a vocal chord. Currently there are no treatment options to repair the severed vocal chord; nevertheless, this is a Serious Event because additional healthcare services would be provided if any treatment options were available.

Principle 17: If a patient sustains an unanticipated injury, and additional healthcare services are possible, but the risk of those services outweigh the negative consequences of the injury, this is considered a Serious Event.

- *Example:* During an orthopedic procedure, a fragment of a surgical instrument breaks off in the surgical field and cannot be easily retrieved. The surgeon decides the risk of retrieving it outweighs the risk of leaving it in place. This is a Serious Event.

Principle 18: If additional healthcare services are required to treat an unanticipated injury, and these additional healthcare services are not provided either because of unintentional omission or because the patient declines treatment, the occurrence is still a Serious Event.

- *Example:* A terminally ill cancer patient who is designated DNR suffers kidney failure after a drug overdose. The family declines treatment for the kidney failure, which would involve dialysis. The lack of treatment does not negate that an overdose occurred. The overdose is the event, occurrence or situation and must be reported, even though dialysis was refused.

Other Areas

Principle 19: It is not necessary to report a Serious Event that occurred in another healthcare setting. If your facility learns of a Serious Event that occurred in another facility, and you have

reason to believe the other facility may be unaware of it (that is, as in a retained foreign body), you should inform the other facility.

• *Example:* Another hospital in your area transfers a patient to you for wound care for a Stage 3 pressure ulcer. A skin assessment on admission documents the presence of the ulcer, and the patient is treated in your facility. If the Stage 3 pressure ulcer developed in the transferring facility, this is not a Serious Event for your facility. It should, however, be reported by the transferring facility as a Serious Event.

• *Example:* A patient who underwent a hernia repair surgery at another hospital presents to your hospital complaining of abdominal pain. An X-ray reveals a retained instrument. This is not a Serious Event for your facility. It should, however, be reported by the transferring facility as a Serious Event.

MICHAEL E. DOERING,
Executive Director

[Pa.B. Doc. No. 09-383. Filed for public inspection February 27, 2009, 9:00 a.m.]

Reporting Requirements for Nursing Homes under Chapter 4 of the Medical Care Availability and Reduction of Error Act (MCARE)

Purpose

The purpose of this notice is to give long-term care nursing facilities (nursing homes) final notice of the rollout dates for mandatory reporting to the Patient Safety Authority (Authority) and the Department of Health (Department) under Chapter 4 of the Medical Care Availability and Reduction of Error Act (40 P. S. §§ 1303.401—1303.411) relating to Health Care-Associated Infections (Act 52, 2007).

Reporting Requirements for Nursing Homes

In addition to reporting under the Health Care Facilities Act (35 P. S. §§ 448.101—448.904b), requires that nursing homes electronically report patient-specific health care-associated infections (HAIs) to the Authority and the Department using Nationally recognized standards based on Centers for Disease Control and Prevention (CDC) definitions.

Nursing homes will report HAIs to both the Authority and the Department simultaneously through a single web-based interface: the Pennsylvania Patient Safety Reporting System (PA-PSRS).

The Authority has been conducting approximately 30 live training sessions throughout this Commonwealth to provide training to over 1,100 nursing home personnel regarding reporting HAIs through PA-PSRS.

The new reporting system will be pilot tested in six nursing facilities in April 2009.

Approximately 1 week before mandatory reporting begins facilities will electronically receive their PA-PSRS user ID and passwords. This will allow the facilities time to verify and if necessary, update their contact information.

Mandatory reporting will be phased in beginning on June 1, 2009, by geography as follows:

- Eastern portion of Pennsylvania: June 1
- Central portion of Pennsylvania: June 15
- Western portion of Pennsylvania: June 22

Counties included in each geographical region are identified as follows.

<i>Western</i>	<i>Central</i>	<i>East</i>
(June 22)	(June 15)	(June 1)
Cameron	Adams	Berks
Clarion	Bedford	Bucks
Clearfield	Blair	Carbon
Crawford	Bradford	Chester
Elk	Centre	Delaware
Erie	Clinton	Lackawanna
Forrest	Columbia	Lancaster
Jefferson	Cumberland	Lehigh
Lawrence	Dauphin	Luzerne
McKean	Franklin	Monroe
Mercer	Fulton	Montgomery
Venango	Huntingdon	Northampton
Warren	Juanita	Philadelphia
Allegheny	Lebanon	Pike
Armstrong	Lycoming	Schuylkill
Beaver	Mifflin	Susquehanna
Butler	Montour	Wayne
Cambria	Northumberland	Wyoming
Fayette	Perry	
Greene	Potter	
Indiana	Snyder	
Somerset	Sullivan	
Washington	Tioga	
Westmoreland	Union	
	York	

The list of infections and criteria for determining HAIs were published at 38 Pa.B. 5239 (September 20, 2008).

Nursing homes will be notified of future educational programs, training opportunities and other HAI related information through e-mail notices, direct mailings, outreach to industry associations and future public notices.

MICHAEL E. DOERING,
Executive Director

[Pa.B. Doc. No. 09-384. Filed for public inspection February 27, 2009, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Abandonment of Service

A-2009-2090194. Metropolitan Edison Company to The Manwalamink Water Company. Application for approval of abandonment of service by Metropolitan Edison Company to The Manwalamink Water Company for its back-up pump station located on Depue Island on the Delaware River in Smithfield Township, Monroe County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utili-

ties). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before March 16, 2009. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Metropolitan Edison Company

Through and By Counsel: Renardo L. Hicks, Esquire, Stevens & Lee, 17 North Second Street, 16th Floor, Harrisburg, PA 17101

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-385. Filed for public inspection February 27, 2009, 9:00 a.m.]

Commercial Mobile Radio Service

A-2009-2089546. Frontier Communications of Pennsylvania, LLC, Frontier Communications of Oswayo River, LLC, Frontier Communications of Lakewood, LLC, Frontier Communications of Breezewood, LLC, Frontier Communications of Canton, LLC and Sprint Spectrum, LP. Joint petition of Frontier Communications of Pennsylvania, LLC, Frontier Communications of Oswayo River, LLC, Frontier Communications of Lakewood, LLC, Frontier Communications of Breezewood, LLC, Frontier Communications of Canton, LLC and Sprint Spectrum, LP for approval of an interconnection and traffic interchange agreement for commercial mobile radio service under section 252(e) of the Telecommunications Act of 1996.

Frontier Communications of Pennsylvania, LLC, Frontier Communications of Oswayo River, LLC, Frontier Communications of Lakewood, LLC, Frontier Communications of Breezewood, LLC, Frontier Communications of Canton, LLC and Sprint Spectrum, LP, by its counsel, filed on January 29, 2009, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection and traffic interchange agreement for commercial mobile radio service under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Frontier Communications of Pennsylvania, LLC, Frontier Communications of Oswayo River, LLC, Frontier Communications of Breezewood, LLC, Frontier Communications of Canton, LLC and Sprint Spectrum, LP joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-386. Filed for public inspection February 27, 2009, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by March 16, 2009. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Application of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under the application.

A-2009-2087249. Corrected. Valley Paratransit Service, Inc. (110 Industrial Parkway, Sanatoga, Montgomery County, PA 19464), a corporation of the Commonwealth—persons in group and party service in vehicles seating 11—15 passengers, including the driver, between points in the Borough of Pennsburg, Montgomery County, PA, and between points within an airline distance of 50 statute miles from the limits of said borough, and return.

Applications of the following for the approval of the right and privilege to *discontinue/abandon* operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under each application.

A-2009-2089418. Eugene Witmer (661 28th Division Highway, Lititz, Lancaster County, PA 17543), for the discontinuance of service and cancellation of his certificate, as a common carrier, by motor vehicle, at A-00117081, authorizing the transportation of persons in paratransit service, between points in the Borough of Lititz, Lancaster County, and within an airline distance of 25 statute miles of the limits of said borough, and from points in said area, to points in Pennsylvania, and vice versa;

Subject to the following conditions:

(1) That the service is limited to the transportation of persons whose personal convictions prevent them from owning or operating motor vehicles; and

(2) That no right, power or privilege is granted to originate transportation from the County of Chester.

A-2009-2089434. Capitol Bus Company (1061 South Cameron Street, Harrisburg, Dauphin County, PA 17104)—a corporation of the Commonwealth—for the discontinuance of service and cancellation of its license authorizing the right and privilege to operate as a broker, to arrange for the transportation of persons, and their baggage, between points in Pennsylvania.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-387. Filed for public inspection February 27, 2009, 9:00 a.m.]

Telecommunications

A-2009-2089569. Buffalo Valley Telephone Company, Conestoga Telephone and Telegraph Company, Denver and Ephrata Telephone and Telegraph Company, D & E Systems, Inc. and MCImetro Access Transmission Services, LLC. Joint petition of Buffalo Valley Telephone Company, Conestoga Telephone and Telegraph Company, Denver and Ephrata Telephone and Telegraph Company, D & E Systems, Inc. and MCImetro Access Transmission Services, LLC for approval of a mutual exchange and termination of traffic agreement under section 252(e) of the Telecommunications Act of 1996.

Buffalo Valley Telephone Company, Conestoga Telephone and Telegraph Company, Denver and Ephrata Telephone and Telegraph Company, D & E Systems, Inc. and MCImetro Access Transmission Services, LLC, by its counsel, filed on February 10, 2009, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a mutual exchange and termination of traffic agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Buffalo Valley Telephone Company, Conestoga Telephone and Telegraph Company, Denver and Ephrata Telephone and Telegraph Company, D & E Systems, Inc. and MCImetro Access Transmission Services, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-388. Filed for public inspection February 27, 2009, 9:00 a.m.]

Telecommunications

A-2009-2089560. D & E Systems, Inc. and Keystone Wireless, LLC. Joint petition of D & E Systems, Inc. and Keystone Wireless, LLC for approval of a wireless interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

D & E Systems, Inc. and Keystone Wireless, LLC, by its counsel, filed on February 10, 2009, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a wireless interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the D & E Systems, Inc. and Keystone Wireless, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-389. Filed for public inspection February 27, 2009, 9:00 a.m.]

Telecommunications

A-2009-2090381. The United Telephone Company of Pennsylvania, LLC, d/b/a Embarq and Kentucky Data Link, Inc. Joint petition of The United Telephone Company of Pennsylvania, LLC, d/b/a Embarq and Kentucky Data Link, Inc. for approval of amendment No. 1 to the master interconnection, collocation and resale agreement under section 252(e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania, LLC, d/b/a Embarq and Kentucky Data Link, Inc., by its counsel, filed on February 13, 2009, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment No. 1 to the master interconnection, collocation and resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the United Telephone Company of Pennsylvania, LLC, d/b/a Embarq and Kentucky Data Link, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-390. Filed for public inspection February 27, 2009, 9:00 a.m.]

Telecommunications

A-2009-2089594. Windstream Pennsylvania, LLC and MCImetro Access Transmission Services, LLC. Joint petition of Windstream Pennsylvania, LLC and MCImetro Access Transmission Services, LLC for approval of amendment No. 2 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Windstream Pennsylvania, LLC and MCImetro Access Transmission Services, LLC, by its counsel, filed on February 6, 2009, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment No. 2 to the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Windstream Pennsylvania, LLC and MCImetro Access

Transmission Services, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-391. Filed for public inspection February 27, 2009, 9:00 a.m.]

Telecommunications

A-2009-2089573. Windstream Pennsylvania, LLC and Sprint Spectrum, LP. Joint petition of Windstream Pennsylvania, LLC and Sprint Spectrum, LP for approval of amendment No. 1 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Windstream Pennsylvania, LLC and Sprint Spectrum, LP, by its counsel, filed on February 6, 2009, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment No. 1 to the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Windstream Pennsylvania, LLC and Sprint Spectrum, LP joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-392. Filed for public inspection February 27, 2009, 9:00 a.m.]

Telecommunications Services

A-2009-2089445. Zayo Bandwidth, LLC. Application of Zayo Bandwidth, LLC for approval to offer, render, furnish or supply telecommunications services to the public as a Competitive Local Exchange Carrier in the service territory of The United Telephone Company of Pennsylvania, d/b/a Embarq Pennsylvania.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before March 16, 2009. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Zayo Bandwidth, LLC

Through and By Counsel: Andrew D. Lipman, Brett P. Ferenchak, Bingham McCutchen, LLP, 2020 K Street NW, Washington, DC 20006

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-393. Filed for public inspection February 27, 2009, 9:00 a.m.]

Water Service

A-2009-2090503. Aqua Pennsylvania, Inc. Application of Aqua Pennsylvania, Inc., for approval of: 1) the acquisition by Aqua Pa of the water system assets of Kratzerville Municipal Authority situated in portions of Jackson and Penn Townships, Snyder County, PA; and 2) the right of Aqua PA to begin to offer, render, furnish and supply water service to the public in portions of Jackson and Penn Townships, Snyder County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before March 16, 2009. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Aqua Pennsylvania, Inc.

Through and By Counsel: Thomas T. Niesen, Esquire, Thomas, Long, Niesen and Kennard, 212 Locust Street, Suite 500, P. O. Box 9500, Harrisburg, PA 17108

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-394. Filed for public inspection February 27, 2009, 9:00 a.m.]

Water Service

A-2009-2090511 and A-2009-2090515. Aqua Pennsylvania, Inc. and Clarendon Water Company. Joint application of Aqua Pennsylvania, Inc., and Clarendon Water Company for approval of: 1) the acquisition by Aqua PA of the water system assets of Clarendon Water Company situated in portions of both Clarendon Borough and Mead Township, Warren County, PA; 2) the right of Aqua PA to begin to supply water service to the public in portions of both Clarendon Borough and Mead Township, Warren County, PA; and 3) the abandonment by Clarendon Water Company of public water service in portions of Clarendon Borough and Mead Township, Warren County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before March 16, 2009. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary

between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicants: Aqua Pennsylvania, Inc., Clarendon Water Company

Through and By Counsel: Thomas T. Niesen, Esquire, Thomas, Long, Niesen and Kennard, 212 Locust Street, Suite 500, P. O. Box 9500, Harrisburg, PA 17108 and John A. Aranyos, Esquire, Harper & Marti, 701 National City Bank Building, Warren, PA 16365

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-395. Filed for public inspection February 27, 2009, 9:00 a.m.]

Water Service

A-2009-2090534. Pennsylvania-American Water Company. Application of Pennsylvania-American Water Company for approval of: 1) the transfer, by sale, of the water works property and rights of Boggs Township to Pennsylvania-American Water Company; and 2) the commencement by Pennsylvania-American Water Company of water service to the public in portions of Boggs Township, Centre County, PA, presently being served by Boggs Township.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before March 16, 2009. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Pennsylvania-American Water Company

Through and By Counsel: Velma A. Redmond, Esquire, Susan Simms Marsh, Esquire, Seth A. Mendelsohn, Esquire, 800 West Hersheypark Drive, Hershey, PA 17033

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-396. Filed for public inspection February 27, 2009, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project No. 08-079.P, Purchase 30 Marine Fenders, Packer Avenue Marine Terminal, until 2 p.m. on March 26, 2009. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and available March 3, 2009. Additional information and project listings may be found at www.philaport.com. The cost of the bid document is \$35 (includes 7% PA Sales Tax) and is nonrefundable. PRPA is an equal opportunity employer. Contractor must

comply with all applicable EEO laws. Bidders must provide to the Procurement Department in writing (24 hours prior to the meeting), the names of individuals that will be attending, fax to (215) 426-6800, Attn: Procurement Department.

Mandatory prebid job site meeting will be held March 12, 2009, 10 a.m. at Packer Avenue and Columbus Boulevard (South Gate on Service Road), Philadelphia, PA.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 09-397. Filed for public inspection February 27, 2009, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT BOARD

Hearings Scheduled

The following hearings have been scheduled, as authorized by 71 Pa.C.S. Part XXV (relating to the State Employees' Retirement Code), in connection with the State Employees' Retirement System's denial of Claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the State Employees' Retirement System, 30 North Third Street, Fifth Floor, Harrisburg, PA 17101:

March 19, 2009	Dale B. Haynes (D) Post-Mortem DRO/Option Change	1 p.m.
April 27, 28 and 29, 2009	Ronald S. Kim (D) Contested Death Benefit	9 a.m.

Parties in each respective case 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 4 Pa. Code § 250.1 (relating to applicability of general rules), procedural matters will be in conformance with the 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

LEONARD KNEPP,
Secretary

[Pa.B. Doc. No. 09-398. Filed for public inspection February 27, 2009, 9:00 a.m.]

STATE ETHICS COMMISSION

Public Meeting

Under 65 Pa.C.S. §§ 1101—1113 (relating to Public Official and Employee Ethics Act) (act), the State Ethics Commission (Commission) is required to hold at least two public hearings each year to seek input from persons and organizations who represent any individual subject to the provisions of the act and from other interested parties.

The Commission will conduct a public meeting in Room 307, Finance Building, Harrisburg, PA on March 12, 2009, beginning at 9 a.m. for purposes of receiving said input and for the conduct of other agency business. Public officials, public employees, organizations and members of the general public may attend.

Persons seeking to testify or present any statement, information or other comments in relation to the act, the Regulations of the Commission or agency operations should contact Claire J. Hershberger at (717) 783-1610 or (800) 932-0936. Written copies of any statement should be provided at the time of said meeting.

JOHN J. CONTINO,
Executive Director

[Pa.B. Doc. No. 09-399. Filed for public inspection February 27, 2009, 9:00 a.m.]

STATE REAL ESTATE COMMISSION

**Bureau of Professional and Occupational Affairs v.
Markley & Associates Real Estate, Inc.; File No.
09-56-00113**

On December 18, 2008, Markley & Associates Real Estate, Inc., license no. RB062450C, of West Chester, Chester County, had their license automatically suspended based on a payment totaling \$16,250 being made from the Real Estate Recovery Fund to satisfy the claim of Fox and Roach, LP, c/o Reger Rizzo & Darnall, LLP who has uncollectible civil judgments against them.

Individuals may obtain a copy of the order by writing to Judith Pachter Schulder, Board Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final order represents the final State Real Estate Commissioner's decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the State Real Estate Commission (Commission) with a copy of their petition for review. The Commission contact for receiving service of the appeals is the previously-named Board counsel.

MICHAEL WEISS,
Chairman

[Pa.B. Doc. No. 09-400. Filed for public inspection February 27, 2009, 9:00 a.m.]

**Bureau of Professional and Occupational Affairs v.
Martha Markley; File No. 09-56-00111**

On December 18, 2008, Martha Markley, license nos. RM062204A, AB062204L and RS203252L, of Honey Brook, Chester County, had her licenses automatically suspended based on a payment totaling \$16,250 being made from the Real Estate Recovery Fund to satisfy the claim of Fox and Roach, LP, c/o Reger Rizzo & Darnall, LLP who has uncollectible civil judgments against her.

Individuals may obtain a copy of the order by writing to Judith Pachter Schulder, Board Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final order represents the final State Real Estate Commissioner's (Commission) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Commission with a copy of their petition for review. The agency contact for receiving service of the appeals is the previous-named Board counsel.

MICHAEL WEISS,
Chairperson

[Pa.B. Doc. No. 09-401. Filed for public inspection February 27, 2009, 9:00 a.m.]

SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing and Meeting

The Susquehanna River Basin Commission (Commission) will hold a public hearing as part of its regular business meeting beginning at 1 p.m. on March 12, 2009, at the Hilton Scranton and Conference Center, 100 Adams Avenue, Scranton, PA 18503-1826. At the public hearing, the Commission will consider: 1) action on certain water resources projects and the modification of certain docket approvals, including one diversion into and out of the basin for water supply; 2) the rescission of several previous docket approvals; 3) a request for an administrative hearing on a project previously approved by the Commission; and 4) the adoption of a records processing fee schedule. Details concerning the matters to be addressed at the public hearing and business meeting are contained in the Supplementary Information section of this notice.

For further information contact Richard A. Cairo, General Counsel, (717) 238-0423, Ext. 306, fax (717) 238-2436; rcairo@srbc.net or Stephanie L. Richardson, Secretary to the Commission, (717) 238-0423, Ext. 304, fax (717) 238-2436, srichardson@srbc.net. Regular mail inquires may be sent to the Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391.

Supplementary Information

In addition to the public hearing and its related action items identified, the business meeting also includes actions or presentations on the following items: 1) the United States Geological Survey (USGS) Velocity Demonstration Project; 2) present hydrologic conditions of the basin; 3) the 2009 Water Resources Program; 4) an Application Fee Policy for Mine Drainage Withdrawals to guide the granting of fee waivers or reductions to projects withdrawing mine drainage water; 5) presentation of the William Jeanes Award; 6) an Access to Records Policy governing public access to Commission records; 7) certain grant applications; 8) by-laws governing the organization and operation of the Commission; and 9) revision of the Fiscal Year 2010 budget. The Commission will also hear a Legal Counsel's report.

Public Hearing—Projects Scheduled for Action:

1. Project Sponsor and Facility: ALTA Operating Company, LLC (DuBois Creek), Great Bend Township, Susquehanna County, PA. Application for surface water withdrawal of up to 0.010 mgd.

2. Project Sponsor and Facility: ALTA Operating Company, LLC (Snake Creek), Liberty Township, Susquehanna County, PA. Application for surface water withdrawal of up to 0.099 mgd.

3. Project Sponsor and Facility: ALTA Operating Company, LLC (Susquehanna River), Great Bend Township, Susquehanna County, PA. Application for surface water withdrawal of up to 3.000 mgd.

4. Project Sponsor and Facility: Anadarko E&P Company, LP (Pine Creek), Cummings Township, Lycoming County, PA. Application for surface water withdrawal of up to 2.450 mgd.

5. Project Sponsor and Facility: Anadarko E&P Company, LP (West Branch Susquehanna River-1), Chapman Township, Clinton County, PA. Application for surface water withdrawal of up to 0.720 mgd.

6. Project Sponsor and Facility: Anadarko E&P Company, LP (West Branch Susquehanna River-2), Renovo Borough, Clinton County, PA. Application for surface water withdrawal of up to 0.720 mgd.

7. Project Sponsor and Facility: Anadarko E&P Company, LP (West Branch Susquehanna River-3), Nippenose Township, Lycoming County, PA. Application for surface water withdrawal of up to 0.720 mgd.

8. Project Sponsor and Facility: Anadarko E&P Company, LP (West Branch Susquehanna River-4), Burnside Township, Centre County, PA. Application for surface water withdrawal of up to 0.720 mgd.

9. Project Sponsor and Facility: Cabot Oil & Gas Corporation (for operations in Susquehanna and Wyoming Counties, PA). Modification of consumptive use to comport with new regulations effective on January 15, 2009 (Docket No. 20080904).

10. Project Sponsor: CAN DO, Inc. Project Facility: Corporate Center, Hazle Township, Luzerne County, PA. Application for groundwater withdrawal of 0.347 mgd from Well 1.

11. Project Sponsor and Facility: Cherokee Pharmaceuticals, LLC, Riverside Borough, Northumberland County, PA. Application for consumptive water use of up to 0.500 mgd.

12. Project Sponsor and Facility: Cherokee Pharmaceuticals, LLC, Riverside Borough, Northumberland County, PA. Application for surface water withdrawal of up to 34.000 mgd from the Susquehanna River.

13. Project Sponsor and Facility: Cherokee Pharmaceuticals, LLC, Riverside Borough, Northumberland County, PA. Application for groundwater withdrawal of 0.600 mgd for treatment of groundwater contamination.

14. Project Sponsor and Facility: Chesapeake Appalachia, LLC (for operations in Chemung and Tioga Counties, NY, and Bradford, Susquehanna and Wyoming Counties, PA). Modification of consumptive use to comport with new regulations effective on January 15, 2009 (Docket No. 20080902).

15. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River), Terry Township, Bradford County, PA. Application for surface water withdrawal of up to 0.999 mgd.

16. Project Sponsor and Facility: Chief Oil & Gas, LLC (for operations in Bradford County, PA). Modification of consumptive use to comport with new regulations effective on January 15, 2009 (Docket No. 20080911).

17. Project Sponsor and Facility: Chief Oil & Gas, LLC (for operations in Lycoming County, PA). Modification of consumptive use to comport with new regulations effective on January 15, 2009 (Docket No. 20080934).

18. Project Sponsor and Facility: Chief Oil & Gas, LLC (for operations in Clearfield County, PA). Modification of consumptive use to comport with new regulations effective on January 15, 2009 (Docket No. 20081201).

19. Project Sponsor and Facility: Chief Oil & Gas, LLC (Sugar Creek), West Burlington Township, Bradford County, PA. Application for surface water withdrawal of up to 0.053 mgd.

20. Project Sponsor and Facility: Citrus Energy (for operations in Wyoming County, PA). Modification of consumptive use to comport with new regulations effective on January 15, 2009 (Docket No. 20081204).

21. Project Sponsor and Facility: Delta Borough, Peach Bottom Township, York County, PA. Application for groundwater withdrawal of 0.032 mgd from Well DR-2.

22. Project Sponsor and Facility: East Resources, Inc. (for operations in Elmira, NY, Area). Modification of consumptive use to comport with new regulations effective on January 15, 2009 (Docket No. 20080603).

23. Project Sponsor and Facility: East Resources, Inc. (for operations in Mansfield, PA, Area). Modification of consumptive use to comport with new regulations effective on January 15, 2009 (Docket No. 20080608).

24. Project Sponsor and Facility: EOG Resources, Inc. (Bennett Branch-1, Sinnemahoning Creek), Jay Township, Elk County, PA. Application for surface water withdrawal of up to 0.171 mgd.

25. Project Sponsor and Facility: EOG Resources, Inc. (Bennett Branch-2, Sinnemahoning Creek), Jay Township, Elk County, PA. Application for surface water withdrawal of up to 0.152 mgd.

26. Project Sponsor and Facility: EOG Resources, Inc. (Bennett Branch-3, Sinnemahoning Creek), Huston Township, Clearfield County, PA. Application for surface water withdrawal of up to 0.290 mgd.

27. Project Sponsor and Facility: EOG Resources, Inc. (Chemung River-1), Chemung Town, Chemung County, NY. Application for surface water withdrawal of up to 0.322 mgd.

28. Project Sponsor and Facility: EOG Resources, Inc. (Chemung River-2), Athens Township, Bradford County, PA. Application for surface water withdrawal of up to 0.322 mgd.

29. Project Sponsor and Facility: EOG Resources, Inc. (Kersey Run), Jay Township, Elk County, PA. Application for surface water withdrawal of up to 0.070 mgd.

30. Project Sponsor and Facility: EOG Resources, Inc. (Sugar Creek-1), Burlington Borough, Bradford County, PA. Application for surface water withdrawal of up to 0.099 mgd.

31. Project Sponsor and Facility: EOG Resources, Inc. (Sugar Creek-2), North Towanda Town, Bradford County, PA. Application for surface water withdrawal of up to 0.099 mgd.

32. Project Sponsor and Facility: EOG Resources, Inc. (Susquehanna River-1), Athens Borough, Bradford, PA. Application for surface water withdrawal of up to 0.322 mgd.

33. Project Sponsor and Facility: EOG Resources, Inc. (Susquehanna River-2), Ulster and Sheshequin Townships, Bradford County, PA. Application for surface water withdrawal of up to 0.322 mgd.

34. Project Sponsor and Facility: EOG Resources, Inc. (West Creek), Benzinger Township, Elk County, PA. Application for surface water withdrawal of up to 0.096 mgd.

35. Project Sponsor and Facility: Fortuna Energy, Inc. (for operations in Southern Tier of NY, and Tioga and Bradford Counties, PA). Modification of consumptive use to comport with new regulations effective on January 15, 2009 (Docket No. 20080601).

36. Project Sponsor and Facility: Fortuna Energy, Inc. (Sugar Creek), West Burlington Township, Bradford County, PA. Application for surface water withdrawal of up to 0.250 mgd.

37. Project Sponsor and Facility: Global Tungsten & Powders Corp., Towanda Borough, Bradford County, PA. Application for consumptive water use of up to 0.170 mgd.

38. Project Sponsor: IBM Corp. Project Facility: Endicott, Village of Endicott, Broome County, NY. Application for groundwater withdrawal of 1.010 mgd for treatment of groundwater contamination.

39. Project Sponsor and Facility: J-W Operating Company (for operations in Cameron, Clearfield and Elk Counties, PA). Modification of consumptive use to comport with new regulations effective on January 15, 2009 (Docket No. 20081211).

40. Project Sponsor and Facility: J-W Operating Company (Sterling Run), Lumber Township, Cameron County, PA. Application for surface water withdrawal of up to 0.499 mgd.

41. Project Sponsor: New Enterprise Stone & Lime Co., Inc. Project Facility: Ashcom Quarry, Snake Spring Valley Township, Bedford County, PA. Modification to docket approval (Docket No. 20031204).

42. Project Sponsor and Facility: Pennsylvania General Energy Company, LLC (for operations in Potter and McKean Counties, PA). Modification of consumptive use to comport with new regulations effective on January 15, 2009 (Docket No. 20080921).

43. Project Sponsor and Facility: Range Resources—Appalachia, LLC (for operations in Bradford, Centre, Clinton, Lycoming, Sullivan and Tioga Counties, PA). Modification of consumptive use to comport with new regulations effective on January 15, 2009 (Docket No. 20080931).

44. Project Sponsor and Facility: Rex Energy Corporation (for operations in Centre and Clearfield Counties, PA). Modification of consumptive use to comport with new regulations effective on January 15, 2009 (Docket No. 20080941).

45. Project Sponsor and Facility: Schuylkill County Municipal Authority, Pottsville Public Water Supply System, Mount Laurel Subsystem, Butler Township, Schuylkill County, PA. Application for a withdrawal of up to 0.432 mgd from the Gordon Well.

46. Project Sponsor and Facility: Turm Oil, Inc. (for operations in Susquehanna County, PA). Modification of

consumptive use to comport with new regulations effective on January 15, 2009 (Docket No. 20081223).

47. Project Sponsor and Facility: Ultra Resources (for operations in Tioga and Potter Counties, PA). Modification of consumptive use to comport with new regulations effective on January 15, 2009 (Docket No. 20081228).

48. Project Sponsor and Facility: Ultra Resources (Pine Creek), Pike Township, Potter County, PA. Application for surface water withdrawal of 0.430 mgd.

49. Project Sponsor and Facility: Water Treatment Solutions, LLC (West Branch Susquehanna River), Williamsport, Lycoming County, PA. Application for surface water withdrawal of 0.499 mgd.

Public Hearing—Project Scheduled for Action Involving a Diversion:

1. Project Sponsor and Facility: Schuylkill County Municipal Authority, Pottsville Public Water Supply System, Mount Laurel Subsystem, Butler Township, Schuylkill County, PA. Applications for: 1) an out-of-basin diversion to the Delaware River Basin for water supply; and 2) an existing into-basin diversion of wastewater of up to 1.100 mgd from the Delaware River Basin.

Public Hearing—Projects Scheduled for Rescission Action:

1. Project Sponsor: Harristown Development Corporation. Project Facility: Strawberry Square (Docket No. 20030410), City of Harrisburg, Dauphin County, PA.

2. Project Sponsor and Facility: Millennium Pipeline Company, LLC (Docket No. 20080301), Broome, Tioga and Chemung Counties, NY.

3. Project Sponsor and Facility: Millennium Pipeline Company, LLC (Docket No. 20080302), Town of Windsor, Broome County, and Town of Horseheads, Chemung County, NY.

Public Hearing—Records Processing Fee Schedule:

1. The proposed fee schedule would accompany an Access to Records Policy that the Commission is expected to consider, which would establish procedures for requesting access to Commission records. The fees would reimburse the Commission for the costs associated with meeting records requests.

Opportunity to Appear and Comment:

Interested parties may appear at the previous hearing to offer written or oral comments to the Commission on any matter on the hearing agenda, or at the business meeting to offer written or oral comments on other matters scheduled for consideration at the business meeting. The chair of the Commission reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing and business meeting. Written comments may also be mailed to the Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391, or submitted electronically to Richard A. Cairo, General Counsel, rcairo@srbc.net or Stephanie L. Richardson, Secretary to the Commission, srichardson@srbc.net. Comments mailed or electronically submitted must be received prior to March 10, 2009, to be considered.

Authority: Pub. L. No. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806—808. Dated: February 10, 2009.

PAUL O. SWARTZ,
Executive Director

[Pa.B. Doc. No. 09-402. Filed for public inspection February 27, 2009, 9:00 a.m.]

