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PENNSYLVANIA BULLETIN

Volume 38

Number 19

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Pages 2139—2220

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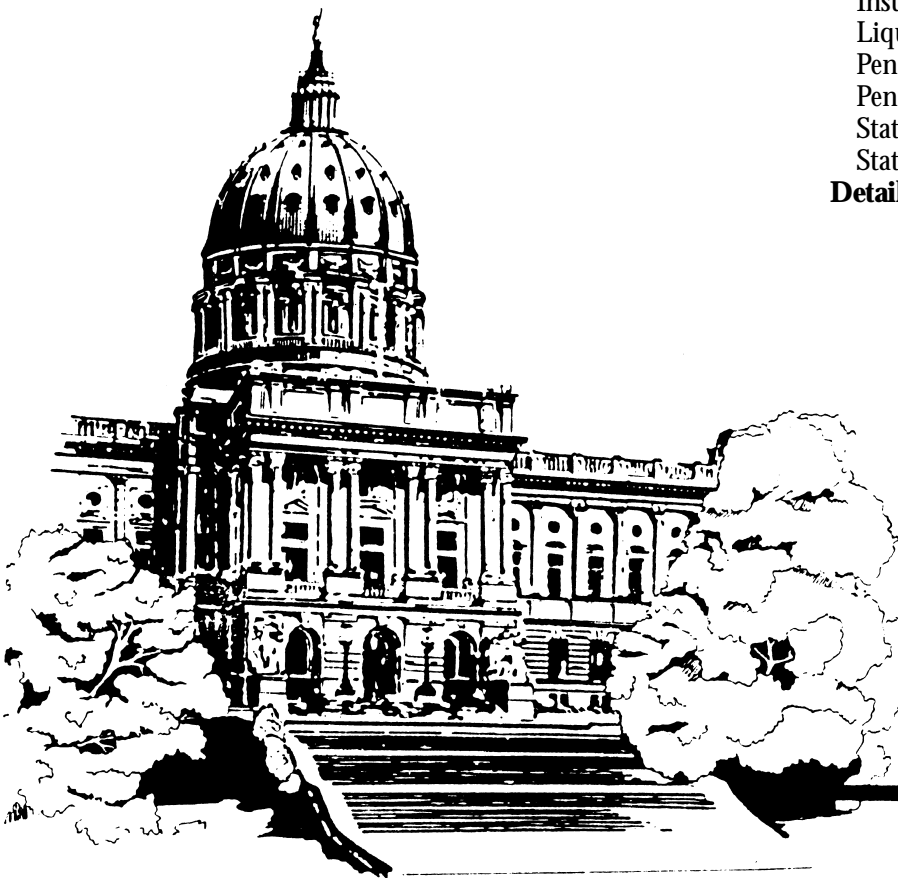
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Pennsylvania Public Utility Commission

State Athletic Commission

State Board of Pharmacy

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

No. 402, May 2008

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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

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

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THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 6]

[EXECUTIVE ORDER NO. 2007-09]

Governor's Advisory Council on Rural Affairs

October 2, 2007

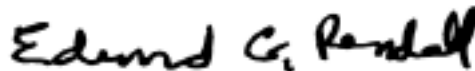
Whereas, one-third of Pennsylvania's population is rural, widely dispersed across 70 percent of the Commonwealth's land mass; and

Whereas, maintaining and expanding opportunities for rural communities and their residents significantly impacts and strengthens the economic, social, and cultural welfare of Pennsylvania; and

Whereas, an advocate is required that provides the leadership and framework to address the unique needs of rural communities and promotes equal access to public and private opportunities politically, economically, and institutionally to sustain a rewarding quality of life for rural residents; and

Whereas, the Pennsylvania Rural Development Council was constituted to serve as a neutral forum where representatives of the private and nonprofit sectors and of all government agencies—Federal, State, and local—can individually and cooperatively address issues of concern to the rural areas of the Commonwealth.

Now, Therefore, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby formally create within the Governor's Executive Offices, the Governor's Advisory Council on Rural Affairs (hereinafter referred to as the "Council") as an advocate for rural Pennsylvanians and do hereby order and direct as follows:



Governor

Fiscal Note: GOV 07-12. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 6. ADDITIONAL COUNCILS AND COMMITTEES

Subchapter B. GOVERNOR'S ADVISORY COUNCIL ON RURAL AFFAIRS

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§ 6.11. Functions.

The Governor's Advisory Council on Rural Affairs (Council) shall:

(1) Seek to build and foster inclusive, collaborative partnerships and networks of diverse individuals and organizations to improve the coordination and effectiveness of Federal, State and other programs, services and

actions affecting rural areas in this Commonwealth. To this end, the Council shall serve as a liaison to Federal, State and local government agencies to ensure that programs affecting rural Pennsylvanians are effectively utilized and that benefits are available to all rural citizens.

(2) Foster expanded economic and social opportunities for this Commonwealth's rural residents. In this regard, the Council and its partners shall identify opportunities for and impediments to expansion and develop strategies for taking advantage of opportunities and overcoming impediments. The Council shall develop, review and recommend policies to the Governor to promote expanded economic and social opportunities for rural Pennsylvania.

(3) Serve as a vehicle for collective advocacy on behalf of this Commonwealth's rural communities and their residents.

(4) Promote intergovernmental cooperation.

(5) Promote community-based problem-solving strategies which include all ideas, resources and expertise without regard to traditional distinctions among units, agencies or levels of government. Further, these strategies anticipate inclusion in the problem-solving process, all individuals, organizations and agencies with contributions to make for the advancement of the common good.

(6) Advise the Governor, agencies, organizations and other entities on issues affecting rural communities and their residents.

(7) Serve as a resource for private and nonprofit organizations on rural issues, programs and available sources of technical and financial assistance.

§ 6.12. Composition.

(a) The Governor's Advisory Council on Rural Affairs shall consist of a Board of Directors comprised of 30 members, with six each representing the private sector, the nonprofit sector, local government agencies, State government agencies and Federal government agencies. Members of the Board of Directors shall be appointed by and serve at the pleasure of the Governor. Members of the Board of Directors may continue to serve in their positions only so long as they remain a member of the group from which they were chosen.

(b) The Governor will designate three Co-Chairpersons representing State, Federal and local governments. The Co-Chairpersons serve at the pleasure of the Governor.

(c) The Governor will appoint an Executive Director who will serve at the pleasure of the Governor.

§ 6.13. Compensation.

Members of the Governor's Advisory Council on Rural Affairs receive no compensation for their services, except that the members may be reimbursed for actual travel and related expenses in accordance with Commonwealth policy. See Chapter 40 (relating to travel and subsistence).

§ 6.14. Terms of membership.

(a) Members will be appointed for a term of 2 years. Members serve at the pleasure of the Governor.

(b) If a vacancy occurs on the Governor's Advisory Council on Rural Affairs due to resignation, disability or death of a member, a successor may be appointed by the Governor to serve the duration of the unexpired term. A successor so appointed may thereafter be reappointed.

§ 6.15. Procedures.

(a) The Governor's Advisory Council on Rural Affairs (Council) is authorized to establish committees and procedures for the effective implementation of its functions consistent with this subchapter.

(b) The Council shall submit reports and policy recommendations it deems necessary that would assist in the preservation or enhancement of the quality of life for rural citizens and communities.

(c) The Council may hold public hearings to evaluate the effectiveness of Commonwealth services and programs to rural citizens and communities of this Commonwealth.

§ 6.16. Relationship with other agencies.

(a) The Governor's Advisory Council on Rural Affairs (Council) shall seek to develop good working relationships with Federal and local government agencies so that the Council's mission to promote intergovernmental cooperation and coordination may be achieved to the greatest extent possible.

(b) Agencies under the Governor's jurisdiction shall fully cooperate with and provide assistance as requested by the Council to properly carry out its power and duties.

§ 6.17. Effective date.

This subchapter shall take effect immediately and continue in effect unless revised or modified by the Governor.

§ 6.18. Rescission.

Executive Order 1999-2 is rescinded.

[Pa.B. Doc. No. 08-873. Filed for public inspection May 9, 2008, 9:00 a.m.]

PART I. GOVERNOR'S OFFICE
[4 PA. CODE CH. 6]
[EXECUTIVE ORDER NO. 2004-11]
Pennsylvania Election Reform Task Force

December 13, 2004

Whereas, the intentions of voters in the sixth most populous state, the Commonwealth of Pennsylvania, are not weighted appropriately in the presidential primary election process because the Pennsylvania Primary Election takes place after the primary elections in 26 other states; and

Whereas, Colorado's 2004 election included a ballot measure to apportion electoral college votes based on results of that state's presidential election and Maine and Nebraska already apportion electoral college votes under certain conditions, and the interests of Pennsylvania voters would benefit from reviewing options for apportionment of electoral votes; and

Whereas, current estimates are that slightly more than nine million Pennsylvanians could vote, but only 5.76 million citizens, 62 percent of all eligible voting age adults, voted in the 2004 Presidential election; and

Whereas, in the context of the 2004 Pennsylvania Primary and General Elections, court challenges were filed to address issues concerning the statutory requirements regarding processing of absentee ballots for deployed members of the armed forces and in response to the varied practices among the Commonwealth's 67 counties in their efforts to comply with the absentee voter processing requirements of Federal and Pennsylvania law; and

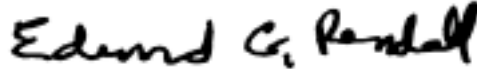
Whereas, Pennsylvania's system for distributing and receiving absentee ballots may present an impediment to the goal of increasing voter participation; and

Whereas, every county in Pennsylvania is working toward full compliance with the Federal Help America Vote Act (HAVA) which requires increased attention to issues of voter access, education, improved election machines, election operations and election official training; and

Whereas, increasingly states are expanding the opportunity to vote by permitting voting before Election Day or voting by mail; and

Whereas, Pennsylvanians must be assured that the Commonwealth election system provides for the greatest level of participation and access while safeguarding the privacy of each vote and the integrity of every election.

Now, Therefore, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution and other laws of the Commonwealth of Pennsylvania, do hereby establish the Pennsylvania Election Reform Task Force as follows:



Governor

Fiscal Note: GOV 04-12. (1) General Government Operations; (2) Implementing Year 2004-05 is \$21,208; 1st Succeeding Year 2005-06 is \$498; (3) 2003-04 Program—\$0; 2002-03 Program—\$0; 2001-02 Program \$0; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 6. ADDITIONAL COUNCILS AND COMMITTEES

Subchapter V. PENNSYLVANIA ELECTION REFORM TASK FORCE

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6.294.	Cooperation by State agencies.
6.295.	Effective date.
6.296.	Termination date.

§ 6.291. Tasks.

(a) The Pennsylvania Election Reform Task Force (Task Force) shall examine options and make recommendations for changing the date of the Primary Election, including legislative changes, and timelines necessary to achieve the recommended changes.

(b) The Task Force shall review all absentee voting statutes, regulations and county practices and recommend legislative or regulatory actions appropriate to improve access to the election process for individuals who cannot get to a polling place on Election Day.

(c) The Task Force shall review all absentee voting statutes, regulations and county practices and recommend legislative or regulatory actions necessary to ensure the ability to participate in elections by those subject to the requirements of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) (42 U.S.C.A. §§ 1373ff—1373ff-6 and 18 U.S.C. §§ 608 and 609).

(d) The Task Force shall examine options and make recommendations to increase voter participation, including early voting, voting by mail or other similar system reforms, while ensuring the privacy and security of all ballots cast.

(e) The Task Force shall make recommendations to address specific deficiencies at the State or county level with respect to compliance with the Help America Vote Act of 2002 (HAVA) (42 U.S.C.A. §§ 15301—15545).

(f) The Task Force may examine other voting reforms such as methods for apportioning electoral votes.

§ 6.292. Composition.

The Pennsylvania Election Reform Task Force (Task Force) shall consist of 13 members.

(1) The Secretary of the Commonwealth shall serve as Chairperson of the Task Force. Four additional members shall be appointed by the Governor and shall represent various constituencies affected by or knowledgeable about the Pennsylvania election processes.

(2) Each of the following legislative caucus leaders shall appoint one member of the Task Force. These members shall be private citizens with knowledge of the Pennsylvania election process.

- (i) The President Pro Tempore of the Senate.
- (ii) The Minority Leader of the Senate.
- (iii) The Speaker of the House of Representatives.
- (iv) The Minority Leader of the House of Representatives.

(3) The County Commissioners Association of Pennsylvania shall appoint three commissioners, election officials or private citizens to serve on the Task Force.

(4) The League of Women Voters shall appoint one person to serve on the Task Force.

§ 6.293. Report.

The Pennsylvania Election Reform Task Force shall present its recommendations in a final report by May 1, 2005.

§ 6.294. Cooperation by State agencies.

The Department of State shall serve as the administrative support agency of the Pennsylvania Election Reform Task Force (Task Force) and provide facilities, personnel assistance, information and services necessary to fulfill the objectives of the Task Force. All other Commonwealth agencies are directed to cooperate with and assist the Task Force in fulfilling its duties and responsibilities.

§ 6.295. Effective date.

This subchapter shall take effect immediately.

§ 6.296. Termination date.

This subchapter shall continue in effect until rescinded.

[Pa.B. Doc. No. 08-874. Filed for public inspection May 9, 2008, 9:00 a.m.]

THE COURTS

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 200]

Proposed Amendment to Rule 214 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges

The Minor Court Rules Committee (Committee) is planning to recommend that the Supreme Court of Pennsylvania amend Rule 214 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges to provide for notification of parents and/or guardians when a subpoena is issued to a person under the age of eighteen. The Committee has not yet submitted this proposal for review by the Supreme Court of Pennsylvania.

The following explanatory *Report* highlights the Committee's considerations in formulating this proposal. The Committee's *Report* should not be confused with the Committee's Notes to the rules. The Supreme Court does not adopt the Committee's Notes or the contents of the explanatory reports.

The text of the proposed changes precedes the *Report*. Additions are shown in bold.

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

Paula Knudsen Burke, Counsel
Minor Court Rules Committee
Supreme Court of Pennsylvania
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055
Fax: (717) 795-2175

or email to: minorcourt.rules@pacourts.us

no later than May 31, 2008.

By the Minor Court Rules Committee:

M. KAY DUBREE,
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

Rule 214. Subpoena; Issuance; Service.

[A.] (A) Magisterial district judges may issue subpoenas throughout the Commonwealth.

[B.] (B) Upon the request of a party **proceeding pro se, the authorized representative of a party, or an attorney of record**, the magisterial district judge may issue a subpoena signed and under the seal of the magisterial district judge. The magisterial district judge shall specify in the subpoena the name and address for service of the person subpoenaed; **the name of the party on whose behalf the person is being ordered to testify**; the date, time, and place at which the person

is to appear; and a description of the documents or things that the person is to produce, if any.

(a) **The party, authorized representative, or attorney of record requesting the subpoena shall provide the magisterial district court with the information required in paragraph (B).**

(b) **If the subpoena is to be issued, the magisterial district court shall fill in the information provided and return it to the requestor for service.**

[C.] (C) A subpoena may be served upon any person within the Commonwealth by a competent adult

(1) by handing a copy to the person; or

(2) by handing a copy

(a) at the residence of the person to an adult member of the family with whom the person resides; but if no adult member of the family is found, then to an adult in charge of such residence; or

(b) at the residence of the person to the clerk or manager of the hotel, inn, apartment house, boarding house, or other place of lodging at which the person resides; or

(c) at any office or usual place of business of the person to the person's agent or other person for the time being in charge thereof.

(D) **The person making service of a subpoena must file a return of service form in the magisterial district court in which the hearing is pending within 48 hours of service, and in no event later than the commencement of the hearing. Filing under this paragraph may be accomplished by sending a copy by facsimile transmission.**

(E) **If a subpoenaed witness is under the age of 18, the parent or guardian of the witness shall be served with a copy of the subpoena in the same manner as prescribed in paragraph (C).**

Official Note: [See Rule 202 for definition of "subpoena." Compare Pa.R.C.P. Nos. 234.2 and 402(a).]

[The] **When issuing a subpoena, the magisterial district judge has discretion to limit the scope of [subpoenas] the subpoena** to persons, documents, or things that are relevant to the cause of action before the magisterial district judge.

Magisterial district judges may not issue subpoenas in blank.

Paragraph (D) provides for filing by facsimile transmission. It is the intent of these rules that filing documents by facsimile transmission is permitted only when expressly provided for in the rules. Paragraph D also provides for use of a form promulgated by the Court Administrator of Pennsylvania.

Paragraph (E) provides that parties choosing to subpoena witnesses under the age of 18 must alert the magisterial district court of the witness' age and are responsible for any additional service costs.

See Rule 202 for definitions of "subpoena" and "attorney of record." Compare Pa.R.C.P. Nos. 234.2

and 402(a) and Pa.R.Crim.P. 107. See also Rule 207 regarding representation by an authorized representative.

For the scope of the contempt powers of magisterial district judges, see 42 Pa.C.S. § 4137. See also Pa.R.Crim.P. 140—142.

Adopted September 3, 2003, effective January 1, 2004. Amended January 6, 2005, effective January 29, 2005. Amended , 2008, effective .

REPORT

Proposed Amendment to Rule 214 of the Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges

Parental Notification When Child Subpoenaed

I. Background

The Minor Court Rules Committee (“Committee”) was prompted to suggest the following changes based upon a February 28, 2008 order of the Pennsylvania Supreme Court.¹ The Court, upon recommendation of the Juvenile Court Procedural Rules Committee, promulgated changes in the Rules of Juvenile Court Procedure that, *inter alia*, would require parental notification when a subpoena is issued to a person under the age of eighteen.

II. Discussion

The Committee reviewed the Feb. 28, 2008 order adopting the Juvenile Court Procedural Rules Committee’s recommendation.² The Committee discussed the benefits of the Juvenile Court Procedural Rules Committee’s proposal. Providing a parent or guardian with important information about his or her child’s whereabouts was one of the chief benefits recognized by the Committee in considering adopting similar rule language. In addition, the Committee felt that consistency throughout Pennsylvania’s courts is important, and that if one set of court rules was undergoing a change, the measure should be seriously considered by the Committee. Ultimately the Committee agreed that they should follow the proposal outlined by the Juvenile Court Procedural Rules Committee.

III. Proposed Rule Changes

To address the issues discussed previously, the Committee proposes amending Rule 214 to include a new paragraph (E) that closely tracks the Juvenile Court Procedural Rules Committee’s recommendation to the Court.

In addition, the Committee is recommending several other changes. In paragraph (B), the Committee would insert several new terms. The paragraph currently states only that subpoenas may be issued “upon the request of a party.” The Committee proposes adding language clarifying that a magisterial district judge may also issue subpoenas upon the request of an “authorized representative” or “attorney of record.” In 2006, the Supreme Court adopted a Committee recommendation that permits an individual with personal knowledge of the subject matter to appear on behalf of a party. See Rule 207(A)(1). The current language of paragraph (B) would also be changed to emphasize that a party representing him or herself (*pro se*) can request issuance of a subpoena. The Committee also advocates additions to paragraph (B) to make clear who is requesting the subpoenaed witness’ testimony, as well as the procedure for obtaining and serving the subpoena.

¹ Supreme Court of Pennsylvania Order No. 438, Supreme Court Rules Docket No. 1.
² The recommendation was published before adoption at 37 Pa.B. 1306 (March 24, 2007), in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 915, March 16, 2007) and on the Juvenile Court Procedural Rules Committee’s web site.

The Committee suggests adding a new paragraph (D) to provide for return of service forms’ submission to the magisterial district court. Finally, the note to Rule 214 would be amended to include supplemental information about the new paragraphs (D) and (E) as well as providing other helpful information with regard to subpoenas in civil actions before magisterial district judges.

[Pa.B. Doc. No. 08-875. Filed for public inspection May 9, 2008, 9:00 a.m.]

Title 25—LOCAL COURT RULES

WASHINGTON COUNTY

Local Civil Rules—Business Courts/Arbitration; No. 2008-1

Order

And Now, this 21st day of April, 2008; *It Is Hereby Ordered* that the Washington County Local Rules—Business Courts/Arbitration be amended as follows.

These changes shall become effective thirty days after publication in the *Pennsylvania Bulletin*.

DEBBIE O’DELL SENECA,
President Judge

BUSINESS OF COURTS

L-212.3 Pre-Trial Conference.

(d) In all jury trials, requests for instructions to the jury, together with citations to legal authorities in support thereof, proposed *voir dire* questions and jury interrogatories shall be filed and served seven (7) days prior to the scheduled pretrial conference so that the court may address those matters in the event the cause can not be resolved during the conference, unless the court enters a case-specific trial order.

L-220.1 Jury Voir Dire—Civil Litigation.

(a) **Voir Dire, Generally.** The parties or their attorneys in all civil jury trials shall have the right to question jurors, who are being impaneled with reference to challenges for cause, and for peremptory challenges, and it shall not be necessary to propound questions through the presiding judge, but they shall be asked by the attorneys or by litigants not represented by attorneys.

(b) **Confidential Juror Questionnaires.** Each prospective juror shall complete and verify a confidential juror information questionnaire. Such confidential questionnaire shall be given to the prospective juror upon reporting to the civil jury courtroom and shall be collected by a court employee who will ensure that each questionnaire is completed. In the event that a prospective juror declines to answer some or all of the questions, the matter will be taken up with the court. At the conclusion of the trial or service by a juror, the original confidential juror information questionnaire and any copies provided to counsel shall be destroyed by a court employee.

(c) **Examination of Jurors.** Once a panel of prospective jurors is assigned to a particular case for selection, each attorney or unrepresented litigant shall receive one (1) photocopy of each prospective juror’s questionnaire on that panel. After counsel have reviewed the questionnaires, the court employee shall inform the jurors of the

names and addresses of the parties, the date and place of the accrual of the cause of action, the general nature of the suit, and the names of the witnesses who may be called to testify. Examination of prospective jurors shall then be conducted by counsel under the supervision of a court employee. Counsel will ask questions approved by the court and will utilize the information contained in the questionnaire and may ask pertinent and relevant follow-up questions based on the individual juror's written or verbal responses. There shall be no transcript of the examination conducted by counsel.

(d) **Selection of Jurors.** Upon conclusion of such examination, counsel shall report to the trial judge those jurors whom they agree may be stricken for cause. If the attorneys are unable to agree that a juror should be stricken for cause, the trial judge shall make the just cause determination and may, along with counsel, question the prospective juror on the record. Counsel shall proceed to exercise their peremptory challenges and the jurors remaining shall be sworn and handled subsequently as a group.

Rule L-229. Discontinuance. Payment of Record Court Costs on Settlement.

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

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

MISCELLANEOUS COURT MATTERS

Rule L-810. Washington County Civil Litigation Mediation Program.

g. The parties to any case on the civil trial list may at any time by agreement voluntarily submit a case to mediation by the filing of the Civil Litigation Mediation Program Consent Submission Form. These forms are available through the Court Administrator's Office. However, any such submission shall **not** delay any scheduled trial of the matter. Further, upon motion of any party to submit a case to mediation then on a civil trial list, the Court shall direct the parties to proceed to mediation if the scheduling of the mediation will not delay any scheduled trial in the matter.

h. For all cases which are selected for mandatory mediation and are not either: (1) settled or (2) referred for arbitration or (3) mediated due to the failure of one or more parties to pay the \$150.00 mediation fee, those cases, pursuant to Pa.R.C.P. 214(2), will be given preference on the trial list. The trial of those cases given preference will be held as soon as is practicable after the date of the settlement/conciliation conference. Cases voluntarily submitted into the Mediation Program will not be given preference on the trial list.

k. Each party to a case selected for mediation will pay a mediation fee of \$150.00 to be made payable to the Washington County Civil Litigation Mediation Program Trustee Account and to be submitted to the Court Administrator's Office. For those cases subject to mandatory mediation, the \$150.00 mediation fee shall be paid within ten (10) days of the date of the Notice of Scheduling of Settlement/Conciliation Conference. For those cases voluntarily submitted to mediation, the \$150.00 mediation fee shall be paid with the filing of the Consent to Submit Case to Civil Litigation Mediation Program. Failure to

pay the \$150.00 mediation fee shall result in the cancellation of the settlement/conciliation conference and shall subject the offending party to the sanctions set forth in Paragraph (j) of the Mediation Program.

ACTIONS AT LAW

Rule L-1302. Arbitrators.

e. Arbitrators shall be paid at the rate of \$250.00 per full day of service. In the event that an arbitrator is required to serve more than one day, the Court Administrator shall determine what additional time was required and set compensation with Court approval.

Rule L-1303. Hearing, Notice, Continuance, Call of List.

(a)(1)(i) After the pleadings have been closed for thirty (30) days, any party may initiate arbitration by filing with the Prothonotary a Praeceptum for Reference to a Board of Arbitration. The Praeceptum for Reference to a Board of Arbitration shall be substantially in the following form:

(Caption)

PRAECEPTUM FOR REFERENCE TO A BOARD OF ARBITRATION

To the Prothonotary:

Kindly refer this matter to a Board of Arbitration. I certify that at least ten (10) days notice of the filing of this Praeceptum has been given to all parties to this action.

Date: _____ By _____

Attorney for _____

As noted, the moving party shall notify all other parties or their counsel of their intent to file such Praeceptum at least ten (10) days prior to the filing.

(a)(1)(ii) Upon filing of the Praeceptum, the Prothonotary shall furnish a copy to the Court Administrator for scheduling.

(a)(2)(i) If a party fails to appear for a scheduled arbitration hearing, the matter may be transferred immediately to a judge of the Court of Common Pleas, for an ex parte hearing on the merits and entry of a non-jury verdict, from which there shall be no right to a trial de novo on appeal.

Note: This Local Rule results in the loss of a right to a trial de novo on appeal, as described in the Local Rule. A dismissal or judgment which results from this Local Rule will be treated as any other final judgment in a civil action, subject to Pa.R.C.P. 227.1.

(a)(2)(ii) A non-jury verdict entered at a hearing held pursuant to Local Rule 1305(a) shall not exceed \$50,000 (exclusive of interest and costs) to any party.

(a)(2)(iii). The Hearing Notice issued by the Prothonotary shall state the following:

DUTY TO APPEAR AT ARBITRATION HEARING

This matter will be heard by a Board of Arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard **at the same time and date** before a judge of the court without the absent party or parties. **There is no right to a trial de novo on appeal from a decision entered by a judge.**

Notice: You must respond to this complaint within twenty (20) days or a judgment for the amount claimed may be entered against you **before the hearing.**

If one or more of the parties is not present at the hearing, the matter may be heard immediately before a judge without the absent party or parties. There is **no right to a trial de novo on appeal from a decision entered by a judge.**

[Pa.B. Doc. No. 08-876. Filed for public inspection May 9, 2008, 9:00 a.m.]

PROPOSED RULEMAKING

STATE ATHLETIC COMMISSION

[58 PA. CODE CH. 29]

Mixed Martial Arts

The State Athletic Commission (Commission) proposes to add Chapter 29 (relating to professional and amateur mixed martial arts) to read as set forth in Annex A.

A. Effective Date

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

B. Statutory Authority

The proposed regulations are authorized under 5 Pa.C.S. § 103(b)(1) (relating to duties of commission), which authorizes the Commission to establish policy and promulgate rules and regulations regarding professional and amateur boxing contests and exhibitions and all matters pertaining thereto. The regulations are further authorized by 5 Pa.C.S. § 302 (relating to definitions), which defines boxing as “the act of attack and defense with the fists, practiced as a sport. The term includes all variations of the sport permitting or using other parts of the human body, including, but not limited to, the foot, knee, leg, elbow or head.”

C. Background and Purpose

Mixed martial arts (MMA) is a sport using a combination of boxing, kickboxing, wrestling, karate, taekwondo, jujitsu, muay thai and other martial arts techniques, including grappling, kicking and striking. Since its inception in the early 1990s, the sport has changed considerably, with formalized rules and the banning of the most dangerous techniques. There is presently no single general sanctioning body for the sport. While rules vary with the individual organizations and associations, a unified set of MMA rules is emerging, which increasingly has been adopted by other state athletic commissions. Presently, 38 states and tribal organizations permit or regulate, or both, professional mixed martial arts. Many of the larger and traditionally active boxing states have adopted unified regulations on MMA within the past 5 years, including California, Nevada and Florida. Additionally, MMA clubs and practitioners, such as Ultimate Fight Championship, PRIDE Fighting Championships and International Fight League, have actively sought the regulation of MMA in this Commonwealth by the Commission. Because of the growing popularity of mixed martial arts competition, the failure to legalize the sport may result in unregulated, unsupervised “bootleg” MMA shows, where participant and spectator safety is not assured. Therefore, the Commission voted unanimously at its February 26, 2007, meeting to explore regulations on amateur and professional mixed martial arts.

The proposed regulations would regulate all mixed martial arts competition in this Commonwealth. The regulations are based on the unified regulations in effect in other states which regulate mixed martial arts. Chapter 29 would be divided into two subchapters: Subchapter A sets forth proposed regulations for professional mixed martial arts. Subchapter B sets forth proposed regula-

tions for amateur mixed martial arts. The proposed regulations were approved by the Commission at its meeting on June 25, 2007.

D. Description of the Proposed Regulations

Subchapter A. Professional Mixed Martial Arts

Proposed § 29.1 (relating to general provisions) provides that Chapter 21 (relating to professional boxing) is generally applicable to professional mixed martial arts.

Proposed § 29.2 (relating to definitions) sets forth definitions to be utilized in Chapter 29.

Proposed § 29.3 (relating to general requirements) sets out the general requirements for professional mixed martial arts contests and exhibitions, including the requirement that debut contestants inform the Commission of their experience and training. As in boxing, all professional contestants shall obtain insurance coverage through the Commission.

Proposed § 29.4 (relating to ring or fenced area requirements) details the requirements for the ring or fenced area in which contest or exhibitions must be held. The Commission permits the use of a modified boxing ring or an octagon-shaped caged area, the latter which is in use by the major mixed martial arts promoters, such as Ultimate Fight Championship.

Proposed § 29.5 (relating to duration of rounds) provides specifics on the conduct of professional mixed martial arts contests, specifically the duration of rounds.

Proposed § 29.6 (relating to weight classes of contestants) sets forth the weight classes for mixed martial arts contestants.

Proposed § 29.7 (relating to proper attire of contestants) sets forth the attire for contestants. Unlike boxing, footwear is not permitted for contestants.

Proposed § 29.8 (relating to physical appearance of contestants) provides specific rules on the physical appearance of contestants, for the health and safety of all competitors. Most notably, contestants may not use greasy grooming creams, lotions or sprays, wear jewelry or piercing, and may not have head or facial hair which interferes with the conduct of the contest.

Proposed § 29.9 (relating to equipment) sets forth the equipment to be worn by mixed martial arts competitors. This section provides that specific equipment and gloves must be utilized.

Proposed § 29.10 (relating to method of judging) provides that Chapter 21 is generally applicable to the judging of professional mixed martial arts. This entails the use of the same ringside officials as for boxing contests and exhibitions: one referee, three judges, a timekeeper, an announcer and a physician.

Proposed § 29.11 (relating to scoring) sets forth the scoring system for mixed martial arts competition. Judges will evaluate competitors on four distinct techniques: striking, grappling, area control and aggressiveness/defense.

Proposed §§ 29.12 and 29.13 (relating to acts constituting fouls; and deduction of points for fouls; effect of low blow) set forth acts which constitute fouls and how a contestant using foul tactics in a contest or exhibition will be disqualified or have points deducted from his score.

Proposed § 29.14 (relating to accidental fouls) sets forth how accidental fouls will be assessed and handled.

Proposed § 29.15 (relating to results of contests) specifies how a mixed martial arts contest may end and that the referee and ringside physician are the only individuals authorized to stop a contest.

Proposed § 29.16 (relating to use of prohibited substances; detection and penalties) prohibits the use of any illegal drug, narcotic, stimulant, depressant, analgesic or alcohol substance by competitors.

Proposed § 29.17 (relating to promoter licensing and bonding requirements) sets forth requirements for mixed martial arts promoters, who will be licensed and bonded by the Commission in the same manner as boxing promoters. Because of the newness of mixed martial arts competition and regulation in this Commonwealth, the Commission will initially require mixed martial arts promoters to provide information in writing about event specifics to the Commission. As with boxing events, the Commission reserves the right to limit the number of mixed martial arts events per month and the number of mixed martial arts bouts scheduled for each event to ensure the proper oversight of each event.

Subchapter B. Amateur Mixed Martial Arts

Proposed § 29.21 (relating to general provisions) provides that the rules regarding professional mixed martial arts apply to amateur mixed martial arts events except as otherwise provided.

Proposed § 29.22 (relating to general requirements) sets out the general requirements for amateur mixed martial arts contests and exhibitions, including the requirement that all amateur contestants be licensed by the Commission. Like professional contestants, debut contestants shall inform the Commission of their experience and training. Amateur contestants shall obtain insurance coverage.

Proposed § 29.23 (relating to amateur mixed martial arts license fee) sets out the license application fee of \$10 for each amateur contestant.

Proposed § 29.24 (relating to conduct of contests) provides that amateur events must have at least two professional mixed martial arts bouts.

Proposed § 29.25 (relating to duration of rounds) provides specifics on the conduct of amateur mixed martial arts contests, specifically the duration of rounds, which is shorter than that for professional mixed martial arts competitors.

Proposed § 29.26 (relating to proper attire for contestants) sets forth the attire for contestants and specifies that amateur contestants may wear rash guards.

Proposed § 29.27 (relating to equipment) sets forth the equipment to be worn by amateur mixed martial arts contestants. This section provides that heavier gloves must be utilized for amateur competition, as well as mouth guards, shin pads and instep pads.

Proposed § 29.28 (relating to legal techniques) enumerates the legal techniques which may be used in amateur mixed martial arts competition.

Proposed § 29.29 (relating to acts constituting fouls) sets forth the acts which constitute fouls in amateur competition and how a contestant using foul tactics in a contest or exhibition will be disqualified or have points deducted from his score. Fouls include any act prohibited by proposed § 29.12, as well as additional specified techniques.

E. Input from the Public

The Commission requested and received input from mixed martial arts clubs, associations and practitioners in the development of this proposed rulemaking. At the Commission's regularly-scheduled meeting on February 26, 2007, testimony from the interested public was received on mixed martial arts. Five organizations appeared to testify before the Commission and one sent information which was viewed by the Commission on digital video disc.

As part of its review, the Commission also afforded the opportunity for predraft comment by forwarding an exposure draft of Annex A to MMA clubs and promoters both in this Commonwealth and in other states, who had expressed interest in the rulemaking. The Commission also forwarded an exposure draft of the regulations to the Association of Boxing Commissions and the athletic commissions of New Jersey, Ohio, Maryland and Nevada. The Commission received several comments on the draft, all of which were considered in drafting the proposed regulations.

F. Fiscal Impact and Paperwork Requirements

The proposed regulations will have no adverse fiscal impact on the Department of State (Department) or the Commission, because the Commission is self-supporting and uses no General Fund moneys. While the Commission will incur additional costs in enforcing the regulations, the Commission expects revenues generated from the 5% tax on gross gate receipts will pay for the enforcement. The proposed regulations will also have no adverse fiscal impact on the Commonwealth or its political subdivisions. Any additional paperwork requirements upon the Commonwealth or the private sector will be limited to applying for and maintaining licensure for mixed martial arts licensees (contestants, promoters, referees, judges and timekeepers). The proposed regulations will have no adverse fiscal impact on the boxers, boxing and wrestling promoters, referees, judges and timekeepers which the Commission currently regulates.

G. Sunset Date

The Commission and the Department monitor the regulations of the Commission on a continuing basis. Therefore, no sunset date has been assigned.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (act) (71 P. S. § 745.5(a)), the Commission submitted a copy of these proposed regulations on April 24, 2008, to the Independent Regulatory Review Commission (IRRC), the Senate State Government Committee and the House State Government Committee. In addition to submitting the proposed rulemaking, the Commission has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

Under section 5(g) of the act (71 P. S. § 745.5(g)), if IRRC has comments, recommendations or objections regarding any portion of the proposed rulemaking, it will notify the Commission within 30 days of the close of the public comment period. The notification will specify the regulatory review criteria that have not been met. The act specifies detailed procedures for review of comments, recommendations and objections by the Commission, the General Assembly, and the Governor prior to publication of the regulations.

I. *Public Comment*

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Gregory P. Sirb, Executive Director of the State Athletic Commission, 2601 North 3rd Street, Harrisburg, PA 17110, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16-41 (Mixed Martial Arts), when submitting comments.

CHARLES P. BEDNARIK,
Chairperson

Fiscal Note: 16-41. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART I. STATE ATHLETIC COMMISSION

Subpart B. BOXING

CHAPTER 29. MIXED MARTIAL ARTS

Subchapter A. PROFESSIONAL MIXED MARTIAL ARTS

Sec.	
29.1.	General provisions.
29.2.	Definitions.
29.3.	General requirements.
29.4.	Ring or fenced area requirements.
29.5.	Duration of rounds.
29.6.	Weight classes of contestants.
29.7.	Proper attire of contestants.
29.8.	Physical appearance of contestants.
29.9.	Equipment.
29.10.	Method of judging.
29.11.	Scoring.
29.12.	Acts constituting fouls.
29.13.	Deduction of points for fouls; effect of low blow.
29.14.	Accidental fouls.
29.15.	Results of contests.
29.16.	Use of prohibited substances; detection and penalties.
29.17.	Promoter licensing and bonding requirements.

§ 29.1. General provisions.

The Boxing Act, as it relates to professional boxers, and Chapter 21 (relating to professional boxing) apply to professional mixed martial arts competitors, promoters and other licensees, except as otherwise provided in this chapter.

§ 29.2. Definitions.

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

Boxing Act—5 Pa.C.S., Part I, Subpart B.

Contestant—A person who engages in mixed martial arts competition, either as a professional or as an amateur.

Mixed martial arts—Competition involving the use, subject to any applicable limitations in this chapter, of a combination of techniques from different disciplines of the martial arts, including grappling, kicking and striking.

(b) The definitions in sections 101 and 302 of the Athletic Code (relating to definitions) are incorporated by reference for the regulatory provisions relating to professional boxing.

§ 29.3. General requirements.

(a) Professional contests and exhibitions of mixed martial arts must be conducted under the supervision and authority of the Commission.

(b) Professional contestants shall be licensed by the Commission.

(c) Debut contestants shall complete a Commission-approved form detailing the contestant's experience and training in mixed martial arts competitions.

(d) The Commission may review the applicant's experience, qualifications, medical records, win-loss record and training record as part of its determination whether to issue or renew any professional mixed martial arts license.

(e) Professional mixed martial arts contestants shall be covered by insurance which shall be set by Commission policy and paid for by the promoter or sponsor of the event.

§ 29.4. Ring or fenced area requirements.

(a) Mixed martial arts contests and exhibitions must be held in a ring or in a fenced area.

(b) A ring used in a contest or exhibition of mixed martial arts must meet the following requirements:

(1) The ring must be at least 20 feet square and no larger than 32 feet square within the ropes.

(2) The ring floor must extend at least 18 inches beyond the ropes and must be padded with Ensolite, vinyl or similar closed-cell foam, with at least a 1-inch layer of foam padding. Padding must extend beyond the ring ropes and over the edge of the platform, with a top covering of canvas, duck or similar material tightly stretched and laced to the ring platform. Material that gathers in lumps or ridges may not be used.

(3) The ring platform must not be more than 4 feet above the floor of the building and must have suitable steps for the use of the contestants.

(4) Ring posts must be four in number and made of metal, extending from the floor of the building to a minimum height of 58 inches above the ring floor, and must be properly padded in a manner approved by the Commission. Ring posts must be at least 18 inches away from the ring ropes.

(5) There must be five ring ropes, at least 1 inch in diameter and wrapped in soft material. The lowest ring rope must be 12 inches above the ring floor.

(6) There may not be any obstruction or object, including, without limitation, a triangular border, on any part of the ring floor.

(c) A fenced area used in a contest or exhibition of mixed martial arts must meet the following requirements:

(1) The fenced area must be circular or have at least six equal sides and must be at least 20 feet wide and no larger than 32 feet wide.

(2) The floor of the fenced area must be padded with Ensolite, vinyl or another similar closed-cell foam, with at least a 1-inch layer of foam padding, with a top covering of canvas, duck or similar material tightly stretched and laced to the platform of the fenced area. Material that gathers in lumps or ridges may not be used.

(3) The platform of the fenced area must not be more than 4 feet above the floor of the building and must have suitable steps for the use of the contestants.

(4) Fence posts must be at least six in number and made of metal, extending from the floor of the building to between 6 and 7 feet above the floor of the fenced area, and must be properly padded in a manner approved by the Commission.

(5) The fencing used to enclose the fenced area must be made of a material that will prevent a contestant from falling out of the fenced area or breaking through the fenced area onto the floor of the building or onto the spectators, including chain link fence coated with vinyl.

(6) Any metal portion of the fenced area must be covered and padded in a manner approved by the Commission and may not be abrasive to the contestants.

(7) The fenced area must have at least two entrances.

(8) No obstruction may be placed on a part of the fence which surrounds the area where contestants compete.

(d) The promoter of the event shall be responsible to thoroughly clean the ring area after each match.

§ 29.5. Duration of rounds.

(a) A nonchampionship contest of professional mixed martial arts may not exceed three rounds of 5 minutes per round with a 1 minute rest period following each round, except with the permission of the Commission or the Executive Director.

(b) A championship contest of professional mixed martial arts may not exceed five rounds of 5 minutes per round with a 1 minute rest period following each round, except with the permission of the Commission or the Executive Director.

§ 29.6. Weight classes of contestants.

(a) The weight classes for contestants competing in professional mixed martial arts contest or exhibitions are as follows:

Flyweight	up to 125 lbs.
Bantamweight	over 125 to 135 lbs.
Featherweight	over 135 to 145 lbs.
Lightweight	over 145 to 155 lbs.
Welterweight	over 155 to 170 lbs.
Middleweight	over 170 to 185 lbs.
Light Heavyweight	over 185 to 205 lbs.
Heavyweight	over 205 to 265 lbs.
Super Heavyweight	over 265 lbs.

(b) Sections 710 and 711 of the Athletic Code (relating to weights and classes; and limitation on difference in weights) are incorporated by reference.

§ 29.7. Proper attire of contestants.

(a) *Trunks.* Each contestant shall wear mixed martial arts shorts, biker shorts, boxing or kickboxing shorts during competition as approved by the Commission.

(b) *Shirt or gi.* Male contestants may not wear a shirt or gi during competition. Female contestants shall wear a body shirt and blouse during competition.

(c) *Shoes.* Contestants may not wear shoes or padding on their feet during competition.

§ 29.8. Physical appearance of contestants.

(a) Each contestant shall present a clean appearance.

(b) The excessive use of grease or any other foreign substance, including grooming creams, lotions or sprays, may not be used on the hair or any portion of the body of a contestant. The referee or the Commission will cause any excessive grease or foreign substance to be removed. A light coating of petroleum jelly is permitted on the face only and must be applied at cage side or ring side in the presence of the referee or the Commission. This coating is at the discretion of the referee.

(c) The Commission will determine whether head or facial hair presents a hazard to the safety of the con-

testant or the opponent or will interfere with the supervision and conduct of the contest or exhibition. If the head or facial hair of a contestant presents a hazard or will interfere with the supervision and conduct of the contest or exhibition, the contestant may not participate in the contest or exhibition unless the circumstances creating the hazard or potential interference are corrected to the satisfaction of the Commission. Without limiting the standard in this subsection, head hair must be trimmed or tied back in a manner that it will not interfere with the vision of either contestant or cover any part of a contestant's face.

(d) Contestants may not wear any jewelry or other piercing accessories while competing.

(e) Taping of the hands, wrists and ankles are permitted at the discretion of the Commission.

(f) Finger and toe nails must be trimmed.

§ 29.9. Equipment.

(a) The gloves used in professional mixed martial arts contests and exhibitions must be new for all main events. The gloves used for all undercard events must be in good condition and approved by the Commission or they must be replaced.

(b) Contestants shall wear open finger gloves weighing between 4 to 8 ounces, which shall be supplied by the promoter and approved by the Commission. Contestants are not permitted to supply their own gloves.

(c) Male contestants shall provide and wear a foul-proof groin protector during competition. The groin protector is subject to examination and approval by the Commission.

(d) Female contestants shall provide and wear a chest protector during competition. The chest protector is subject to examination and approval by the Commission. Female contestants may provide and wear a foul-proof groin protector during competition. The groin protector is subject to examination and approval by the Commission.

(e) For each contest or exhibition, the licensed promoter shall provide each contestant's corner with a clean water bucket and a stool.

§ 29.10. Method of judging.

The method of judging professional mixed martial contests or exhibitions must comply with requirements in the Boxing Act, as it relates to professional boxers and Chapter 21 (relating to professional boxing).

§ 29.11. Scoring.

(a) Professional mixed martial arts techniques are defined as:

(1) *Effective striking.* The total number of legal heavy strikes landed.

(2) *Effective grappling.* The successful execution of a legal takedown or reversal, or both, including the following maneuvers:

(i) Takedowns from standing position to mount position.

(ii) Passing the guard to mount position.

(iii) Bottom position fighters using an active, threatening guard.

(3) *Fighting area control.* Dictating the pace, location and position of the contestant using the following maneuvers:

(i) Countering an opponent's attempt at takedown to remain standing and legally striking effectively.

(ii) Taking down an opponent to force a ground fight.

(iii) Creating threatening submission attempts past the guard to achieve mount, while on the ground.

(iv) Creating striking opportunities.

(4) *Effective aggressiveness/defense.* Moving forward and landing a legal strike, while avoiding being struck, taken down or reversed, or both, while performing the maneuvers described in this subsection.

(b) Judges shall evaluate professional mixed martial arts techniques in the following order:

(1) Effective striking.

(2) Effective grappling.

(3) Fighting area control.

(4) Effective aggressiveness/defense.

§ 29.12. Acts constituting fouls.

(a) Disqualification from a mixed martial arts contest or exhibition occurs after any combination of three fouls or after a flagrant foul as determined by the referee.

(b) The following acts constitute fouls in a professional mixed martial arts contest or exhibition:

(1) Butting with the head.

(2) Eye gouging of any kind.

(3) Biting.

(4) Hair pulling.

(5) Fishhooking.

(6) Groin attacks of any kind.

(7) Putting a finger into any orifice or into any cut or laceration on an opponent.

(8) Small joint manipulation.

(9) Striking to the spine or the back of the head.

(10) Striking downward using the point of the elbow.

(11) Throat strikes of any kind, including, without limitation, grabbing the trachea.

(12) Clawing, pinching or twisting the flesh.

(13) Grabbing the clavicle.

(14) Kicking the head of a grounded opponent.

(15) Kneeing the head of a grounded opponent.

(16) Stomping a grounded opponent.

(17) Kicking to the kidney with the heel.

(18) Spiking an opponent to the floor surface on his head or neck.

(19) Throwing an opponent out of the ring or fenced area.

(20) Holding the shorts or gloves of an opponent.

(21) Spitting at an opponent.

(22) Engaging in any type of unsportsmanlike conduct, especially that which may cause an injury to an opponent.

(23) Holding the ropes or the fence.

(24) Using abusive language in the ring or fenced area.

(25) Attacking an opponent on or during the break.

(26) Attacking an opponent who is under the care of the referee.

(27) Attacking an opponent after the bell has sounded the end of the period of competition.

(28) Disregarding the instructions of the referee.

(29) Timidity, including, without limitation, avoiding contact with an opponent, intentionally or consistently dropping the mouthpiece or faking an injury.

(30) Interference by the corner. Team members including cornermen and trainers shall stay in their designated area at all times during an event.

§ 29.13. Deduction of points for fouls; effect of low blow.

(a) If a contestant fouls his opponent during a contest or exhibition of professional mixed martial arts, the referee may penalize him by deducting points from his score, whether or not the foul was intentional. Except as otherwise provided in Chapter 21 (relating to professional boxing), the referee may determine the number of points to be deducted in each instance and shall base his determination on the severity of the foul and its effect upon the opponent.

(b) When the referee determines that it is necessary to deduct a point or points because of a foul, he shall warn the offender of the penalty to be assessed.

(c) The referee shall, as soon as is practical after the foul, notify the judges and both contestants of the number of points, if any, to be deducted from the score of the offender.

(d) Any points to be deducted for any foul shall be deducted in the round in which the foul occurred and may not be deducted from the score of a subsequent round.

(e) A contestant may not be declared the winner of a contest or exhibition of professional mixed martial arts on the basis of his claim that his opponent accidentally fouled him by hitting him in the groin. If a contestant falls to the floor of the ring or fenced area or otherwise indicates that he is unwilling to continue after a maximum of a 5-minute rest period, because of a claim of being hit in the groin, the contest or exhibition shall be declared to be a technical knockout in favor of the contestant who is willing to continue.

§ 29.14. Accidental fouls.

(a) If a contest or exhibition of professional mixed martial arts is stopped because of an accidental foul, the referee, with advice from the ringside physician, shall determine whether the contestant who has been fouled can continue or not. If the contestant's chance of winning has not been seriously jeopardized as a result of the foul, the referee may order that the contest or exhibition continue after a recuperative interval of not more than 5 minutes. Immediately after separating the contestants, the referee shall inform the Commission's representative of a determination that the foul was accidental.

(b) If the referee determines that a contest or exhibition of professional mixed martial arts may not continue because of an injury suffered as the result of an accidental foul, the contest or exhibition shall be declared a no contest if the foul occurs during either of the following:

(1) The first two rounds of a nonchampionship contest or exhibition.

(2) The first three rounds of a championship contest or exhibition.

(c) If an accidental foul renders a contestant unable to continue the contest or exhibition after the completed second round of a nonchampionship contest or exhibition, or after the completed third round of a championship contest or exhibition, the outcome shall be determined by scoring the completed rounds and the round during which the referee stops the contest or exhibition.

(d) If an injury inflicted by an accidental foul later becomes aggravated by fair blows and the referee orders the contest or exhibition stopped because of the injury, the outcome shall be determined by scoring the completed rounds and the round during which the referee stops the contest or exhibition.

§ 29.15. Results of contests.

(a) A mixed martial arts contest may end under the following results:

- (1) Through submission by:
 - (i) Physical tap out.
 - (ii) Verbal tap out.
- (2) Technical knockout by the referee stopping the contest.
- (3) Decision by means of the scorecards, including unanimous decision, split decision or majority decision.
- (4) Draw.
- (5) Technical decision.
- (6) Technical draw.
- (7) Disqualification.
- (8) Forfeit.
- (9) No contest.

(b) The referee and ringside physician are the sole arbiters of a contest and are the only individuals authorized to enter the ring or fenced area at any time during competition and to stop a contest.

§ 29.16. Use of prohibited substances; detection and penalties.

The use of any illegal drug, narcotic, stimulant, depressant, analgesic of any description, or alcohol substance, by a contestant either before or during a match, will result in the immediate disqualification of the contestant from the match and may result in disciplinary action in accordance with 5 Pa.C.S. § 1304 (relating to suspension or revocation of licenses or permits).

§ 29.17. Promoter licensing and bonding requirements.

Mixed martial arts promoters shall:

- (1) Be licensed by the Commission.
- (2) Be required to execute and file a surety bond with the Commission of not less than \$10,000.
- (3) Notify the Commission in writing, at least 10 days in advance of the event, of the time, date and location of the event. Promoters must receive written approval from the Commission to hold the event on the specified date. The Commission reserves the right to limit the number of mixed martial arts events per month to ensure the proper regulation of each event.
- (4) Submit a written list of all the scheduled match-ups which includes the full names, records and scheduled rounds for all contestants. The Commission reserves the right to limit the number of mixed martial arts bouts scheduled for each event.

(5) Submit a list of all officials that may be working that event, including referees, judges and timekeepers. Officials must be approved by the Commission. Officials for professional events shall also be licensed by the Commission.

Subchapter B. AMATEUR MIXED MARTIAL ARTS

Sec.	
29.21.	General provisions.
29.22.	General requirements.
29.23.	Amateur mixed martial arts license fee.
29.24.	Conduct of contests.
29.25.	Duration of rounds.
29.26.	Proper attire for contestants.
29.27.	Equipment.
29.28.	Legal techniques.
29.29.	Arts constituting fouls.

§ 29.21. General provisions.

The Boxing Act, as it relates to professional boxers and Chapter 21 (relating to professional boxing) apply to amateur mixed martial arts competitors, promoters and other licensees, except as otherwise provided in this chapter. Subchapter A (relating to professional mixed martial arts) applies to amateur mixed martial arts, except as otherwise provided in this subchapter.

§ 29.22. General requirements.

- (a) Amateur contestants shall be at least 18 years of age.
- (b) Amateur contests and exhibitions of mixed martial arts shall be conducted under the supervision and authority of the Commission.
- (c) Amateur contestants shall be licensed by the Commission.
- (d) Debut amateur contestants shall complete a Commission-approved form detailing the contestant's experience and training in mixed martial arts competitions. The trainer of the debut contestant shall certify that the contestant is skilled enough to compete and has never engaged in any type of professional mixed martial arts event. A professional boxer may compete as an amateur in a mixed martial arts event only with the approval of the Commission.

(e) The Commission may review the applicant's experience, qualifications, medical records, win-loss record and training record as part of its determination whether to issue or renew any amateur mixed martial arts license.

(f) Amateur mixed martial arts contestants shall be covered by insurance which will be set by Commission policy and paid for by the promoter or sponsor of the event.

(g) Amateur contestants shall attend the prebout meeting with a designee of the Commission to review all rules and regulations of the Commission pertaining to amateur mixed martial arts.

§ 29.23. Amateur mixed martial arts license fee.

A nonrefundable annual license fee of \$10 must accompany each application for a license or renewal of a license as an amateur mixed martial arts contestant.

§ 29.24. Conduct of contests.

Amateur events must have at least two professional bouts.

§ 29.25. Duration of rounds.

(a) A contest of amateur mixed martial arts with a contestant with three or less amateur bouts may not exceed three rounds of 2 minutes per round with a 1

minute rest period between rounds, except with the permission of the Commission or the Executive Director.

(b) A contest of amateur mixed martial arts with a contestant with more than three amateur bouts may not exceed three rounds of 3 minutes per round with a 1 minute rest period between rounds, except with the permission of the Commission or the Executive Director.

§ 29.26. Proper attire for contestants.

(a) *Trunks.* Each amateur contestant shall wear mixed martial arts shorts, biker shorts, boxing or kickboxing shorts during competition as approved by the Commission.

(b) *Shirt or gi.* Male contestants may not wear a shirt or gi during competition, other than a close-fitting rash guard. Any rash guard must be approved by the Commission. Female contestants shall wear a body shirt and blouse during competition.

(c) *Shoes.* Contestants may not wear shoes or padding on their feet during competition.

§ 29.27. Equipment.

(a) The gloves used in amateur mixed martial arts contests and exhibitions must be new for all main events. The gloves used for all undercard events must be in good condition and approved by the Commission or they must be replaced.

(b) Amateur contestants shall wear open finger gloves weighing at least 7 ounces, which shall be supplied by the promoter and approved by the Commission. Contestants are not permitted to supply their own gloves.

(c) Contestants shall wear a mouth guard, shin pads and instep pads during competition.

(d) Ankle wraps may be used during competition. Ankle wraps are subject to examination and approval by the Commission.

(e) Male contestants shall provide and wear a foul-proof groin protector during competition. The groin protector is subject to examination and approval by the Commission.

(f) Female contestants shall provide and wear a chest protector during competition. The chest protector is subject to examination and approval by the Commission. Female contestants may provide and wear a foul-proof groin protector during competition. The groin protector is subject to examination and approval by the Commission.

(g) For each contest or exhibition, the licensed promoter shall provide each contestant's corner with a clean water bucket and a stool.

§ 29.28. Legal techniques.

(a) The following acts constitute legal techniques while standing in any amateur mixed martial arts contest or exhibition:

- (1) Closed hand strikes to head and body.
- (2) Kicking to body and legs.
- (3) Knees to body and legs.
- (4) Throws.

- (5) Take downs.
- (6) Sweeps.
- (7) Standing submissions.
- (8) Chokes.
- (9) Armbars.
- (10) Shouldering.

(b) The following acts constitute legal techniques while on the ground in any amateur mixed martial arts contest or exhibition:

- (1) Closed hand strikes to body and legs.
- (2) Submissions (chokes, armbars, straight leg locks only).

§ 29.29. Acts constituting fouls.

(a) Disqualification from an amateur mixed martial arts contest and exhibition occurs after any combination of three fouls or after a flagrant foul as determined by the referee.

(b) The following acts constitute fouls in a contest or exhibition of amateur mixed martial arts:

(1) An act prohibited by § 29.12 (relating to acts constituting fouls).

(2) Any of the following illegal techniques while standing:

- (i) Elbows of any kind.
- (ii) Knees to head.
- (iii) Kicks to knees or head.
- (iv) Stomps on feet.
- (v) Slamming. Throws should be completed in a controlled manner.

(vi) Throws against a joint.

(vii) Neck cranks.

(viii) Pinching, biting or gouging.

(2) Any of the following illegal techniques while on the ground:

- (i) Striking to the head.
- (ii) Neck cranks.
- (iii) Heel hooks.
- (iv) Finger locks.
- (v) Toe locks.
- (vi) Choking with hand on throat.
- (vii) Smothering (hand over mouth).
- (viii) Spine locks.
- (ix) Hammer locks.
- (x) Slamming.
- (xi) Pinching, biting or gouging.

[Pa.B. Doc. No. 08-877. Filed for public inspection May 9, 2008, 9:00 a.m.]

NOTICES

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

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

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

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

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

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

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

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

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0032859 (Minor Sewage)	Department of Transportation Bureau of Design P. O. Box 3060 17105-3060	Monroe County Pocono Township	Pocono Creek 01E	Y

<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>
PA0063681 (Minor Industrial Waste)	Penske Truck Leasing Company, LP Route 10 Green Hills Reading, PA 19603	North Manheim Township Schuylkill County	Schuylkill River 3A	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>
PA0239321	Robert J. Wahlmark P. O. Box 137 31970 Guys Mills Road Townville, PA 16360	Randolph Township Crawford County	UNT to Muddy Creek 16-A	Y
PA0222411	Frank A. Leonard 20 Carey Farms Road Erie, PA 16511	Harborcreek Township Erie County	Lake Erie 15	Y
PA0101745	Clarview Nursing and Rehabilitation Center 14663 Route 68 Sligo, PA 16255	Piney Township Clarion County	UNT to Licking Creek 17-G	Y
PA0222496	Summerville Borough Municipal Authority P. O. Box 278 Summerville, PA 15864-0278	Summerville Borough Jefferson County	Runaway Run 17-C	Y

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

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

PA0026352, Sewage, **Riverview Sanitary Authority**, 3100 University Boulevard, Coraopolis, PA 15108. This application is for renewal of an NPDES permit to discharge treated sewage from Riverview Sanitary Authority Wastewater Treatment Plant in Moon Township, **Allegheny County**.

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

Outfall 001: existing discharge, design flow of 4.34 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform (5-1 to 10-31) (11-1 to 4-30)	200/100 ml as a Geometric Mean 2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	0.5			1.6
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

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

PA0240117, Sewage, **Dale L. Coates SFTF**, 9541 Concord Road, Union City, PA 16438. This proposed facility is located at 9541 Concord Road in Union Township, **Erie County**.

Description of Proposed Activity: The applicant requests an NPDES permit for the discharge of treated domestic sewage from an SFTF serving a single dwelling. Treatment consists of a septic tank with Tuf-tite effluent filter, ECO FLO STB 650 peat filter and ultraviolet disinfection.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, there is no downstream potable water supply affected by this discharge.

The receiving stream, a UNT to the South Branch of French Creek, is in the French Creek Watershed and classified for: CWF.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0005 mgd:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	Monitor and Report		
CBOD ₅	10		20
Total Suspended Solids	20		40
Fecal Coliform	200/100 ml as a Geometric Average		
pH	6.0 to 9.0 Standard Units at all times		
Ultraviolet Light	Monitor and Report		

The EPA waiver is in effect.

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

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

WQM Permit No. 3508401, Sewerage, **Lackawanna River Basin Sewer Authority**, P. O. Box 9068, Dickson City, PA 18519-9068. This proposed facility is located in Throop Borough, **Lackawanna County**.

Description of Proposed Action/Activity: This project is for the construction of a new headworks wastewater screening and grit removal facilities at the Throop Wastewater Treatment Plant.

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

WQM Permit No. 4208403, Sewerage, **Karen and Roger D. Summerlin**, 5037 Oak Bluff Drive, High Ridge, MO 63049-1408. This proposed facility is located in Hamlin Township, **McKean County**.

Description of Proposed Action/Activity: A single-residence sewage treatment plant.

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

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

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

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>
PAI010907015	Central PA Equities 9, LLC 146 Pine Grove Circle Suite 200 York, PA 17403	Bucks	Milford Township	Unami Creek HQ-TSF
PAI010908007	Keystone Floor Products Company 2969 Samuel Drive Bensalem, PA 19020-7305	Bucks	Bensalem Township	Delaware River WWF-MF
PAI011508030	Camphill Special School 1784 Fairview Road Glenmoore, PA 19343	Chester	East Vincent Township	Tributary French Creek EV
PAI012308002	Wawa, Inc. 260 Baltimore Pike Wawa, PA 19063	Delaware	Ridley Township	Little Crum Creek WWF

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025208005	Rock Hill Estates, LLC 1040 Avenue of the Americas New York, NY 10018	Pike	Dingman Township	Bush Kill HQ-CWF Shohola Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032108010	Department of Veteran and Military Affairs Bureau of Facilities and Engineering Building 0-47 Fort Indiantown Gap Annville, PA 17003-5002	Cumberland	North Middleton Township	LeTort Spring HQ-CWF
PAI032208002	McNaughton Company 4400 Deer Path Road Suite 201 Harrisburg, PA 17110	Dauphin	Susquehanna Township	Paxton Creek WWF

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>
PAI041408007	Jonathan Light Teamsters Local Union No. 8 1411 North Atherton Street State College, PA 16803	Centre	Benner Township	Buffalo Run HQ-CWF

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

Butler County Conservation District, 122 McCune Drive, Butler, PA 16001.

Jefferson County Conservation District, 1514 Route 28, Brookville, PA 15825.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI061003002R	Ridgeview Estates Buffalo Fields Plan of Lots Maronda Homes, Inc. 202 Park West Drive Pittsburgh, PA 15275	Butler	Buffalo Township	Sarver Run HQ
PAI063308002	Family First Real Estate Co., LP 132 Main Street Brookville, PA 15825	Jefferson	Brookville Borough	UNT North Fork of Redbank Creek HQ; CWF

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

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

PUBLIC WATER SUPPLY (PWS) PERMIT

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

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

of comments received during the 30-day public comment period.

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

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

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

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Application No. 4008502, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**
St. John's Estates Water System
Butler Township
Luzerne County

Responsible Official Patrick R. Burke
Aqua Pennsylvania, Inc.
50 East Woodhaven Drive
White Haven, PA

Type of Facility Public Water Supply

Consulting Engineer CET Engineering Services
1240 North Mountain Road
Harrisburg, PA

Application Received Date April 10, 2008

Description of Action Improvements include an 8,000 gallon storage tank, replacement of the chlorinator, booster pumps and a contact time pipeline.

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

Permit No. 0600503, Public Water Supply.

Applicant **Haines & Kibblehouse, Inc.**

Municipality Union Township

County **Berks**

Responsible Official Haines & Kibblehouse, Inc.
Senior Project Manager
P. O. Box 196
2052 Lucon Road
Skippack, PA 19474

Type of Facility Public Water Supply

Consulting Engineer George W. Ruby, P. E.
Ruby Engineering
P. O. Box 127
Rexmont, PA 17085-0127

Application Withdrawn: April 28, 2008

Description of Action The project was for a new community Public Water System (PWS) to serve a proposed development known as the Birdsboro Heights Subdivision. The proposed PWS was to include three community wells with blending and aeration, storage, disinfection and distribution. The proposed project is inactive and the PWS construction permit application has been withdrawn.

Application No. 0708504 MA, Minor Amendment, Public Water Supply.

Applicant **Altoona City Authority**

Municipality Logan Township

County **Blair**

Responsible Official Mark A. Perry
Director of Operations
20 Greenwood Road
Altoona, PA 16602-7114

Type of Facility Public Water Supply

Consulting Engineer Michael V. Sinisi, P. E.
Altoona City Authority
20 Greenwood Road
Altoona, PA 16602

Application Received: April 14, 2008

Description of Action Change of corrosion inhibitor.

MINOR AMENDMENT

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

Application No. 8875-W-T1-MA3, Minor Amendment.

Applicant **Erie City Water Authority**

Township or Borough City of Erie
Erie County

Responsible Official Craig Palmer
Engineering Services Manager
340 West Bayfront Parkway
Erie, PA 16507-0729

Type of Facility Public Water Supply

Application Received Date April 24, 2008

Description of Action Install Geodesic Dome on 5 mg Underground Reservoir and perform concrete repairs at Johnson Reservoir.

WATER ALLOCATIONS**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 the Commonwealth**

Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

WA 18-1012, Water Allocations. Chapman Township Water Authority, Chapman Township, **Clinton County**. Grants the right to purchase a maximum of 38,000 gallons of water per day from Renovo Borough.

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

WA 16-1002A. Farmington Township, P. O. Box 148, 32691 Route 66, Leeper, PA 16233. Farmington Township and Village of Crown, **Clarion County**. Farmington Township has requested a modification of its existing Water Allocation permit in order to expand their service area. The Township is not requesting an increase in water from the Pennsylvania-American Water Company.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

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

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

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

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

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

Helen Mase Property, Bethlehem City, **Lehigh County**. Matthew Grubb, Environmental Maintenance Company, Inc., 1420 East Mermaid Lane, Glenside, PA 19038, has submitted a Notice of Intent to Remediate (on behalf of his client, Helen Mase, 1522 Greenview Drive, Bethlehem, PA 18018), concerning the remediation of soils found or suspected to have been impacted by No. 2 fuel oil as a result of an accidental release from an aboveground storage tank. The applicant proposes to remediate the site to meet the Residential Statewide Health Standard for soils. The proposed future use of the property will be residential. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future.

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

Village Greens Golf Course, Sinking Spring Borough, **Berks County**. Liberty Environmental, Inc., 10 North 5th Street, Suite 800, Reading, PA 19601, on behalf of Traditions Development Corporation, 7159 Red Top Road, Hummelstown, PA 17036, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with arsenic. The site has operated as a golf course since 1969, and residential development is planned for the site. The applicant seeks to remediate the site to a combination of Statewide Health and Site-Specific Standards.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Former Bechtel's Dairy & Restaurant, Lewisburg Borough, **Union County**. Molesevich Environmental, LLC, P. O. Box 654, Lewisburg, PA 17837 on behalf of Shawn Lloyd, Bechtel Brothers, Inc., 6594 Col. John Kelly Road, Lewisburg, PA 17837 has submitted a Notice of Intent to Remediate soil contaminated with leaded gasoline. The applicant proposes to remediate the site to meet the Statewide Health Standard.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Applications received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and 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. 30002. Bangor Quarry Ash Disposal Site, Reliant Energy Northeast Management Company, 121 Champion Way, Suite 200, Canonsburg, PA 15317. A Permit Renewal Application for the continued operation of this Class II Residual Waste Landfill located in Bangor Borough, **Northampton County**. The application was received in the Regional Office on December 3, 2007, and it was deemed administratively complete as of April 23, 2008.

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 100113, Republic Services of Pennsylvania, LLC, 4400 Mount Pisgah Road, York, PA 17406, for Modern Landfill, located in Windsor and Lower Windsor Townships, **York County**. The permit renewal appli-

cation has been determined to be administratively complete by the Southcentral Regional Office on April 21, 2008.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

Permit ID No. 301287. Allegheny Ludlum Corporation, 100 River Road, Brackenridge, PA 15014-1597. Latrobe Facility, Route 981, Latrobe, PA 15650. Permit renewal application for a captive residual waste landfill in Derry Township, **Westmoreland County** was received in the Regional Office on April 22, 2008.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

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

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

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

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

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

PLAN APPROVALS

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

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

66-315-052: Procter and Gamble Paper Products, Co. (P. O. Box 32, Mehoopany, PA 18629-0032) for construction of two new converting lines at their facility in Washington Township, **Wyoming County**.

48-302-104: Reliant Energy Mid Atlantic Power Holdings, LLC (121 Champion Way, Suite 200, Canonsburg, PA 15317-7625) for modification to their existing Unit 1 and two boilers at their facility in Upper Mount Bethel Township, **Northampton County**.

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

37-003E: Essroc Cement Co. (Second Street, Bessemer, PA 16112) for modification of an existing dust collection system and installation of a new baghouse to control PM emissions in Bessemer Borough, **Lawrence County**.

61-204E: Franklin Bronze & Alloy Co., Inc. (655 Grant Street, Franklin, PA 16323) for a minor modification of Plan Approval 61-204D to add another source, a shot blast unit and to include the drop-out boxes as part of the dust collection system at their facility in the City of Franklin, **Venango 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.

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

01-02029: Reliant Energy Mid Atlantic Power Holdings, LLC (121 Champion Way, Suite 200, Canonsburg, PA 15317-5817) to receive comments on the proposed Reasonably Available Control Technology Plan and amendment to the State Implementation Plan (SIP) for the Reliant Energy simple cycle electric generating facility in Straban Township, **Adams County**. The proposed SIP revision does not adopt any new regulations. It incorporates the requirements that include emission limitations for the significant NOx sources at the facility. The Department of Environmental Protection will hold one public hearing on Wednesday, June 18, 2008, at the Department of Environmental Protection, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110, from 9 a.m. until all scheduled comments are received. Persons wishing to present testimony should contact Yasmin Neidlinger, Southcentral Regional Office at (717) 705-4863. Written comments may be submitted to the Southcentral Regional Office until July 2, 2008.

ER-36-05027A: R. R. Donnelley (216 Greenfield Road, Lancaster, PA 17601-5885) for an Air Quality Emission Reduction Credit approval of 18.3 tons of VOCs resulting

from the November 30, 2005, and December 31, 2005, shutdown of two printing presses in the City of Lancaster, **Lancaster County**.

67-05112B: Kinsley Manufacturing, Inc. (1110 East Princess Street, York, PA 17403) for construction of two portable spray paint units with dry panel filters for control of PM emissions at its steel fabrication shop (East York Facility) in Springettsbury Township, **York County**. The source will emit approximately 6.4 tons VOC per year and 1.1 tons xylene per year. The plan approval and subsequent State-only operating permit will include emission restrictions, work practice standards, and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

24-012G: C/G Electrodes LLC—St. Marys Plant (800 Theresia Street, St. Marys, PA 15857-1898) for construction of two carbottom baking kilns Nos. 495 and 496 exhausting to existing thermal incinerator and wet-limestone scrubber in St. Marys City, **Elk County**. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate BAT for the source:

- The permittee shall not exceed 1.49 lbs of VOC per tons of carbon baked in the furnace or 89.6 tpy based on a consecutive 12-month period from Source 186, Sources 1001—1006.

- The permittee shall not allow emissions of CO in excess of 0.40 lbs/hr or 0.43 tpy based on a consecutive 12-month period from Source 186, Sources 1001—1006.

- The permittee shall not allow emissions of PM in excess of 8.70 lbs/hr or 16.8 tpy based on a consecutive 12-month period from Source 186, Sources 1001—1006.

- The following SO₂ emission limits shall not be exceeded during all periods of operation of the 16 carbottom kilns (Source 186, Sources 1001—1006):

- One-hour average: 18.7 lbs/hr or 71 ppm(v) on a dry basis.

- Full Cycle average: 6.3 lbs/hour or 30 ppm(v) on a dry basis.

- Annual SO₂ Emissions: 16 tpy based on a consecutive 12-month period.

- Compliance with the SOx emission limitations will be shown through a CEM.

- Continuously record thermal oxidizer inlet and outlet temperature.

- The permittee shall maintain a record of all preventative maintenance inspections of the control device. These records shall, at a minimum, contain the dates of the inspections, any problems or defects, the actions taken to correct the problem or defects, and any routine maintenance performed.

- The permittee shall operate the control device at all times that the source is operation.

- The permittee shall maintain and operate the source and control device in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.

- The permittee shall install, operate and maintain the low NOx burners (for car bottom kilns 491—496) in accordance with the manufacturer's specifications and good air pollution control practices.

25-025L: General Electric Transportation Systems—Erie Plant (2901 East Lake Road, Room 9-201, Erie, PA 16531) for the increase in the VOC emission limitation for Source 944 (Wind turbine gearbox paint booth) and for the inclusion of ERCs for the shutdown of coal fired boilers Nos. 5 and 9 in Lawrence Park Township, **Erie County**. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate BAT for the source:

- The Department of Environmental Protection (Department) hereby certifies the emission reduction credits (ERCs) as described.

- This ERC Approval is for the following source:

<i>Shut Down Source</i>	<i>Shutdown Date</i>
Combustion Engineering Coal Fired Boiler No. 5	(Source 033): 6/30/2006
Babcock & Wilcox Coal Fired Boiler No. 9	(Source 035): 6/30/2006

- The ERC approval is subject to the special conditions listed.

- These ERCs are subject to the requirements of 25 Pa. Code Chapter 127, Subpart E.

- The facility shall notify the person below when the ERCs are transferred so that the proper ERC registry changes can be made.

- The facility has created and generated the following ERCs from the shutdown of the sources listed previously:

- NOx: 248.5 tons expiring 6-30-16.
- SOx: 1,226.0 tons expiring 6-30-16.
- VOC: 1.3 tons expiring 6-30-16.
- CO: 38.9 tons expiring 6-30-16.
- PM: 28.2 tons expiring 6-30-16.

- The facility as of plan approval issuance has the following ERCs at their disposal:

- NOx: 565.1 tons of which
- 119.4 tons expiring 12-31-10
- 197.2 tons expiring 6-6-15
- 248.5 tons expiring 6-30-16
- SOx: 4,175.9 tons of which
- 2,006.7 tons expiring 12-31-10
- 943.2 tons expiring 6-6-15
- 1,226 tons expiring 6-30-16

- VOC: 4.1 tons of which
- 1.7 tons expiring 12-31-10
- 1.1 tons expiring 6-6-15
- 1.3 tons expiring 6-30-16
- PM: 57.7 tons of which
- 29.5 tons expiring 12-31-10
- 28.2 tons expiring 6-30-16
- CO: 150.8 tons of which
- 111.9 tons expiring 12-31-10
- 38.9 tons expiring 6-30-16
- The facility and any subsequent user of these credits shall comply with the requirements of 25 Pa. Code §§ 127.206—127.208 regarding ERC use and transfer requirements.
 - Any future NO_x and VOC emissions from this facility must comply with the New Source Review regulations under 25 Pa. Code § 127, Subchapter E.
 - These ERCs may be used, traded or sold after the approved entry of the ERCs by the Department into the Pennsylvania ERC Registry System.
 - The source listed previously shall remain permanently shutdown. If the company plans to bring the shutdown sources back into production, the company shall submit an appropriate plan approval application. Any subsequent emissions from the shutdown source shall comply with New Source Review regulations in 25 Pa. Code 127 Subchapter E.
 - The ERCs generated from this source will expire for use as offsets after 10 years. The use of these ERCs in applicability determinations for netting purposes is limited to the period specified in Pa. Code § 127.203a.
 - Under the provisions of 25 Pa. Code § 127.207(7), if the ERC generating source has not been dismantled or removed, the company must submit to the Department on an annual basis the verification of the continuance of the shutdown.
 - For Source 944:
 - The permittee may not permit the emission to the outdoor atmosphere of PM, at any time, in a manner that the PM concentration in the effluent gas exceeds 0.04 gr/dscf.
 - The VOC emissions, to be defined as the combined VOC emissions from the coating operations and the cleanup operations, shall not exceed 26.8 tpy based on any consecutive 12-month rolling period. (This condition supersedes the original 6.8 tpy limit from 25-025F.)
 - Subject to 25 Pa. Code 129.52.
 - Subject to 40 CFR 63 Subpart Mmmm
 - The permittee shall perform a weekly operational inspection of the control devices for weeks in which the source is in operation. The operational inspection shall include, at a minimum, recording the pressure drop across the control device and a visual inspection of the system for tears, and the like.
 - The permittee shall operate the control device at all times that the source is operation.
 - The permittee shall maintain and operate the source and control device in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.

43-270G: CCL Container (One Llodio Drive, Hermitage, PA 16148-9015) for installation of two new inside liner baghouses to replace four existing inside liner baghouses for controlling the print lines in Hermitage City, **Mercer County**. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate BAT for the source:

- The facility shall perform PM testing, initially, after installation of the new baghouses and will perform PM testing at Operating Permit renewal. Testing will be conducted at the outlet of the RCO and RTO.
- Monitor and record daily, the pressure drop across the baghouse.
- The permittee shall operate the Inside Liner Baghouses at all times that the source is in operation.
- The source and the Inside Liner Baghouses shall be maintained and operated in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.
- All other applicable conditions pertaining to Sources 101—110 shall remain in effect unless superseded by conditions previously listed.

OPERATING PERMITS

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

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

TV 64-00001: Department of Corrections—Waymart SCI (P. O. Box 256, Route 6, Waymart, PA 18472) for operation of a State Correctional Institution facility, Title V Operating Permit in Canaan, **Wayne County**.

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

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

48-00033: Crayola, LLC (1100 Church Lane, P. O. Box 431, Easton, PA 18044) for operation of lead pencils, crayons and artist materials facility, State-only Natural Minor Operating Permit in Forks Township, **Northampton County**.

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

01-05005: Reliant Energy Mid Atlantic Power Holdings, LLC (121 Champion Way, Suite 200, Canonsburg, PA 15317-5817) for operation of three simple cycle turbines at its electric generating station in Straban Township, **Adams County**. The emissions of NO_x will remain below the major source threshold of 100 tpy. This

will be accomplished by limiting the amount of heat input to each unit. The operating permit will include appropriate conditions designed to keep the facility operating within all other applicable air quality requirements.

67-03004: Maple Press Co. (480 Willow Springs Lane, P. O. Box 2695, York, PA 17405) for operation of a book manufacturing facility in Manchester Township, **York County**. This is a renewal of their State-only operating permit.

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

41-00054: P. Stone, Inc. (P. O. Box 254, Jersey Shore, PA 17740-0254) for operation of their stone crushing and agricultural limestone production facility located in Limestone Township, **Lycoming County**. The facility's main sources include a stone crushing plant with the air contaminants controlled by a wet dust suppression system and a fabric collector and a limestone processing operation with the air contaminants controlled by a fabric collector. This facility has the potential to emit SO_x, NO_x, CO, VOCs, HAPs and PM₁₀ below the major emission thresholds. The State-only Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

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

65-00873: Pace Industries (1004 Industrial Boulevard, Loyalhanna, PA 15661) for operation of aluminum forming at the Airo Die Casting Inc., Main Plant in Derry Township, **Westmoreland County**. This is a State-only Renewal Application.

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

24-00132: Elk County Heat Treaters, Inc. (316 Battery Street, St. Mary's, PA 15857-1439) to re-issue a Natural Minor Operating Permit in the Borough of St. Marys, **Elk County**. The facility's primary emissions are from the 12 small Boilers used to provide process steam and from the 12 Heat Treater Furnaces.

42-00117: Zippo Manufacturing Co. (Congress Street Extension, Bradford, PA 16701) for a Natural Minor Permit to operate a fabricated metal products facility in Bradford Township, **Mckean County**. Emissions sources associated with this facility include two 200 HP and one 100 HP natural gas boilers, surface imprint operations, new chrome evaporator, plating machine, two automatic hoist plating lines, burn off oven, edge buffing and six polishing lathes, old and new high polish buffing machine, acme edge buffing machine, four emergency generators, centrifugal parts washer, rack coating curing oven and two epoxy ovens 1 and 2. The facility is natural minor because the emission of pollutants is less than the Title V emission threshold.

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

S08-001: Hess Corp. (1630 South 51st Street, Philadelphia, PA 19143) for operation of a gasoline loading terminal in the City of Philadelphia, **Philadelphia County**. The facility's air emissions sources include a gasoline and distillate truck loading rack, marine loading of distillates and residual oil, three gasoline or distillate oil storage tanks, eight distillate or residual oil storage

tanks, three additive tanks and fugitive emissions from piping components. The gasoline loading rack vents to a vapor recovery unit.

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

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

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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

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

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

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

requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

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

informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

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

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

¹The parameter is applicable at all times.

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

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

Permit Number 30841316 and NPDES Permit No. PA0213535, Consol Pennsylvania Coal Company, LLC (1525 Pleasant Grove Road, P. O. Box J, Claysville, PA 15323), to revise the permit for the Bailey Mine and Prep Plant in Richhill Township, **Greene County** to add acreage for development mining. Underground Acres Proposed 330.0, Subsidence Control Plan Acres Proposed 330.0. No additional discharges. Application received April 1, 2008.

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

56080105 and NPDES No. PA0262633. Hoffman Mining, Inc., 118 Runway Road, Friedens, PA 15541, commencement, operation and restoration of a bituminous surface and auger mine in Ogle and Paint Townships, **Somerset County**, affecting 380.7 acres. Receiving streams: Clear Shade Creek and UNTs to/and Shade Creek classified for the following uses: HQ-CWF and CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 11, 2008.

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

GP12-63070101 and NPDES Permit No. PA0251101. Amerikohl Mining, Inc. (1384 SR 711, Stahlstown, PA 15687) Application for an Air Quality General Permit to operate a portable crusher on an existing bituminous surface mine, located in Somerset Township, **Washington County**, affecting 183.9 acres. Receiving streams: UNTs to North Branch Pigeon Creek, classified for the following use: WWF. There is no potable water supply intake within 10 miles down stream from the point of discharge. Application received April 22, 2008.

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

33020104 and NPDES Permit No. PA0242161. AMFIRE Mining Company, LLC (One Energy Place, Suite 2800, Latrobe, PA 15650) Renewal of an existing bituminous surface strip and auger operation in Snyder Township, **Jefferson County** affecting 207.4 acres. Receiving stream: Walburn Run, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received April 24, 2008.

Noncoal Applications Received

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

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

* The parameter is applicable at all times.

12A 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.

0179301 and NPDES No. PA0122297. Gettysburg Granite, LLC, 800 Baltimore Pike, Gettysburg, PA 17325, transfer of an existing noncoal surface mine from Meda Clapsaddle, 1790 Baltimore Pike, Gettysburg, PA 17325, located in Mount Joy Township, **Adams County**, affecting 14.7 acres. Receiving streams: UNT to Rock Creek to Monocacy River classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received April 16, 2008.

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

4672SM10. I. A. Construction Corporation (158 Lindsay Road, Zelenople, PA 16063) Renewal of NPDES Permit No. PA0089184, Limestone Township, **Warren County**. Receiving streams: Myers Run and Allegheny River, classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Warren County Municipal Authority. NPDES renewal application received April 21, 2008.

43020302. White Rock Silica Sand Company, Inc. (331 Methodist Road, Greenville, PA 16125) Renewal of NPDES Permit No. PA0242110, Hempfield Township, **Mercer County**. Receiving stream: Mathay Run, classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is Reynolds Water Company. NPDES renewal application received March 7, 2008.

37970302. Quality Aggregates, Inc. (200 Neville Road, Neville Island, PA 15225) Renewal of NPDES Permit No. PA0227579, Slippery Rock Township, **Lawrence County**. Receiving streams: UNTs of Slippery Rock Creek, Slippery Rock Creek, classified for the following use: CWF. The first downstream potable water supply intakes from the point of discharge are Belvedere Retirement Home, Armco Park and Salvation Army Camp. NPDES Renewal application received April 24, 2008.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

4873SM1A1C11 and NPDES Permit No. PA002451. LWB Refractories Company, (P. O. Box 1189, York, PA 17405), correction to an existing quarry operation to increase the discharge rate of the NPDES Permit for discharge of treated mine drainage in West Manchester Township, **York County**, receiving streams: UNTs to Codorus Creek and Honey Run, classified for the following uses: WWF and TSF. Application received April 17, 2008.

64080301 and NPDES Permit No. PA0224693. Reading Materials, Inc. (P. O. Box 1467, Skippack, PA 19474), commencement, operation and restoration of a quarry operation and NPDES Permit for discharge of treated mine drainage in Palmyra Township, **Wayne County** affecting 78.93 acres, receiving stream: UNT to

Lake Wallenpaupack, classified for the following use: HQ-CWF. Application received April 21, 2008.

7975SM1C10 and NPDES Permit No. PA0045047. Haines & Kibblehouse, Inc. (P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit for discharge of treated mine drainage in Hilltown Township, **Bucks County**, receiving stream: UNT to Morris Run, classified for the following use: TSF. Application received April 25, 2008.

45020301C2 and NPDES Permit No. PA0224235. Haines & Kibblehouse, Inc. (P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit for discharge of treated mine drainage in Smithfield Township, **Monroe County**, receiving stream: Marshall Creek, classified for the following use: HQ-CWF. Application received April 25, 2008.

35910301C4 and NPDES Permit No. PA0595209. West Mountain Sand, Stone & Aggregates, Ltd. (P. O. Box 389, Skippack, PA 19474), renewal of NPDES Permit for discharge of treated mine drainage in Newton and Ransom Townships, **Lackawanna County**, receiving stream: Keyser Creek, classified for the following use: CWF. Application received April 25, 2008.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

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

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

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

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

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E40-688. John C. Metz, R. R. 1, Box 236, Harveys Lake, PA 18618, in Harveys Lake Borough, **Luzerne County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a 1,500 square foot dock including a 250 foot boat slip in Harveys Lake (HQ-CWF). The project is located along SR 0415 approximately 1.6 miles south of the intersection of SR 0415 (Noxen, PA Quadrangle N: 1.7 inches; W: 13.4 inches).

E39-436. Posocco Properties, Attention David Posocco, 2610 Walbert Avenue, Allentown, PA 18104, in South Whitehall and Upper Macungie Townships, **Lehigh County**, United States Army Corps of Engineers, Philadelphia District.

To place fill in 0.07 acre of PSS wetlands for the purpose of widening a road accessing Blue Barn Meadows Residential Subdivision. The project is located approximately 0.7 mile west and 0.3 mile north of SR 0476 and SR 0022 (Allentown West, PA Quadrangle N: 18.31 inches; W: 11.3 inches).

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

E05-346: William E. Harris, 338 Faculty Road, Duncannon, PA 17020, Harris Driveway, Monroe Township, **Bedford County**, ACOE Baltimore District.

To maintain a 42.0-inch diameter by 40.0-foot long CMP culvert in a UNT to West Branch Sideling Hill Creek (EV) in order to provide continued access to the Harris home located along Piney Creek Road about 0.50 mile west from its intersection with Big Creek Road (Mench, PA Quadrangle N: 1.0 inch; W: 15.26 inches, Latitude: 39° 45' 20"; Longitude: 78° 21' 31") in Monroe Township, Bedford County.

E21-402: Anne Shambaugh, Camp Hill Borough, 2145 Walnut Street, Camp Hill, PA 17011, Camp Hill Borough, **Cumberland County**, ACOE Baltimore District.

To construct and maintain: 1) eleven 8.0-foot long by 8.0-foot wide rock weirs permanently impacting 704.0 square feet of stream channel; 2) bank regrading permanently impacting 931.0 cubic feet of stream bank; 3) 12 boulder bank revetments permanently impacting 1,676.0 square feet of stream channel; 4) regrading flood bench permanently impacting 846.0 square feet of floodway; 5) four stacked boulder walls permanently impacting 747.0 square feet of stream channel; 6) channel reconstruction permanently impacting 2,210.0 square feet of stream channel; 7) one stepped boulder bank permanently impacting 216.0 square feet of stream channel; 8) boulder paved outlet apron permanently impacting 40.0 square feet of stream channel; 9) stacked boulder abutments permanently impacting 320.0 square feet of stream channel; 10) 109.0 linear feet split rail fence permanently impacting the floodway; 11) an 8.0-foot long by 6.5-foot

wide puncheon bridge permanently impacting 52.0 square feet of floodway; 12) two stepped swales permanently impacting 440.0 square feet of floodway; 13) a 55.0-foot long by 5.0-foot wide gravel walking path permanently impacting 275.0 linear feet of floodway; 14) a flagstone terrace permanently impacting 445.0 square feet of floodway; 15) two rain gardens permanently impacting 757.0 square feet of floodway; 16) removal of an abandoned dam permanently impacting 24.0 square feet of stream channel; 17) a headwall removal permanently impacting 8.0 square feet of stream channel headwall; 18) removal of railroad tie wall permanently impacting 40.0 square feet of floodway; 19) removal of four culvert pipes permanently impacting 111.0 linear feet of stream channel; 20) excavation in two palustrine emergent wetlands permanently impacting 206.3 square feet of wetland; 21) two rock construction entrances temporarily impacting 1,242.0 square feet of floodway; 22) one stockpile of fill temporarily impacting 4,008.0 square feet of floodway; and 23) a silt fence temporarily impacting 264.0 linear feet of floodway.

Activities are related to the rehabilitation and maintenance of a UNT to Cedar Run (CWF-WT) located downstream of Logan Street culvert to the Market Street culvert (Lemoyne, PA Quadrangle N: 21.55 inches; W: 7.0 inches, Latitude 40° 14' 37"; Longitude 76° 55' 31" and N: 20.95 inches; W: 7.1 inches, Latitude 40° 14' 25"; Longitude 76° 55' 33") in Camp Hill Borough, Cumberland County. The permittee is required to provide a minimum of 0.005 acre of replacement wetland for impacting exceptional value wetlands.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E17-443. Mark and Mary Stern, 221 West Main Street, Lock Haven, PA 17745. Water Obstruction and Encroachment Joint Permit Application for proposed private residence on Lot 731, Section 14C in Treasure Lake, Sandy Township, **Clearfield County**, ACOE Pittsburgh District (Sabula, PA Quadrangle N: 10.45 inches; W: 15.15 inches).

The applicant proposes to place and maintain fill within 0.04 acre of PEM/PFO wetlands for the purpose of constructing a single-family residence within the existing Treasure Lake Development. The watershed has a Chapter 93 water use protection designation of CWF and the wetlands are classified as "other wetlands" by the Department of Environmental Protection. Wetland replacement by the permittee will not be required as the wetland impacts are de minimis.

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

E63-606. Mountain V Oil and Gas, Inc., P. O. Box 470, Bridgeport, WV 26330. To construct and maintain a low flow crossing in Somerset Township, **Washington County**, Pittsburgh ACOE District (Hackett, PA Quadrangle N: 6.8 inches; W: 8.5 inches, Latitude: 40° 9' 45"; Longitude: 80° 3' 39"). The applicant proposes to construct and maintain a low flow crossing consisting of four 20-foot long, 18-inch diameter pipes with 1 foot of clean rock fill on the pipes in North Branch Pigeon Creek (WWF) to provide access to natural gas pipelines.

ACTIONS

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

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania 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>
PA0060739	Helen M. Fulmer White Diner 2 West Center Street Nesquehoning, PA 18240-1521	West Penn Township Schuylkill County	Little Schuylkill River CWF Watershed 3A	Y
PA0064211 (Municipal)	Schuylkill Valley Sewer Authority P. O. Box 314 Mary-D, PA 17952	Schuylkill County Blythe Township	Schuylkill River 3A	Y
PA0060437	Pocono Waterworks Company, Inc. P. O. Box 189 Hamlin, PA 18427-0189	Damascus Township Wayne County	UNT to Delaware River Watershed 1A HQ-CWF	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>
PA0209511 (SP)	Sullivan Township Mainesburg WWTP P. O. Box 84 Mainesburg, PA 16932	Tioga County Sullivan Township	Corey Creek 4A	Y
PA0060208 (SP)	Nelson Township Authority P. O. Box 100 Nelson, PA 16940	Tioga County Nelson Township	Cowanisque Lake 4A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0043729 Sewage	Hampton Township 3101 McCully Road Allison Park, PA 15101-1331	Allegheny County Hampton Township	Pine Creek	Y
PA0026913 Sewage	The Municipal Authority of the City of McKeesport 100 Atlantic Avenue McKeesport, PA 15132	Allegheny County City of McKeesport	Monongahela River	N

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0240125	Pulaski Township Municipal Authority R. D. 1 Box 1043 Pulaski, PA 16143	Pulaski Township Lawrence County	Deer Creek 20-A	Y
PA0238945	Pulaski Township Municipal Authority R. D. 1 Box 1043 Pulaski, PA 16143	Pulaski Township Lawrence County	Shenango River 20-A	Y
PA0238872	West Wind Village MHP P. O. Box 2278 Cranberry Township, PA 16066	Wayne Township Lawrence County	UNT to Squaw Run 20-C	Y
PA0101052	Union City Municipal Authority 12 South Main Street Union City, PA 16438	Union City Borough Erie County	Bentley Run 16-A	Y
PA0027367	Minor Amendment No. 1 Borough of Greenville 125 Main Street P. O. Box 604 Greenville, PA 16125	Greenville Borough Mercer County	Shenango River 20-A	N

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. PA0044776, Sewage, **Northwestern Chester County Municipal Authority**, 37 Dampman Road, Honey Brook, PA 19344-0308. This proposed facility is located in Honey Brook Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage into the West Branch of Brandywine Creek in Watershed 3H.

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. 3907402, Sewerage, **Coplay-Whitehall Sewer Authority**, 3213 MacArthur Road, Whitehall, PA 18052. This proposed facility is located in Whitehall Township and Allentown City, **Lehigh County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit for replacement of approximately 8,500 linear feet of sanitary sewer interceptor along Jordan Creek.

WQM Permit No. 4008402, Sewerage, **Hanover Township**, 1267 Sans Souci Parkway, Hanover Township, PA 18706. This proposed facility is located in Hanover Township, **Luzerne County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit to construct a sanitary sewer main and pump station to service the Fairway Estates which consists of 26 residential homes and 49 townhouse units. The design flow for the gravity sewer system is 30,000 gpd and the design flow for the sewage pump station is 7,600 gpd.

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

WQM Permit No. WQG018608, Sewerage, **Curtis and Jennifer Alward**, 17595 Terrill Road, Cambridge Springs, PA 16403. This proposed facility is located in Cussewago Township, **Crawford County**.

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

WQM Permit No. WQG018615, Sewerage, **Eric S. Mizuba**, 1502 Asbury Road, Erie, PA 16505-1310. This proposed facility is located in Girard Township, **Erie County**.

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

WQM Permit No. 2006403, Sewerage, **Amendment No. 1, Cochranon Borough**, 109 East Adams Street, P. O. Box 66, Cochranon, PA 16314. This proposed facility is located in Cochranon Borough and Wayne Township, **Crawford County**.

Description of Proposed Action/Activity: This WQM amendment application proposes to change the disinfection type to ultraviolet light instead of chlorination, for the new proposed 0.175 mgd design flow sewage treatment plant. This is to ensure increased protection of endangered species downstream of the discharge. This is the only change proposed to the original STP design.

WQM Permit No. WQG028331, Sewerage, **Amendment No. 1, Brokenstraw Valley Area Authority**, Box 155 Rouse Avenue, Youngsville, PA 16371-0284. This proposed facility is located in Pleasant and Pittsfield Townships, **Warren County**.

Description of Proposed Action/Activity: This Amendment adds a sewer extension along Route 6 North from Barton Run Road to Brokenstraw Creek including Page Hollow and Smith Hill Roads.

WQM Permit No. WQG018611, Sewerage, **Dennis Heffern**, 13206 Laurel Drive, Apt. 1340, Meadville, PA 16335. This proposed facility is located in Woodcock Township, **Crawford County**.

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

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

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>
PAS10G522R	Heritage Land Group 2500 York Road Jamison, PA 18929	Chester	Wallace Township	Indian Run HQ-CWF
PAS10G535R	The Cutler Group, Inc. 5 Apollo Road Suite One Plymouth Meeting, PA 19462	Chester	Upper Uwchlan Township	Indian Run HQ-CWF
PAI011505030	Culbertson Realty Associates P. O. Box 1906 West Chester, PA 19380	Chester	West Brandywine Township	Culbertson Run HQ-TSF-MF
PAI011508007	George Thornton P. O. Box 248 Uwchland, PA 19480	Chester	Wallace Township	UNT East Branch Brandywine Creek HQ-TSF-MF
PAI011508011	Charles Knapp and Keith Grant 960 Pottstown Pike Chester Springs, PA 19425	Chester	West Nantmeal Township	UNT March Creek HQ-TSF-MF
PAI012307005	Rose Tree Media School District 308 North Olive Street Media, PA 19063	Delaware	Middletown Township	Ridley Creek HQ-TSF
PAI012307006	Masterpiece Homes 789 Lancaster Avenue Suite 250 Villanova, PA 19085	Delaware	Newtown Township	Crum Creek HQ-CWF

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI014607007	Wilbur E. Hoot 1253 Payne Road Green Lane, PA 18054	Montgomery	Marlborough Township	Unami Creek HQ Perkiomen Creek TSF

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>
PAI024506005	Stokes Ave. Dev., LLC 1 Empire Plaza Stroudsburg, PA 18360	Monroe	Stroud Township	Brodhead Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032108004	Continuum Investments, LLC Michael Silva 640 Bassett Drive Chambersburg, PA 17201	Cumberland	Shippensburg Township	Middle Spring Creek CWF
PAI033806001	Jackson Township Authority 60 North Ramona Drive Myerstown, PA 17067	Lebanon	Jackson Township	UNT to Tulpehocken Creek TSF

Cambria District: Environmental Program Manager, 286 Industrial Park Road, Ebensburg, PA 15931-4119.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI090408001	Department of Environmental Protection Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Beaver County	South Beaver Township	Brush Run to North Fork of Little Beaver Creek 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

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
East Caln Township Chester County	PAR10G525R	Skelp Level Associates, Inc. c/o Kearis Electrical P. O. Box 233 Downingtown, PA 19335	UNT East Branch Brandywine Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
New London Township Chester County	PAG2001507073	New London Ventures, LLC P. O. Box 1066 Newark, DE 19715	UNT White Clay Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
New Garden Township Chester County	PAG2001502005R	BK Campbell, Inc. 402 Bayard Road Suite 100 Kennett Square, PA 19348	Trout Run CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Marple Township Delaware County	PAG20023080071	Delaware County Community College 901 Media Line Road Media, PA 19063	Tributary Crum Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Middletown Township Delaware County	PAG2002303018R	229 Valley Road, LP 1625 Valley Road Newtown Square, PA 19023	Chester Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015107045	Wesley Enhanced Living 928 Jaymore Road Suite B-150 Southampton, PA 18960	Delaware River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015108008	Oxford Square, LP 1224 North Front Street Philadelphia, PA 19122	Delaware River WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015108011	Holy Family University 9801 Frankford Avenue Philadelphia, PA 19114-2009	Poquessing Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bethlehem Township Northampton County	PAG2004808008	Mark Wagner Wagner Enterprises, LTD P. O. Box 3154 Easton, PA 18043-3154	Lehigh River WWF	Northampton County Conservation District (610) 746-1971
Hanover Township Northampton County	PAG2004803011R	Darbin and Deborah Skeans 968 Postal Road Suite 200 Allentown, PA 18103	Catasauqua Creek CWF	Northampton County Conservation District (610) 746-1971
Fannett Township Franklin County	PAG2002803025R	Pine Hill Subdivision Fred McCarty 19293 Dry Run Road Dry Run, PA 17220	West Branch Conococheague Creek CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Peters and Montgomery Townships Franklin County	PAG2002803024R	Foremost Industries 2375 Buchanan Trail West Greencastle, PA 17225	Conococheague Creek WWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Greene Township Franklin County	PAG20028040501	FCGA ph 3 Sanitary Sewer John VanHorn LIDA 5540 Coffey Avenue Chambersburg, PA 17201	Conococheague Creek CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Guilford Township Franklin County	PAG2002808002	Flohr Pools 1350 Lincoln Way East Chambersburg, PA 17202	Conococheague Creek WWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Borough of Chambersburg Franklin County	PAG002803034R	Nicholson Square P. O. Box 701 Maugansville, MD 21767	Conococheague Creek WWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Penn Township York County	PAG2006707055	Tony Forbes Wolverine Holdings, LLC 1060 Baltimore Street Hanover, PA 17331	South Branch Conewago Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Monaghan Township York County	PAG2006707064	Creedin S. Paulus 41 Fisher's Run Road Dillsburg, PA 17019	UNT to Fisher's Run CWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Penn Township York County	PAG2006708008	John H. Schuler, II 11 Arthur Hills Court Hilton Head, SC 29926 and Scott Rankin F & R Fitness Real Estate 60 Southside Drive Newville, PA 17241	South Branch Conewago Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Springettsbury Township York County	PAG2006708021	Linda Estep 775 Marion Road York, PA 17402	Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Snake Spring Township Bedford County	PAG2000508004	Conrad Peachey P. O. Box 250 Williamsport, MD 21795	Raystown Branch Juniata River TSF	Bedford County Conservation District 702 West Pitt Street Suite 3 Fairlawn Court Bedford, PA 15522 (814) 623-7900, Ext. 3
Bedford Township Bedford County	PAG2000508002	Todd Eichelberger 9547 Lincoln Highway Bedford, PA 15522	Raystown Branch Juniata River TSF	Bedford County Conservation District 702 West Pitt Street Suite 3 Fairlawn Court Bedford, PA 15522 (814) 623-7900, Ext. 3
Springettsbury Township York County	PAG2006707086	Member's 1st Federal Credit Union 5000 Louise Drive Mechanicsburg, PA 17055	UNT to Mill Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Gettysburg Borough Adams County	PAG2000104003	Gettysburg College 300 North Washington Street Gettysburg, PA 17325	UNT to Rock Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325-3404 (717) 334-0636

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<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Littlestown Borough Adams County	PAG2000107034	John E. Davis Littlestown Associates 2555 Kingston Road Suite 180 York, PA 17402	UNT to Piney Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325-3404 (717) 334-0636
Mt. Pleasant Township Adams County	PAG2000108009	Thomas P. Gebhart 200 Wheatland Drive Gettysburg, PA 17325	Rock Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325-3404 (717) 334-0636
Spring Township Berks County	PAG2000608012	Tuan Tang Upper Hillside Properties, LLC 1117 Old Fritztown Road Sinking Spring, PA 19608	Cacoosing Creek WWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Lower Mifflin Township Cumberland County	PAG2002108012	New Enterprise Stone & Lime Company P. O. Box 77 New Enterprise, PA 16664	UNT to Conodoguinet Creek WWF	Cumberland County Conservation District 310 Allen Road Carlisle, PA 17013 (717) 240-7812
Carlisle Borough Cumberland County	PAG2002108004	Dickinson College 5 North Orange Street Carlisle, PA 17013	Conodoguinet Creek WWF	Cumberland County Conservation District 310 Allen Road Carlisle, PA 17013 (717) 240-7812
Silver Spring Township Cumberland County	PAG2002108010	Team Rahal, Inc. 6696 Carlisle Pike Mechanicsburg, PA 17050	Hogestown Run CWF	Cumberland County Conservation District 310 Allen Road Carlisle, PA 17013 (717) 240-7812
Monroe Township Cumberland County	PAG2002106043	Wyndham Manor, LLC Dan Piscioneri 3315 Market Street Camp Hill, PA 17011	Hogestown Run CWF	Cumberland County Conservation District 310 Allen Road Carlisle, PA 17013 (717) 240-7812
Ephrata Borough Lancaster County	PAG2003607001	Delmas Witmer Pine View Meadows 160 Mountain Road Denver, PA 17517	Cocoalico Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361
City of Lancaster Lancaster County	PAG2003607065	Lowe's Home Centers, Inc. 1605 Curtis Bridge Road REEC Dock Wilksboro, NC 28697	Conestoga River WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361
Manheim Township Lancaster County	PAG2003607086	Lancaster Brethren in Christ Church 1865 Fruitville Pike Lancaster, PA 17602	Little Conestoga Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Lancaster Township Lancaster County	PAG2003607045	JPM Development Group P. O. Box 291 400 North Cedar Street Lititz, PA 17543	Conestoga River WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361
Leacock Township Lancaster County	PAG003607048	Elmer B. Beiler 137 North New Holland Road Gordonville, PA 17529	Mill Creek WWF	Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361
Centre County College Township	PAG2001408003	Mount Nittany Manor Tom Songer/Torron Group 1951 Pine Hall Drive State College, PA 16801	UNT to Spring Creek CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817
Armstrong County Kiski Township	PAG2000308003	Keystone Tall Tree Girl Scout Council, Inc. 2359 Freepport Road Kittanning, PA 16201	Long Run/Kiski River WWF	Armstrong County Conservation District (724) 548-3425
Crawford County City of Meadville	PAG2002008001	Michael Dolecki Crawford Central School District 11280 Mercer Pike Meadville, PA 16335	Mill Run WWF	Crawford County Conservation District (814) 763-5269
Crawford County City of Meadville	PAG2002008002	Michael Dolecki Crawford Central School District 11280 Mercer Pike Meadville, PA 16335	French Creek WWF	Crawford County Conservation District (814) 763-5269
Mercer County Hempfield Township	PAG2004308006	Byzantine, Inc., % Spiro L. Pappan P. O. Box 1567 Beaver Falls, PA 15010	UNT Little Shenango River TSF	Mercer County Conservation District (724) 662-2242
Mercer County Shenango Township	PAG2004308007	James E. Winner 32 West State Street Sharon, PA 16146	Hogback Run Tributary WWF	Mercer Conservation County District (724) 662-2242
Summit Township Butler County	PAG2101008002	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476	UNT WWF to Coal Run WWF	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476 (717) 783-1311
<i>General Permit Type—PAG-3</i>				
<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Wright Township Luzerne County	PAR112226	Fairchild Semiconductor 125 Crestwood Road Mountaintop, PA 18707-2189	Bow Creek CWF	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
Paint Borough Somerset County	PAR606113	G. M. Honkus & Sons, Inc. 2030 Seanor Road Windber, PA 15963-7116	Kaufman Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG-4

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Cussewago Township Crawford County	PAG049415	Curtis and Jennifer Alward 17595 Terrill Road Cambridge Springs, PA 16403	UNT to Cussewago Creek 16-D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Glade Township Warren County	PAG048875	Troy Rex 2912 Jackson Avenue Warren, PA 16365	UNT to Glade Run 16-B	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Greenfield Township Erie County	PAG048930	Ronald Vargo 1026 East Third Street Erie, PA 16507	UNT to Eight Mile Creek 15-8M	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Girard Township Erie County	PAG049426	Eric S. Mizuba 1502 Asbury Road Erie, PA 16505-1310	UNT to Elk Creek 15-EC	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Hayfield Township Crawford County	PAG048898	Mark E. Hockenberry 14577 Gaut Road Meadville, PA 16335	UNT to Cussewago Creek 16-D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Lackawannock Township Mercer County	PAG048318	Brian R. Luba 1088 Greenfield Road Hermitage, PA 16148	UNT to Magargee Run 20-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Sugar Grove Township Warren County	PAG048615	Christal L. Green 1547 Wilson Road Sugar Grove, PA 16350	UNT to Saunders Run 16-B	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Woodcock Township Crawford County	PAG049419	Dennis Heffern 13206 Laurel Drive Apt. 1340 Meadville, PA 16335	UNT to Woodcock Creek 16-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-5

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
West Rockhill Township Bucks County	PAG050044	Bodkin Automotive, Inc. 111 West Ranch Road Sellersville, PA 18960	East Branch Perkiomen Creek	Southeast Regional Office Water Management 2 East Main Street Norristown, PA 19401 (484) 250-5970
Franconia Township Montgomery County	PAG050034	Getty Properties Corporation 125 Jericho Turnpike Suite 202 Jericho, NY 11753	Indian Creek	Southeast Regional Office Water Management 2 East Main Street Norristown, PA 19401 (484) 250-5970
Douglass Township Montgomery County	PAG050046	Bartman's Shell 1152 East Philadelphia Avenue Gilbertsville, PA 19525	Minister Creek	Southeast Regional Office Water Management 2 East Main Street Norristown, PA 19401 (484) 250-5970

General Permit Type—PAG-8

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Bern Township Berks County	PAG083522	Berks County WWTP 1088 Berks Road Leesport, PA 19533	Berks County WWTP 1088 Berks Road Leesport, PA 19533	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

General Permit Type—PAG-8 (SSN)

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
West Cornwall Township Lebanon County	PAG080004	Philadelphia Water Department 7800 Penrose Ferry Road Philadelphia, PA 19154	Mumma Farm West Cornwall Township Lebanon County	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
North Annville Township Lebanon County	PAG083504	Annville Township P. O. Box 320 Annville, PA 17003	Heilbronn Farm North Annville Township Lebanon County	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Salem Township Westmoreland County		Synagro 3239 Route 981 New Alexandria, PA 15670	Lone Maple 3 Farm	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Derry Township Westmoreland County		Synagro 3239 Route 981 New Alexandria, PA 15670	Himler Farm	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG-12

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Buffalo Township Union County	PAG124806	Jerrel Brubaker 269 Meeting House Lane Lewisburg, PA 17837	UNT to Buffalo Creek CWF	Northcentral Regional Office Watershed Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-0529

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

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

Permit No. 4608503, Public Water Supply.

Applicant	Pottstown Borough Authority 100 East High Street Pottstown, PA 19464
Borough	Pottstown Borough
County	Montgomery
Type of Facility	PWS
Consulting Engineer	BCM Engineers 920 Germantown Pike Plymouth Meeting, PA 19462
Permit to Construct Issued	April 22, 2008

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

Operations Permit issued to **Lancaster County Bible Church**, 7360718, Rapho Township, **Lancaster County** on April 28, 2008, for the operation of facilities approved under Construction Permit No. 3600507.

Operations Permit issued to **Jill Dhara, Inc.**, 4050370, East Providence Township, **Bedford County** on April 24, 2008, for the operation of facilities approved under Construction Permit No. 0506502.

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

Permit No. 4906502—Operation, Public Water Supply.

Applicant	Pennsylvania American Water Company
Township or Borough	Point Township
County	Northumberland
Responsible Official	William Kelvington, VP Operations Pennsylvania American Water Company 800 West Hersheypark Drive Hershey, PA 17033
Type of Facility	Public Water Supply—Operation
Consulting Engineer	Edward Russell PA-American Water Company 105 Sodom Road Milton, PA 17847
Permit Issued Date	April 25, 2008
Description of Action	Operation of the recently constructed 750,000 gallon wire wound prestressed concrete finished water storage tank and approximately 5,200 LF of 12-inch diameter ductile iron transmission line along Comfort Road.

Permit No. M. A.—1707501—Construction, Public Water Supply.

Applicant	Reliant Energy
Township or Borough	Bradford Township
County	Clearfield
Responsible Official	Thomas R. Teitt Director, Environmental Reliant Energy 121 Champion Way Suite 200 Canonsburg, PA 15317
Type of Facility	Public Water Supply—Construction
Consulting Engineer	Steven J. Novotny, P. E. Cambria Consultants, Inc. 1212 Wineland Street Johnstown, PA 15904
Permit Issued Date	April 25, 2008
Description of Action	Approval of a Pall Aria AP-2 membrane microfiltration plant and disinfection and potassium permanganate chemical feeds.

Permit No. M. A.—5908501—Construction, Public Water Supply.

Applicant	Somers Lane Mobile Home Park
Township or Borough	Lawrence Township
County	Tioga County
Responsible Official	Charles Wilcox, Jr., Owner Somers Lane MHP R. R. 1 Box 5000 Lawrenceville, PA 16929
Type of Facility	Public Water Supply—Construction
Consulting Engineer	N/A
Permit Issued Date	April 28, 2008
Description of Action	Construction of an arsenic and manganese treatment system.

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

Permit No. 1007501, Public Water Supply.

Applicant	Fleming Mobile Home Park
Township or Borough	Clay, Concord, Center and Oakland Townships
County	Butler County
Type of Facility	Public Water Supply
Consulting Engineer	William J. McGarvey, P. E. 172 Woodcrest Road Butler, PA 16002
Permit to Construct Issued	April 28, 2008

Operations Permit issued to **Saegertown Borough**, PWSID #6200043, Saegertown Borough, **Crawford County**. Permit Number 2086502, issued April 28, 2008, for the operation of Well No. 4 (Mead Road Well), transmission lines and chlorination facility located at Well No. 4, completed in accordance with construction

permit 2086502, issued by the Department of Environmental Protection on April 16, 1986.

HAZARDOUS SITES CLEAN-UP UNDER THE ACT OF OCTOBER 18, 1988

Notice of Settlement Under HSCA and CERCLA Turtle Creek Site, Royersford Borough, Montgomery County

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P.S. §§ 6020.101—6020.1305) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C.A. §§ 9601—9675), has entered into a Prospective Purchaser Agreement (Agreement) with RedGo Development, LP (RedGo), 615 Willowbrook Lane, West Chester, PA 19382, regarding the purchase of a parcel of property (Property) located within Turtle Creek HSCA Site (Site).

The Site includes, but is not limited to, the real property located at 155 South Limerick Road, 640 North Lewis Road and 508 North Lewis Road, Royersford Borough, Montgomery County, PA 19468. To facilitate identification during investigation into the contamination at the Site, the Department has bisected the Site using Linfield-Trappe Road, creating Turtle Creek North and Turtle Creek South. The Site consists of soils and groundwater contamination associated with the former operations at both Turtle Creek North and Turtle Creek South.

Turtle Creek South includes, but is not limited to, the property located at 508 North Lewis Road, Royersford Borough, Montgomery County, PA 19468. From the 1950s through the 1990s manufacturing operations at Turtle Creek South included extruding, cooling, painting and polishing plastic screwdriver handles. Since 1999 operations at Turtle Creek South have consisted of small scale metal stamping, milling and forming. Currently, the soil and groundwater contamination at Turtle Creek South is being characterized its former and current owners and operators.

RedGo has entered into an agreement to purchase the Property located at 508 North Lewis Road, Royersford Borough, Montgomery County, PA 19468, Montgomery County, Tax Parcel Identification Numbers 37-00-01603-007 and 37-00-01600-001. RedGo plans to develop the Property for nonresidential use. RedGo has asserted, and the Department has no information to indicate otherwise, that it neither caused, contributed to, nor is otherwise liable for any contamination at the Turtle Creek HSCA Site. Under the terms of the Agreement with the Department, RedGo agrees: (1) to contribute towards the Department's response costs for the Site; (2) not to exacerbate any existing contamination at the Site; and (3) to provide access and right of entry to the Department for future performance of any potential response actions related to the Site in exchange for a covenant not to sue and contribution protection from the Commonwealth.

This notice is provided under section 1113 of the HSCA (35 P.S. § 6020.1113). The Agreement may be examined from 8 a.m. to 4 p.m. at the Department's Southeast Regional Office, 2 East Main Street, Norristown, PA 19401 by contacting either Natalie Huff at (484) 250-5722 or Lauren G. Rosen at (484) 250-5871. Natalie Huff and Lauren G. Rosen may also be contacted electronically at nhuff@state.pa.us and lrosen@state.pa.us, respectively. A public comment period on the Agreement will extend for a period of 60 days from the date of publication of this

notice. Interested persons may submit written comments regarding the Agreement within 60 days from the date of publication of this notice to the Department by submitting them to Natalie Huff at the previously listed address.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

John R. Young & Company, Upper Salford Township, **Montgomery County**. Christopher Candela, ATC Associates, Inc., 920 Germantown Pike, Plymouth Meeting, PA 19462 on behalf of John Young, John R. Young & Company, 751 Lumber Street, Green Land, PA 18054-0247 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with PAH's and lead gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard and Site-Specific Standard.

1400 Mill Creek Road Property, Lower Merion Township, **Montgomery County**. Jeffery Walsh, Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19406 on behalf of Ethan Quirin, Millcreek Road Associates, LP, 2701 Renaissance Boulevard, Fourth Floor, King of Prussia, PA 19406 has submitted a Final Report concerning remediation of site soil contaminated with inorganic and unleaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Windram Residence, New London Township, **Chester County**. Robert Kleinschmidt, Miller Environmental, Inc., 514 Hartman Run Road, Morgantown, WV 26505 on behalf of Robert Garza, Miller Environmental, Inc., 640 West Race Street, Martinsburg, WV 25401 has submitted a 90 day Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

US Steel Fairless Works Facility, Falls Township, **Bucks County**. Francis Adams, Golder Associates, Inc., 200 Century Parkway, Suite C, Mt. Laurel, NJ 08054 on behalf of Kathy Mayher, United States Steel Corporation, 600 Grant Street, Pittsburgh, PA 15219 has submitted a Cleanup Plan and Risk Assessment Report concerning remediation of site soil contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Hymm, Inc. Property, Concord Township, **Delaware County**. Tony Chen, Hymm, Inc., 23 Brook Lane, Chadds Ford, PA 19317 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet the Site-Specific Standard.

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

Lewis's Cleaners, Manchester Township and North York Borough, **York County**. BL Companies, Inc., 213 Market Street, 6th Floor, Harrisburg, PA 17101, on behalf of Northgate Associates, 146 Pine Grove Circle, York, PA 17403, submitted a remedial investigation report concerning site groundwater contaminated with solvents. This site will be remediated to a combination of the Site-Specific and Statewide Health Standards.

St. Joseph Medical Center, City of Reading, **Berks County**. Spotts, Stevens, and McCoy, Inc., 1047 North Park Road, Reading, PA 19610, on behalf of St. Joseph Medical Center, P. O. Box 316, Reading, PA 19603 and Reading School District, 800 Washington Street, Reading, PA 19601, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil and diesel fuel. The report is intended to document remediation of the site to the Statewide Health Standard.

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

American Meter Company, City of Erie, **Erie County**. Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 on behalf of American Meter Company, 132 Welsh Road, Suite 140, Horsham, PA 19044 has submitted a Remedial Investigation Report concerning remediation of site soil contaminated with antimony, arsenic, lead and site groundwater contaminated with trichloroethene. The report is intended to document remediation of the site to meet the Site-Specific Standards.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of reuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Amtrak Lamokin Street Substation, City of Chester, **Delaware County**. Kathy McGuire, AMEC Earth & Environmental, Inc., One Plymouth Meeting, Suite 850,

Plymouth Meeting, PA 10462 on behalf of Frank Sobota, National Railroad Passenger Corporation (Amtrak) has submitted a Remedial Investigation/Final Report concerning the remediation of site soil and groundwater contaminated with pcb. The Remedial Investigation/Final Report was disapproved by the Department of Environmental Protection on April 21, 2008.

GE Betz Lot 2 Property, Bensalem Township, **Bucks County**. Kriston Rolison, MWH Global, Inc., 335 Phoenixville Pike, Malvern Pike, PA 19355 on behalf of David Hutchinson, GE Betz, Inc., 4636 Somerton Road, Trevoise, PA 19053 has submitted a Final Report concerning the remediation of site soil contaminated with pesticides. The Final Report demonstrated attainment of the Background Health Standard and was approved by the Department of Environmental Protection on April 22, 2008.

Union Court Condominiums, West Chester Borough, **Chester County**. Richard Ley, R.M.L. Environmental, 1375 Steeple Chase Road, Downingtown, PA 19335 on behalf of Edward Cunius, Union Court Condominiums, 616 East Barnard Street, West Chester, PA 19382 has submitted a Remedial Investigation Report and Cleanup Plan concerning the remediation of site soil contaminated with inorganics. The Remedial Investigation and Cleanup Plan were approved by the Department of Environmental Protection on April 22, 2008.

Eastern Prestressed Concrete Site, Hatfield Township, **Montgomery County**. Craig Herr, RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406 on behalf of Ryan Conner, PREI Hatfield, Associates, LP, 1001 East Hector Road, Conshohocken, PA 19428 has submitted a Remedial Investigation Report concerning the remediation of site groundwater and soil contaminated with unleaded gasoline, diesel fuel and No. 2 fuel oil. The Remedial Investigation Report was approved by the Department of Environmental Protection on April 16, 2008.

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

Berks County Intermediate Unit/Alsace School Facility, Alsace Township, **Berks County**. Hafer Environmental Services, Inc., P. O. Box 4418, Reading, PA 19606, on behalf of Berks County Intermediate Unit, 1111 Commons Boulevard, Reading, PA 19612, submitted a Final Report concerning remediation of site soil and groundwater contaminated with heating oil released from a removed underground storage tank. The Final Report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department of Environmental Protection on April 14, 2008.

Bethany Children's Home/Leinbach Cottage, Heidelberg Township, **Berks County**. Synergy Environmental Inc., 155 Railroad Plaza, 1st Floor, Royersford, PA 19468, on behalf of Bethany Children's Home, 1863 Bethany Road, Womelsdorf, PA 19562, submitted a Final Report concerning remediation of groundwater contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department of Environmental Protection on April 21, 2008.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permit Renewal 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.

Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. 301315, PPL Montour, LLC, 18 McMichael Road, Washingtonville, PA 17884, for Ash Basin 1, located in Derry Township, **Montour County**. The 10 year permit renewal application was issued by the Williamsport Regional Office on April 15, 2008.

Persons interested in reviewing the permit should contact David Garg, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653. TDD users should contact the Department of Environmental Protection through the Pennsylvania Relay Service, (800) 654-5984.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Draft permits issued, revised or withdrawn under the Solid Waste Management Act of July 7, 1980 (35 P. S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage or Disposal Facility.

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

PAD067098822. Cycle Chem, Inc., 550 Industrial Drive, Lewisberry, PA 17339, for the Cycle Chem, Inc. Lewisberry Facility, located at 550 Industrial Drive, Lewisberry, PA 17339, Fairview Township, **York County**.

The Department of Environmental Protection (Department) received an application for a hazardous waste permit from Cycle Chem for the storage and treatment of various hazardous wastes on August 16, 2002. This application was for the reauthorization of an existing permit to operate a commercial hazardous waste storage and treatment facility. The Department has completed its review of the permit application and has issued a draft permit on May 9, 2008. As required by 25 Pa. Code Chapter 270a.80(d)(2), the Department is providing this public notice.

Persons wishing to comment on the draft permit are invited to submit a statement to the Southcentral Regional Office within 45 days from the date of this public notice. Comments received within this 45-day period will be considered in the formulation of the final determination regarding this application. Responses should include the name, address and telephone number of the writer; and a concise statement to inform the Regional Office of the exact basis of any comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

Following the 45-day comment period and/or public hearing, the Department will make a final determination regarding the proposed permit action. Notice of this action will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

40-399-060GP2: Gulf Oil Limited Partnership (275 Washington Street, Newton, MA 02458-1646) on April 23, 2008, to install an internal floating roof on tank No. 8 at their site in Pittston Township, **Luzerne County**.

39-310-040GP3: Kerns Crushing, Inc. (180 Barns Road, Sinking Spring, PA 19608) on April 23, 2008, to construct and operate a Portable Crushing Operation with watersprays at their site in Hanover Township, **Lehigh County**.

39-329-011GP9: Kerns Crushing, Inc. (180 Barns Road, Sinking Spring, PA 19608) on April 23, 2008, to install and operate an internal combustion engine at their site in Hanover Township, **Lehigh County**.

54-328-002GP22: UGI Development Co. (1 Meridian Boulevard, Suite 2C01, Wyomissing, PA 19610) on April 23, 2008, to install and operate two combustion turbines at their site in Foster Township, **Schuylkill County**.

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

GP3-44-03022: Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823) on April 24, 2008, for Portable Nonmetallic Mineral Processing Plants under GP3 in Armagh Township, **Mifflin County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

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

48-307-062: RSI Silicon Products, LLC (3700 Glover Road, Easton, PA 18040) on April 23, 2008, to install two electric arc furnaces and associated air cleaning devices (fabric collectors) in Forks Township, **Northampton County**.

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

49-00033D: Watsonstown Brick Co. (P. O. Box 68, Watsonstown, PA 17777-0068), issued plan approval on April 17, 2008, for the construction and operation of a 5.5 ton per hour brick making operation (Plant No. 3), and associated air cleaning devices at their facility in Delaware Township, **Northumberland County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

67-05007B: Adhesives Research, Inc. (P. O. Box 100, Glen Rock, PA 17327) on April 26, 2008, to install two new coating sources to be controlled together with an existing source by a new regenerative thermal oxidizer at their coating facility in Springfield Township, **York County**. This plan approval was extended.

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

53-00009A: Morgan Advance Materials & Technology, Inc. (411 Hall Avenue, St. Mary's, PA 15857) on April 29, 2008, to extend the authorization to temporarily operate three electric powered heat treat ovens, each equipped with a natural gas fired thermal oxidizer to control air contaminant emissions in their Coudersport plant in Eulalia Township, **Potter County** until September 7, 2008. The plan approval has been extended.

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

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

50-05001: Texas Eastern Transmission, LP (890 Winter Street, Suite 300, Waltham, MA 02451-1493) on April 25, 2008, for operation of a natural gas storage and transmission facility in Carroll Township, **Perry County**. This is a renewal of the Title V operating permit.

67-05027: York Wallcoverings, Inc. (750 Linden Avenue, P. O. Box 5166, York, PA 17405-5166) on April 24, 2008, for operation of their wallcovering manufacturing facility in the City of York, **York County**. This is a renewal of the Title V operating permit.

67-05045: Glen-Gery Corp. (1090 Boundary Avenue, York, PA 17403-2920) on April 25, 2008, to operate a brick manufacturing facility in Spring Garden Township, **York County**. This Title V operating permit was administratively amended to incorporate plan approval 67-05045B. This is Revision No. 2.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

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

06-03100: Martin Stone Quarries, Inc. (P. O. Box 297, Bechtelsville, PA 19505-0297) on April 21, 2008, for operation of a crushing and screening plant at the Gabel Quarry in Washington Township, **Berks County**.

36-05022A: Bird In Hand Woodworks, Inc. (3031 Industry Drive, Lancaster, PA 17603-4025) on April 22, 2008, for operation of the asphalt plant at their Silver

Hill Quarry in Brecknock Township, **Lancaster County**. This is a renewal of the State-only operating permit.

36-05062A: Manheim Auto Auction (1190 Lancaster Road, Manheim, PA 17545-9746) on April 28, 2008, for mobile equipment repair and refinishing operation in Penn Township, **Lancaster County**. This is a renewal of the State-only operating permit.

67-03032: York City Housing Authority York County (31 South Broad Street, York, PA 17403-5648) on April 21, 2008, for operation of three municipal waste incinerators in the City of York, **York County**.

67-03043: Envirite of Pennsylvania, Inc. (730 Vogel song Road, York, PA 17404-6707) on April 28, 2008, for their waste treatment plant in the City of York, **York County**. This is a renewal of the State-only operating fee.

67-05015: Topflight Corporation (277 Commerce Drive, Glen Rock, PA 17327-8625) on April 21, 2008, for installation of a Mark Andy XP5000 UV/Flexo Printing Press using UV coating in Springfield Township, **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.

14-00027: HRI, Inc. (1750 West College Avenue, State College, PA 16801), issued a State-only permit on March 14, 2008, for the operation of their Curtin Gap asphalt production plant. This facility is located in Marion Township, **Centre County**. The State-only Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

55-00007: Lozier Corporation (48 East Ohio Street, McClure, PA 17841), issued a State-only permit on February 21, 2008, for the operation of their office fixtures production facility. This facility is located in McClure Borough, **Snyder County**. The State-only 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.

33-00025: Punxsutawney Area Hospital (81 Hillcrest Drive, Punxsutawney, PA 15767) on April 22, 2008, the Department of Environmental Protection re-issued the Natural Minor Operating Permit to operate the facility's air contamination sources consisting of two dual-fired boilers rated at 10.5 mmBtu/hr each and an emergency generator in Young Township, **Jefferson County**.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

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

06-05127: DeCarlo Custom Cabinetry, Inc. (1612 Thorn Street, Reading, PA 19601-1430) on April 25, 2008, to manufacture wooden kitchen cabinets in the City of Reading, **Berks County**. The State-only operating permit was administratively amended due to a change of ownership. This is Revision No. 1.

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

08-00021: Masco Retail Cabinet Group, LLC (d/b/a Mill's Pride) (P. O. Box 158, Sayre, PA 18840) on April 24, 2008, issued a revised State-only (Synthetic Minor) Operating Permit, Revision No. 1, for their facility in Athens Township, **Bradford County**. The revision incorporated the change of ownership from Mill's Pride-Pennsylvania to Masco Retail Cabinet Group, LLC (d/b/a Mill's Pride), the incorporation of the conditions of approval for the Request for Determination of Requirement for Plan Approval/Operating Permit (RFD) form approved on November 16, 2007, and the correction of a typographical error for Section D, Source ID P105, Condition No. 019(b) of SMOP 08-00021 to change "quarterly" to "semi-annual." In addition, the responsible official has been updated. The State-only (Synthetic Minor) Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

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

Permit Number 30810703 and NPDES Permit No. PA0092894, Consol Pennsylvania Coal Company, LLC (1800 Washington Road, Pittsburgh, PA 15241), to transfer the permit for the Bailey CRDA No. 1 and No. 2 in Richhill Township, **Greene County** and related NPDES permit from Consol Pennsylvania Coal Company. No additional discharges. Application received October 18, 2007. Permit issued April 23, 2008.

Permit Number 30841317 and NPDES Permit No. PA0213527, Consol Pennsylvania Coal Company, (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to revise the permit for the Enlow Fork Mine in East Finley Township, **Washington County** to install 3 North No. 5 Airshaft and portal facility, and NPDES discharge Point. Surface Acres Proposed 57.9. Receiving Stream: UNT to Buffalo Creek, classified for the following use: HQ-WWF. Application received September 15, 2006. Permit issued April 23, 2008

Permit Number 17031301 and NPDES Permit No. PA0235571, Parkwood Resources, Inc., (511 Railroad

Avenue, Homer City, PA 15748-1422), to revise the permit for the Cherry Tree Mine in Montgomery Township, **Indiana County** and Burnside Township, **Clearfield County** to add underground permit and subsidence control plan area acres. Underground Acres Proposed 581.0, Subsidence Control Plan Acres Proposed 581.0. No additional discharges. Application received July 23, 2007. Permit issued April 24, 2008.

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

56910103 and NPDES No. PA0599247. Barbuschak Excavating, 132 Algonquin Path, Stoystown, PA 15563, permit renewal for reclamation only of a bituminous surface mine in Shade Township, **Somerset County**, affecting 19.8 acres. Receiving streams: UNTs to and Miller Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received February 14, 2008. Permit issued April 22, 2008.

56030104 and NPDES No. PA0249459. Elk Lick Energy, Inc., P. O. Box 240, Friedens, PA 15541, revision of an existing bituminous surface and coal preparation/processing facility mine to change land use from forestland to unmanaged natural habitat in Jenner Township, **Somerset County**, affecting 171.9 acres. Receiving streams: Two Mile Run to Quemahoning Reservoir classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Cambria-Somerset Authority. Application received January 18, 2008. Permit issued April 22, 2008.

56020105 and NPDES No. PA0249262. Black Resources, Inc., 162 Cumberland Street, Berlin, PA 15530, transfer of an existing bituminous surface auger mine from Alverda Enterprises, Inc., P. O. Box 87, Alverda, PA 15710, located in Brothersvalley Township, **Somerset County**, affecting 87.7 acres. Receiving streams: UNTs of Millers Run and Sandy Hollow classified for the following uses: CWF, CWF. There are no potable water supply intakes within 10 miles downstream. Application received September 7, 2007. Permit issued April 24, 2008.

11050101. E. P. Bender Coal Company, Inc., P. O. Box 594, Carrolltown, PA 15722-0594, revision of an existing bituminous surface mine revisions to erosion and sedimentation control plan and additional treatment facilities, adding a new receiving stream in Cresson Township, **Cambria County**, affecting 197.7 acres. Receiving streams: UNTs to Bear Rock Run classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Lilly Borough surface water intake to Bear Rock Run, PWS No. 4110046. Application received January 3, 2008. Permit issued April 24, 2008.

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

24020104 and NPDES Permit No. PA0242268. Hepburnia Coal Company (P. O. Box I, Grampian, PA 16838) Renewal of an existing bituminous strip and auger operation in Fox Township, **Elk County** affecting 260.0 acres. Receiving streams: UNT to Little Toby Creek. Application received February 8, 2008. Permit issued April 18, 2008.

16070103 and NPDES Permit No. PA0258326. RFI Energy, Inc. (P. O. Box 162, Sligo, PA 16255) Revision to an existing bituminous strip operation to add tipple refuse disposal and the beneficial use of coal ash in Perry Township, **Clarion County** affecting 132.0 acres. Revision also includes a land use change from forestland and

pastureland or land occasionally cut for hay to unmanaged natural habitat on the C & K Coal Company property. Receiving streams: Two UNTs to the Clarion River. Application received January 15, 2008. Permit issued March 28, 2008.

Noncoal Permits Actions

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

Permit No. 0579201 and NPDES Permit No. PA0118583, New Enterprise Stone & Lime Company, Inc., P. O. Box 77, New Enterprise, PA 16664, renewal of NPDES Permit, Broadtop Township, **Bedford County**. Receiving streams; Six Mile Run classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received February 20, 2008. Permit issued April 22, 2008.

Permit No. 4274SM28 and NPDES Permit No. PA0035408, New Enterprise Stone & Lime Company, Inc., P. O. Box 77, New Enterprise, PA 16664, renewal of NPDES permit, Frankstown Township, **Blair County**. Receiving streams: UNT to New Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received February 20, 2008. Permit issued April 22, 2008.

Permit No. 4174SM2 and NPDES Permit No. PA0009814. New Enterprise Stone & Lime Company, Inc., P. O. Box 77, New Enterprise, PA 16664, renewal of NPDES permit, Shade Township, **Somerset County** Receiving streams: Laurel Run and Beaverdam Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received February 20, 2008. Permit issued April 22, 2008.

Permit No. 4274SM7 and NPDES Permit No. PA0009822, New Enterprise Stone & Lime Company, Inc., P. O. Box 77, New Enterprise, PA 16664, renewal of NPDES permit, Walker Township, **Huntingdon County**. Receiving streams: Crooked Creek classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received February 20, 2008. Permit issued April 22, 2008.

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

33082802. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767) Commencement, operation and restoration of a small noncoal sandstone and shale operation in Ringgold Township, **Jefferson County** affecting 5.0 acres. Receiving streams: UNT to Pine Run. Application received January 24, 2008. Permit issued April 23, 2008.

33082803. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767) Commencement, operation and restoration of a small noncoal limestone and shale operation in Perry Township, **Jefferson County** affecting 5.0 acres. Receiving streams: Mahoning Creek. Application received January 24, 2008. Permit issued April 23, 2008.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

66070805. George S. Kuback, (65 Vanmoore Road, Tunkhannock, PA 18657). Commencement, operation and restoration of a quarry operation in Eaton Township, **Wyoming County** affecting 5.0 acres, receiving stream: none. Application received September 18, 2007. Permit issued April 25, 2008.

58082803. Edward Greene, III, (R. R. 3, Box 217 A3, Susquehanna, PA 18847). Commencement, operation and restoration of a quarry operation in Thompson Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received January 17, 2008. Permit issued April 25, 2008.

45950301C10 and NPDES Permit No. PA0223506. Bill Barry Excavating, Inc., (R. R. 3, Box 3271, Cresco, PA 18326), renewal of NPDES Permit for discharge of treated mine drainage in Barrett Township, **Monroe County**, receiving stream: UNT to Cranberry Creek. Application received March 14, 2008. Renewal issued April 28, 2008.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151–161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Blasting Permits Actions

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

21084119. Newville Construction Services, Inc., 408 Mohawk Road, Newville, PA 17241-9424, blasting activity permit issued for single dwelling development in North Newton Township, **Cumberland County**. Blasting activity permit end date is April 8, 2009. Permit issued April 14, 2008.

28084108. M & J Explosives, Inc., P. O. Box 608, Carlisle, PA 17013-0608, blasting activity permit issued for commercial development in Chambersburg Borough, **Franklin County**. Blasting activity permit end date is April 30, 2009. Permit issued April 14, 2008.

28084109. M & J Explosives, Inc., P. O. Box 608, Carlisle, PA 17013-0608, blasting activity permit issued for sanitary sewer force main development in Peters Township, **Franklin County**. Blasting activity permit end date is April 30, 2009. Permit issued April 15, 2008.

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

14084004. Douglas Explosives, Inc. (P. O. Box 77, Philipsburg, PA 16866), construction blasting for Eagle Pointe, Phase 2 located in Benner Township, **Centre County**. Permit issued April 23, 2008. Permit expires April 15, 2009.

08084101. Holbert Explosives, Inc. (237 Mast Hope Plank Road, Lackawaxen, PA 18435) construction blasting for a pipeline for Calvin Cole, Inc. Chesapeake Energy located in Asylum Township, **Bradford County**. Permit issued April 22, 2008. Permit expires December 31, 2008.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

06084111. J. Roy's, Inc., (Box 125, Bowmansville, PA 17507), construction blasting for Willow Glenn in Ontelaunee Township, **Berks County** with an expiration date of April 21, 2009. Permit issued April 23, 2008.

36084148. J. Roy's, Inc., (Box 125, Bowmansville, PA 17507), construction blasting for E-Town Stryker Brigade in Mt. Joy Township, **Lancaster County** with an expiration date of April 20, 2009. Permit issued April 23, 2008.

36084149. Geological Technologies, Inc., (P. O. Box 70, Falling Waters, WV 25419), construction blasting for Eden Road Pump Station in Manheim Township, **Lancaster County** with an expiration date of April 21, 2009. Permit issued April 23, 2008.

36084150. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting at 730 Eden Road in Manheim Township, **Lancaster County** with an expiration date of April 1, 2009. Permit issued April 23, 2008.

36084151. Keystone Blasting Service, (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for Fieldcrest Development in Ephrata Township, **Lancaster County** with an expiration date of December 30, 2009. Permit issued April 23, 2008.

36084152. Keystone Blasting Service, (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for Clearview Gardens in Clay Township, **Lancaster County** with an expiration date of December 30, 2009. Permit issued April 23, 2008.

40084107. Geological Technologies, Inc., (P. O. Box 70, Falling Waters, WV 25419), construction blasting for Centerpoint East Phase I and II in Pittston and Jenkins Townships, **Luzerne County** with an expiration date of April 10, 2009. Permit issued April 23, 2008.

45084118. Holbert Explosives, Inc., (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for Quail Ridge Estate in Hamilton Township, **Monroe County** with an expiration date of June 30, 2008. Permit issued April 23, 2008.

45084119. Schlouch, Inc., (P. O. Box 69, Blandon, PA 19510), construction blasting for DEPG in Stroud Township, **Monroe County** with an expiration date of April 22, 2009. Permit issued April 23, 2008.

46084109. Allan A. Myers, Inc. d/b/a Independence Construction Materials, (P. O. Box 98, Worcester, PA 19490), construction blasting for Hatfield Pointe in Hatfield Township, **Montgomery County** with an expiration date April 1, 2009. Permit issued April 23, 2008.

46084110. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Cobblestone Crossing Phase III in Douglass Township, **Montgomery County** with an expiration date of April 1, 2009. Permit issued April 23, 2008.

52084106. Holbert Explosives, Inc., (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for Sunrise Lakes in Dingman Township, **Pike County** with an expiration date of December 31, 2008. Permit issued April 23, 2008.

64084101. Holbert Explosives, Inc., (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for Rileyville in Lebanon Township, **Wayne County** with an expiration date of December 31, 2008. Permit issued April 23, 2008.

66084104. Hayduk Enterprises, Inc., (257 Riverside Drive, Factoryville, PA 18419), construction blasting for shale pit for Mehoopany Township, **Wyoming County** with an expiration date December 31, 2008. Permit issued April 23, 2008.

67084112. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Townes on the Green in Newberry Township, **York County** with an expiration date of April 1, 2009. Permit issued April 23, 2008.

15084106. Horst Drilling & Blasting, Inc., (141 Ranck's Church Road, New Holland, PA 17557), construction blasting for Preserve at Squire Cheyney Farm in Thornbury Township, **Chester County** with an expiration date of April 1, 2009. Permit issued April 25, 2008.

36084153. Gerlach's Drilling & Blasting, (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Rohrer Dairy in Manor Township, **Lancaster County** with an expiration date of May 1, 2009. Permit issued April 25, 2008.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E46-1026. Upper Dublin Township, 801 Loch Alsh Avenue, Fort Washington, PA 19034, Upper Dublin Township, **Montgomery County**, United States Army Corps of Engineers, Philadelphia District.

To perform the following water obstruction and encroachment activities associated with the proposed construction of the Highland Avenue Pedestrian Bridge within and along Rapp Run, a tributary to the Wisahickon Creek (TSF):

1. To construct and maintain an 8-foot wide by 45-foot long pedestrian bridge across Rapp Run.
2. To perform minor grading activities associated with a footpath within the floodway.
3. To install and maintain 25 linear feet of riprap-lined bank protection along Rapp Run.

The site is located along Highland Avenue, approximately 25 linear feet in the southwest direction from the Highland Avenue Bridge (Ambler, PA Quadrangle N: 2.0 inches; W: 7.27 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. 1341(a)).

Northeast Regional Office, Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E13-156. Reading Blue Mountain & Northern Railroad, One Railroad Boulevard, P.O. Box 218, Port Clinton, PA 19549. Nesquehoning and Jim Thorpe Boroughs, **Carbon County**, United States Army Corps of Engineers Philadelphia District.

To construct and maintain a three span steel I-beam railroad bridge across the Lehigh River (HQ-CWF) having spans of 120 feet, 150 feet and 150 feet and an underclearance of approximately 40 feet. The project is located within the Lehigh Gorge State Park approximately 1.5 miles upstream of the SR 0903 bridge over the Lehigh River (Nesquehoning, PA Quadrangle N: 22.5 inches; W: 1.2 inches). (Subbasin: 2B)

E45-486. Hannig Development, LLC, 447 Office Plaza, 200 Plaza Court, Suite A, East Stroudsburg, PA 18301. Tobyhanna Township, **Monroe County**, United States Army Corps of Engineers Philadelphia District.

To construct and maintain two stormwater outfall channels in the floodway of Tobyhanna Creek (HQ-CWF) for the purpose of conveying stormwater runoff from a proposed residential development known as Keswick Pointe. The project is located on the north side of Tobyhanna Creek, approximately 0.75 mile north of the intersection of SR 0115 and SR 0080 (Blakeslee, PA Quadrangle N: 15.7 inches; W: 11.2 inches). (Subbasin: 2A)

E39-479. Eastern Environmental Development Corporation, 7785 Spring Creek Road, Macungie, PA 18062. Lower Macungie Township, **Lehigh County**, United States Army Corps of Engineers, Philadelphia District.

To place and maintain fill in a 1.34-acre open water abandoned quarry pit. All fill being placed within the abandoned quarry shall be deemed clean fill. The permittee and their agents shall perform the necessary due diligence to ensure all fill being placed has been determined clean. The project is located along the northwest right-of-way of Quarry Road, approximately 0.7 mile southwest of SR 1011 and Quarry Road intersection

(Allentown West, PA Quadrangle N: 4.0 inches; W: 14.5 inches). The Department of Environmental Protection has deemed the placement of fill in the 1.34-acre abandoned quarry pit as the elimination of a threat to life and safety; as such no additional mitigation shall be required. (Subbasin: 2C)

E39-481. Macungie Borough, 21 Locust Street, Macungie, PA 18062-1105. Macungie Borough, **Lehigh County**, United States Army Corps of Engineers, Philadelphia District.

To construct, operate and maintain a public pedestrian bridge across a UNT to Swabia Creek (HQ-CWF) for improved public pedestrian safety along Lehigh Street. The public pedestrian bridge shall be constructed with a minimum span of 45-feet, width of 4-feet and an underclearance of 7-feet. The project is located along the southern right-of-way of SR 2018 (Lehigh Street) approximately 0.4-mile west of SR 2017 (Brookside Road) and SR 2018 intersection (Allentown West, PA Quadrangle Latitude: 40° 31' 2"; Longitude: 75° 33' 11"). (Subbasin: 2C)

E39-473. Nestle Waters North America, Inc., 405 Nestle Way, Breinigsville, PA 18031. Lynn Township, **Lehigh County**, United States Army Corps of Engineers, Philadelphia District.

To remove an existing road crossing; to construct and maintain a minor low-flow road crossing consisting of a 20-foot long, 4-foot by 2.5-foot concrete box culvert with fish baffles depressed 12-inches below streambed elevation in a tributary to Ontelaunee Creek (HQ-CWF); and to construct and maintain six utility line crossings each consisting of a 6-inch diameter HDPE waterline crossing under various tributaries to Ontelaunee Creek and adjacent wetlands. The project is located on the northwest side of Mountain Road approximately 0.5 mile northeast of its intersection with SR 0309 (New Tripoli, PA Quadrangle N: 16.3 inches; W: 1.4 inches). (Subbasin: 2B)

E48-391. Watchung Valley Development, LLC, 23 Sutton Road, Lebanon, NJ 08833. Bethlehem Township, **Northampton County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a precast concrete, open-bottom box culvert having a span of 18.0 feet and underclearance of 3.5 feet in a tributary to Nancy Run (HQ-CWF) for the purpose of providing access to a self storage business. Work also includes two trapezoidal, grass-lined stormwater outfall channels and an 18-inch diameter outfall pipe and emergency spillway from a nonjurisdictional offstream dam to said tributary. The project is located at the intersection of Easton Avenue and Pembroke Road (Nazareth, PA Quadrangle N: 5.0 inches; W: 5.5 inches). (Subbasin: 2C)

E39-483. Coplay-Whitehall Sewer Authority, 2313 MacArthur Road Whitehall, PA 18052. Whitehall Township and City of Allentown, **Lehigh County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain three utility line stream crossings of Jordon Creek (TSE, MF) consisting of: (1) triple 16 inches diameter concrete-encased ductile iron pipes; (2) triple 16" diameter concrete-encased ductile iron pipes; and (3) twin 20' diameter concrete-encased ductile iron pipes. The crossings are associated with the Jordan Creek Sewer Interceptor project and are respectively located 7,500 feet, 4,700 feet and 3,100 feet downstream of US Route 22 (Allentown East, PA Quadrangle N: 21.0, 21.5 and 22.5 inches; W: 12.5, 15 and 15.5 inches) respectively, in Whitehall Township (No. 1) and City of Allentown (Nos. 2, 3), Lehigh County. (Subbasin: 2C)

E39-462. Lower Macungie Township, 3400 Brookside Road Macungie, PA 18062. Lower Macungie Township, **Lehigh County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a 3-span wooden pedestrian bridge across the Little Lehigh Creek (HQ-CWF), having spans of 10-foot, 50-foot and 10-foot, respectively, and an underclearance of approximately 6.4 feet. The project is located approximately 0.25 mile west of the intersection of Mill Creek and Spring Creek Roads (Allentown West, PA Quadrangle N: 7.9 inches; W: 10.8 inches).

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

E36-833: John Glick, 183 Stony Hill Road, Quarryville, PA 17566, Eden Township, **Lancaster County**, United States Army Corps of Engineer, Baltimore District.

To construct and maintain a 12.0 foot wide single span bridge having a normal span of 25.0 feet, and an underclearance of 6.15 feet, crossing over Big Beaver Creek (TSF) for the purpose of constructing an access drive to existing agricultural lands (Quarryville, PA Quadrangle N: 9.5 inches; W: 12.5 inches, Latitude: 39° 55' 40"; Longitude: 76° 09' 36") just north of the intersection of Miller and Springville Roads in Eden Township, Lancaster County.

E38-156: Jackson Township Authority, 60 North Ramona Drive, Myerstown, PA 17067, Jackson Township, **Lebanon County**, United States Army Corps of Engineers, Philadelphia District

To construct and maintain a wastewater treatment facility outfall and associated gravity sanitary sewer line connections involving:

1. An 18-inch PVC outfall pipe and rock apron in a UNT of Tulpehocken Creek (CWF);
2. A utility line crossing of a PEM Exceptional Value wetland by means of conventional boring;
3. Two utility line stream crossings of UNTs of Tulpehocken Creek (CWF); and
4. A temporary road crossing of a UNT of Tulpehocken Creek (CWF).

The outfall and facility is situated just north of SR 0422 (Richland, PA Quadrangle N: 21.4 inches; W: 12.5 inches, Latitude: 40° 22' 03"; Longitude: 76° 20' 21.5"). The new, 18-inch PVC sewer line will connect to the existing line just west of the Arbor Gate Residential Community (Richland, PA Quadrangle N: 21.9 inches; W: 13.0 inches, Latitude: 40° 22' 14.2"; Longitude: 76° 20' 32.5") and run parallel to a UNT of Tulpehocken Creek for approximately 7,300 feet where it will connect to an existing pump station along Stracks Dam Road (Bethel, PA Quadrangle N: 2.5 inches; W: 12.3 inches, Latitude: 40° 23' 19.8"; Longitude: 76° 20' 14.8") all in Jackson Township, Lebanon County. The wetland crossing will result in no permanent impacts, therefore replacement is not required.

E06-628: WBLF Acquisition Co., LLC, 256 Eagle View Boulevard, PMB231, Exton, PA 19341, Cumru Township, **Berks County**, United States Army Corps of Engineering, Philadelphia District

To expand an existing landfill facility a total of 45.0-acres, permanently impacting 0.13-acre of PEM wetlands

(Reading, PA Quadrangle N: 9.5 inches; W: 5.0 inches, Latitude: 40° 18' 8.3"; Longitude: 75° 54' 39.3") in Cumru Township, Berks County.

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

E63-602. Pigeon Creek Sanitary Authority. 508 Main Street, Bentleyville, PA 15314. To place fill and structures in the floodplain of Pigeon Creek in Fallowfield Township, **Washington County**, Pittsburgh ACOE District (Monongahela, PA Quadrangle N: 2.36 inches; W: 15.83 inches, Latitude: 40° 08' 19.8"; Longitude: 79° 59' 17.6"). To place and maintain fill and structures in the floodplain of Pigeon Creek (WWF) for the purpose of improvement of an existing sanitary facility consisting of construction of two new clarifiers, one new chlorine contact tank, and a new centrifuge. The project includes an outfall structure to said stream.

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

E20-567, Crawford Central School District, 11280 Mercer Pike, Meadville, PA 16335. Second District Elementary School Expansion, in the City of Meadville, **Crawford County**, United States Army Corps of Engineers, Pittsburgh District (Meadville, PA Quadrangle N: 41° 37' 48"; W: 80° 9' 14").

The applicant proposes to construct and maintain a 7,700 square foot building addition, stormwater management facilities and a parking area expansion within the FEMA floodway of French Creek NW and adjacent to the intersection of Linden and South Main Streets (Meadville, PA Quadrangle N: 41° 37' 48"; W: 80° 9' 14") in the City of Meadville, Crawford County involving to fill approximately 593 cubic yards of the FEMA floodway of French Creek. French Creek is a perennial stream classified as a WWF.

SPECIAL NOTICES

Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Load (TMDL) for Watershed of Whiteley Creek in Greene County

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

The Department of Environmental Protection (Department) will accept comments on the proposed TMDL developed for the Watershed of Whiteley Creek in Greene County. The TMDL was established in accordance with the requirements of Section 303(d) of The Clean Water Act. Streams within this watershed were listed in Pennsylvania's 2006 Integrated Water Quality Monitoring and Assessment Report as being impaired due to sedimentation resulting from agricultural activities.

There currently are no State or Federal in-stream numerical water quality criteria for sediment. Therefore, the Department utilized a reference watershed approach to implement the applicable narrative criteria. The proposed TMDL sets allowable loadings of sediment in the watershed of Whiteley Creek. Sediment loadings were allocated among all land use categories present in the watershed. Data used in establishing this TMDL were generated using a water quality analysis model designed by the Pennsylvania State University.

The data and all supporting documentation used to develop the proposed TMDL are available from the

Department. The proposed TMDL and information on the TMDL program can be viewed on the Department's web site at www.dep.state.pa.us (PA Keyword: TMDL). To request a copy of this TMDL, contact Joe Boylan at joboylan@state.pa.us, or by mail at 400 Waterfront Drive, Pittsburgh, PA 15222.

The Department will consider all comments in developing the final TMDL, which will be submitted to EPA for approval. Written comments will be accepted at the previous address and must be received by July 1, 2008. A public meeting to discuss the technical merits of the TMDL will be held on June 3, 2008, at 6 p.m. at the Greene Township Municipal Building; 243 Garards Fort Road, Garards Fort, PA 15334, (724) 627-8935.

[Pa.B. Doc. No. 08-878. Filed for public inspection May 9, 2008, 9:00 a.m.]

Air Quality Technical Advisory Committee; Ad-Hoc Subcommittee on Monitoring Technical Workgroup Meeting

The Air Quality Technical Advisory Committee Ad-Hoc Subcommittee on Monitoring Technical Workgroup meeting that was scheduled for May 14, 2008, will be rescheduled to May 20, 2008, in the 12th floor large conference room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA, from 9 a.m. to 2 p.m.

Questions concerning this meeting can be directed to Tony A. Pitts at (717) 772-3973 or tpitts@state.pa.us. The agenda and meeting materials will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (DEP Keyword: Public Participation, Participate).

Persons with a disability who require accommodations to attend this meeting should contact the Department at (717) 783-7816 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 08-879. Filed for public inspection May 9, 2008, 9:00 a.m.]

Mine Families First Response and Communications Advisory Council Meeting

The first meeting of the Mine Families First Response and Communications Advisory Council is scheduled for Wednesday, May 28, 2008, at 10 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The purpose of this meeting is to introduce members, appoint a chairperson and to develop an initial Mine Families First Response and Communication Plan.

The agenda and meeting materials for this meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (DEP Keywords: Public Participation, Participate). Questions concerning this meeting should be directed to Allison D. Gaida at (724) 439-7289 or agaida@state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (724) 439-7289 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 08-880. Filed for public inspection May 9, 2008, 9:00 a.m.]

2008 Composting Infrastructure Development Grant Program

Applications for the 2008 Composting Infrastructure Development Grant Program (Program) are now available from the Department of Environmental Protection (Department). Under the program, for-profit business entities, whether established or start-up, or incorporated nonprofit organizations operating a composting facility located in this Commonwealth will be awarded grants on a competitive basis to increase the quantity of yard and/or food wastes collected and processed in this Commonwealth. The goal of this program is to increase the quantity of organic materials collected and composted to further increase this Commonwealth's recycling rate. Four hundred thousand dollars is available for this initiative. The Department will award grants of up to \$100,000 to any one project. Additional consideration will be given to applications that are developed in consultation with the Pennsylvania Recycling Markets Center at www.parmc.org or (717) 948-6660. The Department will accept applications for the program until 4 p.m. on July 18, 2008.

The municipal waste stream in Pennsylvania consists of more than 30% organic materials that could be recycled and diverted from the waste stream and managed by composting. These organic waste streams, such as yard and food wastes, can become a resource to compost facilities that use these materials as feedstocks. Composting of organic wastes helps to lessen the burden on landfill capacity and creates a beneficial soil conditioner that can be marketed.

Applications for the 2008 program may be obtained by contacting Charles Scheidler, Bureau of Waste Management, at (717) 787-7382 or cscheidler@state.pa.us. Applications are also available electronically on the Department's web site at www.depweb.state.pa.us (DEP Keyword: "Compost").

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 08-881. Filed for public inspection May 9, 2008, 9:00 a.m.]

Water Resources Advisory Committee; Rescheduling of Meeting

The Water Resource Advisory Committee (WRAC) meeting scheduled for July 9, 2008, has been rescheduled for July 22, 2008, at 1 p.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning the rescheduling of the July 2008 WRAC meeting should be directed to Phil Consonery,

Bureau of Water Standards and Facilities Regulation, at (717) 772-2184 or pconsonery@state.pa.us. The agenda and meeting materials for the July 22, 2008, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (DEP Keyword: Public Participation, Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (717) 772-5668 or through the AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 08-882. Filed for public inspection May 9, 2008, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Altoona Regional Health System for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Bloomsburg Hospital has requested an exception to the requirements of 28 Pa. Code § 107.4(c)(5) (relating to medical staff status).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-883. Filed for public inspection May 9, 2008, 9:00 a.m.]

Application of The Bloomsburg Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Bloomsburg Hospital has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-884. Filed for public inspection May 9, 2008, 9:00 a.m.]

Application of Community Medical Center, Scranton for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Community Medical Center, Scranton has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-885. Filed for public inspection May 9, 2008, 9:00 a.m.]

Application of Hershey Outpatient Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Hershey Outpatient Surgery Center has requested an exception to the requirement of 28 Pa. Code § 569.35 (relating to general safety precautions).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facilities are requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-886. Filed for public inspection May 9, 2008, 9:00 a.m.]

Application of Holy Redeemer Hospital and Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Holy Redeemer Hospital and Medical Center has requested an exception to the requirements of 28 Pa. Code § 101.31(7) (relating to hospital requirements).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-887. Filed for public inspection May 9, 2008, 9:00 a.m.]

Application of Main Line Hospitals—Paoli for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Main Line Hospitals—Paoli has requested an exception to the requirements of 28 Pa. Code § 101.31(7) (relating to Hospital requirements).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-888. Filed for public inspection May 9, 2008, 9:00 a.m.]

Application of Shriners Hospitals for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Shriners Hospitals has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 3.7.3 (relating to examination/treatment rooms) and 3.7.3.1 (relating to space requirements).

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation

to do so should contact Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-889. Filed for public inspection May 9, 2008, 9:00 a.m.]

Application of Shriners Hospitals for Children, Erie for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Shriners Hospitals for Children, Erie has requested an exception to the requirement of 28 Pa. Code § 123.25 (relating to regulations for control of anesthetic explosion hazards).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facilities are requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-890. Filed for public inspection May 9, 2008, 9:00 a.m.]

Integrated Human Immunodeficiency Virus (HIV) Integrated Planning Council; Public Meeting

The Statewide Integrated HIV Planning Council, established by the Department of Health (Department) under sections 301 and 317 of the Public Health Service Act (42 U.S.C.A. §§ 241(a) and 247(b)), will hold a public meeting on Tuesday, May 20, 2008, from 9 a.m. to 2 p.m. at the Harrisburg Holiday Inn West, 5401 Carlisle Pike, Mechanicsburg, PA 17050.

For additional information, contact Joseph Pease, Department of Health, Bureau of Communicable Diseases, Room 1010, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-0572.

Persons with a disability who desire to attend the meeting and require an auxiliary aid, service or other accommodation to do so should also contact Joseph Pease at the previous number or at V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

The Department reserves the right to cancel this meeting without prior notice.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-891. Filed for public inspection May 9, 2008, 9:00 a.m.]

DEPARTMENT OF STATE

Proposal to Amend 19 Pa. Code Appendix B

The Department of State (Department), Corporation Bureau (Bureau) proposes to amend 19 Pa. Code Appendix B (relating to official forms), to read as set forth in the Annex A.

A. Effective Date

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

B. Statutory Authority

The Department has the authority to promulgate Bureau sample forms and instructions under 15 Pa.C.S. § 133 (relating to powers of Department of State) (Associations Code). Section 133(a)(1) of the Associations Code, 15 Pa.C.S. § 133(a)(1), specifies that sample filing forms shall not be agency regulations and are therefore explicitly excluded from the requirements of section 612 of The Administrative Code of 1929 (71 P. S. § 232), and review under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506) and the Regulatory Review Act (71 P. S. §§ 745.1—745.15). Section 133(a)(1) of the Associations Code does, however, require that the forms and instructions be subject to the opportunity for public comments under section 201 of the act of July 31, 1968 (P. L. 769, No. 240).

C. Description of Proposed Revisions

This proposal revises one of the existing forms and instructions currently published in the *Pennsylvania Code*. The form (DSCB-172-173) currently relates to Consent to Appropriation of Name and Consent to Use of Similar Name. The Department has updated the form and instructions so that they comport with 15 Pa.C.S. § 1303(b), which mandates that an entity name must be distinguishable upon the records of the Bureau from the name of any other association already registered with the Bureau, with limited exceptions. Therefore, box 7 of the previous form has been omitted. Consent to use of the

same association name is limited to the four circumstances in box 6 of the form: where the former association is about to change its name, cease to do business, is being wound up, or is about to withdraw from doing business in this Commonwealth.

The consent forms and instructions currently published in 19 Pa. Code is being deleted and replaced with the revised form set forth in Annex A. Even though Rule 2.10(a) of the *Pennsylvania Code* and *Bulletin Style Manual* recommends that forms be referenced in regulations rather than adopted in regulations, section 133 of the Associations Code requires that the forms and instructions be published in the *Pennsylvania Code*.

D. Fiscal Impact

While this proposal would have no measurable fiscal impact upon the Commonwealth, its political subdivisions, or the private sector, a formal fiscal analysis was not conducted because these forms are exempt from the requirements of section 612 of The Administrative Code of 1929 (71 P. S. § 232).

E. Paperwork Requirements

This proposal would not create new paperwork.

F. Regulatory Review

Under section 15 Pa.C.S. § 133(a), sample forms are exempt from the requirements of the Regulatory Review Act (71 P. S. §§ 745.1—745.15), but shall be subject to the opportunity of public comment requirement under section 201 of the act of July 31, 1968 (P. L. 769, No. 240).

G. Public Comment

Under 15 Pa.C.S. § 133(a)(1), which requires that publication of these forms be subject to the opportunity for public comment, the Department invites interested persons to submit written comments, suggestions or objections regarding this proposal to Martha H. Brown, Assistant Counsel, Department of State, 301 North Office Building, Harrisburg, PA 17120, within 30 days following publication of this notice in the *Pennsylvania Bulletin*. Reference Corporation Bureau—Official Forms when submitting comments.

PEDRO A. CORTÉS,
Secretary

(*Editor's Note:* The Department is proposing to delete the form and instructions which appear at Appx. 54 and 55 (Serial pages 284552) and (284553) in the *Pennsylvania Code* and replace them with the following.)

Annex A

**PENNSYLVANIA DEPARTMENT OF STATE
CORPORATION BUREAU**

**Consent to Appropriation of Name
(19 Pa.Code § 17.2)**

Pursuant to 19 Pa. Code § 17.2 (relating to appropriation of the name of a senior corporation) the undersigned association, desiring to consent to the appropriation of its name by another association, hereby certifies that:

1. The name of the association executing this Consent of Name is:

2. The (a) address of this corporation's current registered office in this Commonwealth or (b) name of its commercial registered office provider and the county of venue is (the Department is hereby authorized to correct the following information to conform to the records of the Department):

(a) Number and Street	City	State	Zip	County
_____				_____
(b) Name of Commercial Registered Office Provider				County
c/o _____				_____

3. The date of its incorporation or other organization is:

4. The statute under which it was incorporated or otherwise organized is:

5. The association(s) entitled to the benefit of this Consent of Name is(are):

6. *The consenting association is about to (check one):*
 Change its name Cease to do business Withdraw from doing business in PA Is being wound up

IN TESTIMONY WHEREOF, the undersigned association has caused this consent to be signed by a duly authorized officer thereof this _____ day of _____, _____.

Signature

Title



Department of State
 Corporation Bureau
 P.O. Box 8722
 Harrisburg, PA 17105-8722
 (717) 787-1057
 web site: www.dos.state.pa.us/corps

Instructions for Completion of Form:

- A. This form will be deemed to be incorporated by reference into the filing to which it relates, e.g., articles of incorporation, articles of amendment effecting a change of name, articles of merger effecting a change of name, articles of division, application for a certificate of authority, application for an amended certificate of authority, certificate of limited partnership, amended certificate of limited partnership effecting a change of name, documents merging a partnership or other association effecting a change of name, instrument with respect to a business trust, amended instrument with respect to a business trust effecting a change of name, etc. Therefore an executed copy (which may be a photocopy) of this form should be attached to each copy of the filing to which it relates which is submitted to the Department, and no separate docketing statement should be submitted with respect to this form.
- B. Under 15 Pa.C.S. § 135(c) (relating to addresses) an actual street or rural route box number must be used as an address, and the Department of State is required to refuse to receive or file any document that sets forth only a post office box address.

[Pa.B. Doc. No. 08-892. Filed for public inspection May 9, 2008, 9:00 a.m.]

FISH AND BOAT COMMISSION

Addition to List of Class A Wild Trout Waters

The Fish and Boat Commission (Commission) has approved an addition to the list of Class A Wild Trout Streams as set forth at 38 Pa.B. 1330 (March 15, 2008). Specifically, the Commission added Big Rift Creek, Tioga County, from the headwaters to the mouth to its list of Class A Wild Trout Streams.

Under 58 Pa. Code § 57.8a (relating to Class A wild trout streams), it is the Commission's policy to manage self-sustaining Class A wild trout populations as a renewable natural resource and to conserve that resource and the angling that it provides. Class A wild trout populations represent the best of this Commonwealth's naturally reproducing trout fisheries. The Commission manages these stream sections for wild trout with no stocking.

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

[Pa.B. Doc. No. 08-893. Filed for public inspection May 9, 2008, 9:00 a.m.]

2008 Classification of Wild Trout Streams; Additions, Deletions and Adjustments

The Fish and Boat Commission (Commission) has approved additions, deletions and adjustments to its list of wild trout streams as published at 38 Pa.B. 1330 (March 15, 2008) with the exception of the removal of Mahoning Creek, Montour County. The Commission did not approve the removal of this stream from its list of wild trout streams.

Under 58 Pa. Code § 57.11 (relating to listing of wild trout streams), it is the policy of the Commission to accurately identify and classify stream sections supporting naturally reproducing populations of trout as wild trout streams. The listing of a stream section as a wild trout stream is a biological designation that does not determine how it is managed. The Commission relies upon many factors in determining the appropriate management of streams. The Commission's Fisheries Management Division maintains the complete list of wild trout streams, and it is available on the Commission's web site at sites.state.pa.us/PA_Exec/Fish_Boat/trout_repro.htm.

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

[Pa.B. Doc. No. 08-894. Filed for public inspection May 9, 2008, 9:00 a.m.]

Temporary Changes to Fishing Regulations

The Executive Director of the Fish and Boat Commission, acting under the authority of 58 Pa. Code § 65.25 (relating to temporary changes to fishing regulations), has taken immediate action to modify temporary fishing regulations at Opossum Lake, Cumberland County, in anticipation of a complete drawdown of the lake this fall. The Executive Director is lifting all seasons, sizes and creel limits for all species, effective May 24, 2008, and until fish salvage operations are complete. The Executive Director has found that this action is necessary and appropriate for the management of fish and to conserve and preserve fishing opportunities.

The Executive Director has caused these temporary modifications to fishing regulations to be posted in the vicinity of the lake, and the modified regulations are fully effective and enforceable. These temporary modifications will be in effect until further notice but in no event will they remain in place after January 1, 2009.

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

[Pa.B. Doc. No. 08-895. Filed for public inspection May 9, 2008, 9:00 a.m.]

Triploid Grass Carp Permit Application

Under 58 Pa. Code § 71.7 (relating to triploid grass carp), the Fish and Boat Commission (Commission) may issue permits to stock triploid grass carp in Commonwealth waters. Triploid grass carp are sterile fish that may, in appropriate circumstances, help control aquatic vegetation. The Commission has determined consistent with 58 Pa. Code § 71.7(e)(3) to seek public input with respect to any proposed stockings of triploid grass carp in waters having a surface area of more than 5 acres.

Interested persons are invited to submit written comments, objections or suggestions about the notice to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 10 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted. Comments also may be submitted electronically by completing the form at www.fishandboat.com/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

The following applications to stock triploid grass carp in waters having a surface area of greater than 5 acres are currently undergoing staff review:

<i>Application</i>	<i>Water</i>	<i>Location of Water</i>	<i>Description of Water</i>	<i>Nature of Vegetation to be Controlled</i>
Cobbs Lake Preserve	Cobbs Lake	Lake Township Wayne County	40 acre lake which discharges into Wangum Creek	Potamogeton nodosus Nuphar spp. Nymphaea spp.
Lake Underwood Nimrod Club	Lake Underwood	Preston Township Wayne County	78 acre lake which discharges into an UNT to Equinunk Creek	Potamogeton crispus Najas flexilis Vallisneria Americana Elodea Canadensis Nymphaea spp.

DOUGLAS J. AUSTEN, Ph.D.
Executive Director

[Pa.B. Doc. No. 08-896. Filed for public inspection May 9, 2008, 9:00 a.m.]

HISTORICAL AND MUSEUM COMMISSION

State Surplus Property Program; Deaccession Auction

The Historical and Museum Commission (Commission) will be auctioning items deaccessioned from its permanent collection. These items are being auctioned because they are duplicates, in poor condition or do not pertain to the history of the Commonwealth. The public auction will be held the morning of June 10, 2008, at the Pennsylvania Farm Show Complex, in conjunction with the Department of General Services surplus property auction. The auction will feature a diverse array of items including tools and equipment related to agricultural, woodworking and mining industries as well as an assortment of 19th century household and merchandising objects.

BARBARA FRANCO,
Executive Director

[Pa.B. Doc. No. 08-897. Filed for public inspection May 9, 2008, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
7-421	Environmental Quality Board Triennial Review of Water Quality Standards 38 Pa.B. 236 (January 12, 2008)	3/27/08	4/28/08
125-82	Pennsylvania Gaming Control Board Independent Audit Committee 38 Pa.B. 1039 (March 1, 2008)	3/31/08	4/30/08

Environmental Quality Board Regulation #7-421 (IRRC #2659)

Triennial Review of Water Quality Standards

April 28, 2008

We submit for your consideration the following comments on the proposed rulemaking published in the January 12, 2008 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Environmental Quality Board (Board) to respond to all comments received from us or any other source.

Section 93.7. Specific water quality criteria.— Reasonableness; Clarity.

Subsection (a)

Under this subsection, the language added to the footnote of "Critical use" states "[o]ther intervening, more sensitive uses may apply at a given location on the waterbody." This sentence is vague and may lead to inconsistent interpretations across DEP regions. Who determines if "other intervening, more sensitive uses" should be applied to a waterbody? What process and criteria are used to make this determination? How will this process be uniformly applied?

Subsection (d)

This proposed amendment adds Table 5 and Chapter 16, Appendix A Table 1 to the list of aquatic life criteria used to determine the natural quality of surface water. In its comment, the Environmental Protection Agency, Region III (EPA) raised concerns with these changes. EPA requested clarification on how the criteria in Chapter 16, Appendix A Table 1 will be considered by the Board. EPA also noted that "background conditions are site-specific by nature" and it is not clear how these criteria will be incorporated into Table 5, which appears to only hold state-wide criteria. We agree.

Further, we note that there is no discussion of this particular amendment in the preamble of the regulation. Therefore, the final-form regulation should include a clear explanation of the reasoning behind this amendment.

Section 93.8c. Human health and aquatic life criteria for toxic substances.—Fiscal Impact; Reasonableness.

Commentators expressed numerous concerns pertaining to the proposed addition of the chemical Molybdenum (Mo) to Table 5 of this section. These concerns include assertions that "there is no drinking water standard or federal water quality standard for molybdenum." They further state that the Human Health Criteria standard of 210 mg/L cannot be attained by Best Available Technology, which would threaten at least one facility's ability to continue operations.

Additionally, we note that the preamble of the proposed regulation states only that Mo is included because it is "expected to be present in discharges." There is no discussion of the significance of finding Mo in discharges, how the standard of 210 mg/L was determined or how this level can be attained by the best technology available to the industry.

In the final-form regulation, the Board should clearly provide the justification for the inclusion of Mo in Table 5 of this section and the rationale behind the specific Human Health Criteria standard.

Pennsylvania Gaming Control Board Regulation #125-82 (IRRC #2676)

Independent Audit Committee

April 30, 2008

We submit for your consideration the following comments on the proposed rulemaking published in the March 1, 2008 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Pennsylvania Gaming Control Board (Board) to respond to all comments received from us or any other source.

1. Statutory authority; Consistency with intent of the General Assembly.

The Board has cited § 1202(b)(30) of the Pennsylvania Horse Development and Gaming Act (Act) (4 Pa.C.S.A. § 1202(b)(30)) as the statute that provides them the authority to promulgate this rulemaking. This section of the Act provides the Board with the power and duty to

promulgate regulations that are necessary for the administration and enforcement of the Act.

A current slot machine licensee commented that “the Board does not have enabling authority from the General Assembly to promulgate this regulation.” The commentator notes that independent audit committees are not mentioned or authorized under the Act, and that general authority to promulgate regulations is not without limitations.

In the Preamble to the final-form regulation, we ask the Board to explain why § 1202(b)(30) of the Act provides them the authority to require certain licensees to establish independent audit committees when the Act is silent on this issue.

2. Economic or fiscal impact of the regulation.

The Board has indicated that the estimated cost for the one non-publicly traded slot machine licensee that currently has an independent audit committee is \$250,000 per year. Several slot machine licensees commented that the cost to establish an independent audit committee and meet the requirements of the regulation would far exceed that estimate. It was also noted that there is no explanation of how the estimate of cost was calculated. We agree that the Preamble and Regulatory Analysis Form submitted with the proposed rulemaking lack the necessary detail to allow us to determine if the regulation is in the public interest. We request that more detailed information on cost to the regulated community be included when the Board submits the final-form rulemaking.

3. Need for the regulation; Reasonableness; Legality, desirability and feasibility of exempting or setting lesser standards of compliance for individuals or small businesses.

The Board has stated that this rulemaking “will provide additional protection of the integrity of gaming in the Commonwealth.” Several commentators have questioned the need for this rulemaking. They believe that the requirements of the Act and the Board’s regulations provide more than adequate protection of the integrity of slot machine gaming in the Commonwealth. Examples of the safeguards in place include: extensive applicant approval processes for slot machine licensees; internal controls and audit protocols approved by the Board; audited financial statements; Department of Revenue control of all active slot machines through a computer system that allows the Board to monitor all play; and Board personnel presence at each slot machine facility.

With all of these protections and the extensive requirements already imposed on slot machine licensees, why are independent audit committees needed for nonpublicly traded licensees? Has the Board considered requiring independent audit committees for certain licensees on a case-by-case basis instead of imposing a blanket requirement for all nonpublicly traded licensees? This approach would also lessen the potential burden the regulation would place on Category 3 slot machine applicants that are limited to 500 slot machines by the Act. If this approach is adopted, we suggest that the criteria used to determine if a licensee will be required to form an independent audit committee be included in the final-form regulation.

Given the concerns raised by the regulated community pertaining to need for the rulemaking and the costs it will impose, we recommend that the Board issue an advanced notice of final rulemaking. This would allow the Board

and the regulated community an opportunity to resolve as many remaining concerns as possible prior to submittal of the final-form regulation.

4. Implementation procedures and timetables for compliance by the public and private sector.

The Preamble to this proposal states that the rulemaking will become effective when the final-form regulation is published in the *Pennsylvania Bulletin*. Given the extensive requirements contained in the rulemaking, we recommend that the effective date be delayed six to 12 months after the final-form regulation is published. This would provide slot machine licensees time to appoint members to the audit committee and fulfill the other requirements of the rulemaking.

5. Section 441a.24. Independent audit committee.— Consistency with intent of the General Assembly; Possible conflict with statutes; Reasonableness; Clarity.

Paragraphs (3), (4) and (8)

These paragraphs require Board approval of certain documents prepared by an independent audit committee or action taken by the independent audit committee or a slot machine licensee. The regulation is silent on how the approval process associated with each paragraph will work. We recommend that the final-form regulation provide more detail on how the Board will administer these provisions. Timeframes, criteria for reviewing the documents or action and appeal rights should be included.

Paragraph (4)

Why is the Board requiring independent audit committees to consist of at least three but no more than five members? As suggested by commentators, we ask the Board to allow licensees the flexibility to determine the number of committee members that would be most appropriate for their organization while still ensuring that the integrity of gaming in the Commonwealth is protected.

Paragraphs (5), (6) and (7)

Several slot machine licensees commented that provisions requiring audit committee members to be independent, without ownership interest and without a material relationship to the licensee, are not sound policy and contrary to the traditional role of independent audit committees. We question why the Board is limiting the types of relationships that can exist between a committee member and licensee, when independent audit committees of publicly traded corporations under the jurisdiction of the Securities and Exchange Commission allow those affiliated with a corporation to serve on that corporation’s independent audit committee. In addition, has the Board considered following the example of New Jersey’s independent audit committee regulations, which allow committee members to have some form of relationship with the licensee?

Paragraph (11)

Under this paragraph, independent audit committees are required to appoint an independent certified public accountant that has a “Nationally recognized and respected reputation.” A commentator has noted there are only four public accounting firms with national reputations and this requirement is contrary to the diversity requirements of the Act. In addition, it would be difficult for a Pennsylvania accounting firm to qualify as an independent certified public accountant. We agree with the commentator and question the need for an indepen-

dent certified public accountant to be “Nationally recognized.” We also question if this requirement conflicts with § 1212 of the Act, which pertains to diversity goals of the Board. In particular, the Board should explain why this requirement does not conflict with § 1212(a), which states the following:

It is the intent and goal of the General Assembly that the board promote and ensure diversity in all aspects of the gaming activities authorized under this part. The board shall work to enhance the representation of diverse groups in the ownership, participation and operation of licensed entities and licensed facilities in this Commonwealth and through the ownership, participation and operation of business enterprises associated with or utilized by licensed entities and licensed facilities and through the provision of goods and services utilized by slot machine licensees under this part.

6. Miscellaneous clarity.

- Under Paragraph (5), the phrase “or might appear to affect” is vague. We recommend that it be deleted from the final-form regulation.
- Subparagraph (7)(i) is a duplicate of Subparagraph (7)(ii). One of these subparagraphs should be deleted from the final-form regulation.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-898. Filed for public inspection May 9, 2008, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations. They are scheduled to be considered on the dates noted. The Commission’s public meetings are held at 333 Market Street, 14th Floor, in Harrisburg, PA at 10:30 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or you can obtain a copy from our web site www.irrc.state.pa.us.

Final-Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
16A-627	State Board of Examiners of Nursing Home Administrators Administrator-In-Training Program	4/28/08	6/5/08
16A-6511	State Board of Physical Therapy Biennial Renewal Fees	4/28/08	6/5/08

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-899. Filed for public inspection May 9, 2008, 9:00 a.m.]

INSURANCE DEPARTMENT

Applications for Approval to Acquire Control of the Pennsylvania Domiciled Insurance Subsidiaries of Highmark, Inc. and Independence Blue Cross; Notice of Public Informational Hearing

Persons are hereby notified that the Insurance Department of the Commonwealth will hold three public informational hearings regarding the proposed acquisition of the Pennsylvania domiciled insurance subsidiaries of Highmark, Inc. and Independence Blue Cross by a new corporation to be formed through the consolidation of Highmark, Inc. and Independence Blue Cross. The affected subsidiaries include: First Priority Life Insurance Company, Inc., Gateway Health Plan, Inc., HealthGuard of Lancaster, Inc., HM Health Insurance Company, d/b/a Highmark Health Insurance Company, HM Life Insurance Company, Highmark Casualty Insurance Company, Highmark Senior Resources, Inc., HMO of Northeastern Pennsylvania, Inc., d/b/a First Priority Health, Keystone Health Plan West, Inc., United Concordia Companies, Inc., United Concordia Dental Plans of Pennsylvania, Inc., United Concordia Life and Health Insurance Company, QCC Insurance Company, Keystone Health Plan East, Inc., AmeriHealth HMO, Inc., Vista Health Plan, Inc. and Region 6 RX Corp. The applications were received on April 27, 2007, and were made under Article XIV of the Insurance Company Law of 1921 (40 P. S. §§ 991.1401—991.1403). Policyholders and interested persons are invited to attend and participate in the hearing. Persons may attend the hearing without any obligation to speak at the hearing.

1. *Dates and Time:* July 8 (Pittsburgh); July 10 (Harrisburg); and July 15 (Philadelphia)—hearings will begin at 9 a.m.
2. *Locations:* Pittsburgh—Westin Convention Center, 100 Penn Avenue
Harrisburg—Harrisburg Hilton, 1 North Second Street
Philadelphia—Philadelphia Sheraton, 17th and Race Streets
3. *Nature of Hearing:* The public informational hearing will provide an opportunity for policyholders and interested persons to present comments relevant to the previously-referenced transaction. The proceeding will be recorded by a court reporter.
4. *Legal Authority:* The public informational hearing will be held under the provisions of the Insurance Holding Companies Act (40 P. S. §§ 991.1401—991.1413).
5. *Written Comments:* Persons who are unable to attend the public informational hearing or would prefer to submit written comments in lieu of speaking at the hearing concerning the previously-referenced transaction, may do so by mailing or delivering a copy of the comment to Robert E. Brackbill, Jr., Chief, Company Licensing Division, Pennsylvania Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or rbrackbill@state.pa.us. Be advised that all comments received will be part of the public record regarding this filing.
6. *Preregistration:* Individuals wishing to present comments may register in advance, but the Department will accept participants on the day of the event as well. Advance registration should include: the identity of the speaker, date and location of hearing that the speaker wishes to speak. The Department anticipates scheduling

10 minute time slots per individual, but will take into account other factors. Preference in scheduling will be given to individuals who submit written comments in advance of the hearing and prior to July 2.

Individuals are encouraged to provide advance copies of their remarks. Individuals wishing to preregister, and individuals wishing to submit advanced copies of comments, should contact Robert Brackbill, Chief, Company Licensing Division, 1345 Strawberry Square, Harrisburg, PA 17120 or rbrackbill@state.pa.us.

7. *ADA Notice:* Individuals who require the assistance of auxiliary aids or services to participate in or attend this public informational hearing call the Director of the Bureau of Administration at (717) 787-4298. Individuals who are hearing impaired call the Department's TTY/TDD telephone number (717) 783-3898.

8. *Updates:* The Department encourages the public to check the Department's web site for updates. Additional details concerning the hearings will be posted on the web site as the time for the hearings approaches.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-900. Filed for public inspection May 9, 2008, 9:00 a.m.]

Pottstown Medical Specialists; Prehearing

Appeal of Pottstown Medical Specialists under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM08-04-020

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 May 22, 2008, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's April 2, 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 June 12, 2008, at 2 p.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before May 9, 2008. 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 May 29, 2008, 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 June 5, 2008.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Joel Cortes, Human Resources Analyst at (717) 783-2168.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-901. Filed for public inspection May 9, 2008, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68) (Act 68) in connection with the termination of the insureds' automobile policies. The hearings will be held in accordance with the requirements of Act 68; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg and Philadelphia, PA. Failure by an appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

Appeal of Cynthia Branch; file no. 08-130-49395 and 08-130-49556; Travelers Home and Marine Insurance Company; doc. no. P08-04-014; June 3, 2008, 1 p.m.

Appeal of Jeffrey T. and Susan M. Newman; file no. 08-119-49920; Erie Insurance Exchange; doc. no. P08-04-023; June 11, 2008, 1 p.m.

The following hearings will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Franklin Brown; file no. 08-2214-49218; Travelers Insurance Company; doc. no. PH08-04-011; June 17, 2008, 10:30 a.m.

Appeal of Sharon Fuller; file no. 07-214-49217; Nationwide Mutual Insurance Company; doc. no. PH08-04-015; June 17, 2008, 11:30 a.m.

Appeal of Barbara Nicholson; file no. 08-215-49788; Travelers Insurance Group; doc. no. PH08-04-008; June 17, 2008, 9 a.m.

Parties may appear with or without counsel and offer relevant testimony or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require

an auxiliary aid, service or other accommodation to participate in the hearing, contact Joel Cortes, Human Resources Analyst at (717) 783-2168.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-902. Filed for public inspection May 9, 2008, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insured has requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' policies. The administrative hearing will be held in the Insurance Department's regional office in Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Natalia Lasowsky; file no. 08-214-48905; Cumberland Mutual Fire Insurance Group; doc. no. PH08-04-009; June 17, 2008, 1:30 p.m.

Parties may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending.

Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Joel Cortes, Human Resources Analyst at (717) 783-2168.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-903. Filed for public inspection May 9, 2008, 9:00 a.m.]

Zurich; Prehearing

Appeal of Zurich under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM08-04-013

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 May 16, 2008, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's March 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 June 5, 2008, 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 May 8, 2008. 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 May 22, 2008, 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 May 29, 2008.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Joel Cortes, Human Resources Analyst at (717) 783-2168.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-904. Filed for public inspection May 9, 2008, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The Liquor Control Board seeks the following new site:

Montgomery County, Wine & Spirits Store #4606, Route 63 and Norristown Road, Maple Glen, PA.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 10,000 net useable square feet of new or existing retail commercial space in a 1 mile radius of Route 63 and Norristown Road, Horsham Township, Montgomery County.

Proposals Due: May 16, 2008, 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

Chester County, Wine & Spirits Store #1524, Route 10 and North 3rd Street, Oxford, PA.

Lease retail commercial space to the Commonwealth.

Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space in a 1 mile radius of intersection of Route 10 and North 3rd Street, Oxford, Chester County.

Proposals Due: May 22, 2008, 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, Wine & Spirits Store #5188, Island Avenue and Lindberg Boulevard, Philadelphia, PA.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space in a 1/2 mile radius of Island Avenue and Lindberg Boulevard, Philadelphia, Philadelphia County.

Proposals Due: May 16, 2008, 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, Wine & Spirits Store #5117, Grays Ferry Avenue and 30th Street, Philadelphia, PA.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space in a 1/2 mile radius of Grays Ferry Avenue and 30th Street, Philadelphia County.

Proposals Due: May 16, 2008, 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

Bucks County, Wine & Spirits Store #0910, Routes 113 and 309, Hilltown, PA.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 6,000 net useable square feet of new or existing retail commercial space in a 1 mile radius of intersection of Routes 113 and 309, Hilltown Township, Hilltown, Bucks County.

Proposals Due: May 23, 2008, 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, Wine & Spirits Store #9118, Ridge Avenue and Gates Street, Philadelphia, PA.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,000 to 20,000 net useable square feet of new or existing retail commercial space with off street parking for 49 vehicles within a 1 mile radius of Ridge Avenue and Gates Street, Philadelphia, Philadelphia County.

Proposals Due: May 16, 2008, 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
 PATRICK J. STAPLETON, III,
Chairperson

[Pa.B. Doc. No. 08-905. Filed for public inspection May 9, 2008, 9:00 a.m.]

PENNSYLVANIA ENERGY DEVELOPMENT AUTHORITY

\$1.8 Million Funding Opportunity Available; Addendum

An addendum has been made to the 2008 Pennsylvania Energy Development Authority (PEDA) grant solicitation for municipalities, local government authorities and first responders for energy efficiency and renewable premium power projects in the Duquesne Light Company's electric service territory and immediately adjacent areas. The addendum includes provisions that financial assistance will also be available for energy education projects that focus on energy efficiency in addition to the energy efficiency projects and premium power projects indicated at 38 Pa.B. 1912 (April 19, 2008).

This is a competitive solicitation and funding will be determined by vote of the PEDA Board of Directors. Guidelines and applications may be viewed and downloaded from the PEDA web site at www.depweb.state.pa.us (select "Energy Topics"). Applications will be accepted from April 21, 2008, through June 20, 2008.

KATHLEEN A. MCGINTY,
Chairperson

[Pa.B. Doc. No. 08-906. Filed for public inspection May 9, 2008, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Order

Public Meeting held
 April 9, 2008

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

Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers and The Pennsylvania Universal Service Fund; Docket No. I-00040105

2006 Annual Price Stability Index/Service Price Index Filing of Denver & Ephrata Telephone and Telegraph Company; Docket No. P-00981430F1000; R-00061377

2006 Annual Price Stability Index/Service Price Index Filing of Buffalo Valley Telephone Company; Docket No. P-00981428F1000; R-00061375

2006 Annual Price Stability Index/Service Price Index
Filing of Conestoga Telephone & Telegraph Company;
Docket No. P-00981429F1000; R-00061376

Order

By the Commission:

Presently before this Commission for consideration is the Joint Motion of The Rural Telephone Company Coalition¹ (RTCC), Office of Consumer Advocate (OCA), Office of Trial Staff (OTS), and The United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania ("Embarq PA") (f/d/b/a Sprint), (collectively "Joint Movants"). The Joint Motion concerns the RTCC/OCA/OTS/Embarq PA's request that the Commission grant a further stay of the above-captioned investigation at I-00040105. Several parties support the Joint Motion and other parties object to a further stay of the investigation.

For the reasons that follow, we shall reopen the investigation for the limited purpose of addressing the \$18.00 cap on R-1 benchmark/caps and any equivalent B-1 benchmark/cap. We shall determine whether there is a need to increase the rate caps and/or funding for the Pennsylvania Universal Service Fund ("PaUSF") in order to accommodate the revenue increases authorized for rural ILECs that are now resulting in increased local service rates beyond benchmark rate caps. If it is determined that the \$18.00 cap should be increased, the investigation should also determine whether the size of the fund should be increased, decreased or remain the same. Further, we direct that the investigation examine whether a needs based test should be used to determine whether rural ILECs qualify for PaUSF funding.

Procedural History

Intrastate Access Charge Investigation Procedural History

Our *Global Order*² of September 30, 1999 reduced access charges of all local incumbent exchange carriers operating in Pennsylvania. That order directed a PaUSF be established to enable the rural ILECs and Sprint/United³ to reduce access charges and intraLATA toll rates while at the same time ensuring that residential basic local service rates did not exceed the designated price cap of \$16.00 per month. The *Global Order* also called for an investigation to be initiated in January 2001 to further refine a solution to the question of how the carrier charge (CC) pool could be reduced and to consider the appropriateness of a toll line charge to recover any resulting revenue reductions.

On July 15, 2003, at Docket Nos. M-00021596, P-00991648, P-00991649, M-00031694, M-00031694 C0001, and P-00930715, this Commission entered an

¹ The RTCC consists of the following rural incumbent local exchange carriers: Windstream Pennsylvania, Inc. f/k/a ALLTEL Pennsylvania, Inc., Armstrong Telephone Company—PA, Armstrong Telephone Company-North, Bentleyville Telephone Company, Buffalo Valley Telephone Company, Citizens Telephone Company of Kecksburg, Frontier Communications Commonwealth Telephone Company, Conestoga Telephone and Telegraph Company, Denver and Ephrata Telephone and Telegraph Company d/b/a D & E Telephone Company, Deposit Telephone Company, Frontier Communications of Breezewood, Frontier Communications of Canton, Frontier Communications of Lake-wood, Frontier Communications of Oswayo River, Frontier Communications of Pennsylvania, The Hancock Telephone Company, Hickory Telephone Company, Iron-ton Telephone Company, Mahanoy & Mahantango Telephone Company, The North-Eastern Pennsylvania Telephone Company, North Penn Telephone Company, North Pittsburgh Telephone Company, Palmerton Telephone Company, Pennsylvania Telephone Company, Pymatuning Independent Telephone Company, South Canaan Telephone Company, Sugar Valley Telephone Company, Venus Telephone Corporation, Lackawaxen Telecommunications Services, Laurel Highland Telephone Company and Yukon-Waltz Telephone Company.

² *Re Nextlink Pennsylvania, Inc.*, Docket No. P-00991648; P-00991649, 93 PaPUC 172 (September 30, 1999) (*Global Order*); 196 P.U.R. 4th 172, *aff'd sub nom. Bell Atlantic-Pennsylvania, Inc. v. Pennsylvania Public Utility Commission*, 763 A.2d 440 (Pa. Cmwlth. 2000), *alloc. granted*, 844 A.2d 1239 (Pa. 2004).

³ Sprint/United later divested its landline operations. United Telephone Company of Pennsylvania is the local phone company doing business as Embarq Pennsylvania.

order granting a Joint Procedural Stipulation filed on June 5, 2003, by the RTCC, Sprint/United, OTS, OCA, OSBA, AT&T Communications of Pennsylvania, Inc., Verizon and MCI WorldCom Network Services, Inc. The July 15, 2003 order further reduced intrastate access charges for the rural telephone companies operating within the Commonwealth and increased the cap on basic residential local service rates from \$16.00 to \$18.00 per month. The size of the PaUSF was not changed. No regulations were promulgated to alter the regulations⁴ governing the PaUSF or to terminate the fund. The PaUSF continues until a further rulemaking is completed.

On December 20, 2004, the Commission entered an order in the above-captioned case instituting an investigation into whether there should be further intrastate access charge reductions and intraLATA toll rate reductions in the service territories of rural incumbent local exchange carriers. This investigation was instituted as a result of the Commission's prior order of July 15, 2003, which discussed implementing continuing access charge reform in Pennsylvania. The July 15, 2003 order also provided that a rulemaking proceeding would be initiated no later than December 31, 2004, to address possible modifications to the PaUSF regulations and the simultaneous institution of a proceeding to address all resulting rate issues should disbursements from the PaUSF be reduced in the future.

The December 20, 2004 order directed the Office of Administrative Law Judge (OALJ) to conduct the appropriate proceedings including, but not limited to, a fully developed analysis and recommendation on the following questions:

- Whether intrastate access charges and intraLATA toll rates should be further reduced or rate structures modified in the rural ILECs' territories.
- What rates are influenced by contributors to and/or disbursements from the PaUSF?
- Should disbursements from the PaUSF be reduced and/or eliminated as a matter of policy and/or law?
- Assuming the PaUSF expires on or about December 31, 2006, what action should the Commission take to advance the policies of this Commonwealth?
- If the PaUSF continues beyond December 31, 2006, should wireless carriers be included in the definition of contributors to the Fund? If included, how will the Commission know which wireless carriers to assess? Will the Commission need to require wireless carriers to register with the Commission? What would a wireless carrier's contribution be based upon? Do wireless companies split their revenue bases by intrastate, and if not, will this be a problem?
- What regulatory changes are necessary to 52 Pa. Code §§ 63.161—63.171 given the complex issues involved as well as recent legislative developments?

Following the institution of this investigation, the Federal Communications Commission (FCC), on March 3, 2005, entered a further order addressing its intercarrier compensation proceeding at CC Docket No. 01-92 (FNPRM). The FCC is comprehensively examining the intercarrier compensation regime including interstate and intrastate access, reciprocal compensation and universal

⁴ The regulations governing the PaUSF are found at 52 Pa. Code §§ 63.161—63.171. There is no sunset provision in the regulations; however, in December, 2004, the Commission was contemplating whether it should begin the legal process of rule-making to terminate the fund on December 31, 2006.

service. The FCC stated that one of the main reasons reform is needed is because the current intercarrier compensation system is based on jurisdictional and regulatory distinctions that are no longer linked to technological or economic differences. FNPRM at par. 15. The FCC also established goals for intercarrier compensation reform including the preservation of universal service and the promotion of economic efficiency (FNPRM at par. 33).

By order entered August 30, 2005, this Commission stayed the instant investigation for a period not to exceed 12 months unless extended by Commission order, or until the FCC issued its ruling in its *Unified Intercarrier Compensation* proceeding. We further ordered that upon the expiration of the 12-month stay of the investigation or the issuance of a FCC ruling in the *Unified Intercarrier Compensation* proceeding, whichever occurred earlier, the parties to the proceeding should submit status reports to the Commission pertaining to common or related matters in the instant investigation and the FCC's *Unified Intercarrier Compensation* proceeding and the need for any coordination of those matters or any new matters that may arise once the instant investigation is reinstated. We also stated that we would entertain future requests for further stays of this investigation for good cause shown and for the purpose of coordinating this Commission's action with the FCC's ruling in its *Unified Intercarrier Compensation* proceeding. Our order stated that upon receipt of the status reports, Commission Staff should prepare a recommendation regarding the reinstatement of this investigation and taking of any other appropriate action.

In July, 2006, the so-called Missoula Plan⁵ was submitted to the FCC. Generally, the Missoula Plan seeks to unify intercarrier charges for all traffic over a 4-year time period, reduce intercarrier compensation rates, provide an ability to recover those reduced rates through explicit means, move rates for all traffic closer together, and establish uniform default interconnection rules. By notice issued July 25, 2006, the FCC requested parties submit comments on the Missoula Plan by September 25, 2006, and reply comments by November 9, 2006.

On August 17, 2006, this Commission adopted a motion of Vice Chairman James H. Cawley convening a workshop and facilitated discussion of interested participants, to facilitate the development of comments to the FCC. The workshop was conducted and Commission comments were submitted to the FCC on October 25, 2006. The Missoula Plan and other intercarrier compensation reform proposals are currently pending before the FCC for consideration. This FCC proceeding continues to have significant potential to directly impact the issues in the instant proceeding.

On or about August 30, 2006, status reports were submitted to the Commission by the RTCC, OTS, OCA, Embarq⁶, Verizon, Sprint/Nextel Corp.⁷, the Wireless Carriers, and Qwest Communications. Additionally, the RTCC, OTS, OCA and Embarq filed a Joint Motion for further stay of investigation to which the other parties filed status reports in objection. That Joint Motion was granted by order dated November 15, 2006, which again stayed the investigation pending the outcome of the

⁵ The Missoula Plan was filed on July 24, 2006 by the National Association of Regulatory Utility Commissioners (NARUC) in recognition of one meeting site where the proposal was considered. It was not endorsed by NARUC, but the filing is one in a series of intercarrier compensation proposals in the FCC's CC Docket No. CC 01-92.

⁶ The RTCC, OTS, OCA and Embarq filed a joint status report.

⁷ Sprint Nextel Corp. filed on behalf of Sprint Communications Company L.P., its interexchange and competitive local exchange carrier entity, and its wireless entities operating in the Commonwealth: Sprint Spectrum, L.P. d/b/a Sprint PCS and Nextel Communications, Inc., and NPCR, Inc. d/b/a Nextel Partners.

FCC's *Unified Intercarrier Compensation* proceeding at CC Docket No. 01-92, or until November 15, 2007, whichever was earlier. The order further directed that upon expiration of the 12-month stay, the parties should again submit status reports to the Commission pertaining to common or related matters in the investigation and the FCC's proceeding and the need for any coordination of those matters or any new matters that may arise once the Investigation is reinstated. Ordering Paragraph No. 4. Status reports were due 30 days prior to the expiration of the 12-month stay or 30 days following the FCC decision, whichever occurred earlier.

The FCC has not made a decision to date regarding its intercarrier compensation proceeding. On October 16, 2007, the RTCC, OCA, OTS and Embarq filed a Joint Motion for further stay of our investigation. OSBA, Verizon Wireless, T-Mobile, Qwest, and AT&T filed Answers to the Motion. Said motion for a third stay is ripe for a decision.

D & E Companies⁸ PSI Filing Procedural History

On April 28, 2006, the D & E Companies filed their 2006 Annual PSI/SPI Chapter 30 filings,⁹ which proposed revenue rate increases to non-basic local service rates and intrastate carrier access charges. The majority of the revenue increases were allocated to the non-competitive, switched access service rates. On June 23, 2006, the Commission entered orders giving the companies three options: 1) to "bank" collection of a revenue increase to a future period; 2) to allocate such increases to basic local exchange services rather than allocating the revenue increases to increase access charge rates; or 3) allocate the revenue increases to increase intrastate access charges subject to an access charge investigation. The D & E Companies elected the third option to raise intrastate access rates, subject to a final Commission determination regarding access charge reform in the pending instant investigation. On June 28, 2006, the D & E Companies filed their compliance tariffs, which became effective July 1, 2006.

On July 10, 2006, Denver & Ephrata Telephone & Telegraph Company filed a Petition for Reconsideration seeking reconsideration on certain issues determined by our Opinion and Order entered on June 23, 2006 at R-00061377 and P-00981430F1000. On July 21, 2006, the Petition for Reconsideration was granted pending further review and consideration of the merits.

Thereafter, as noted previously, on November 15, 2006, the Commission entered an order staying the instant generic access charge investigation for another year but directing the Office of Administrative Law Judge (OALJ) to hold expedited hearings for the limited purpose of reconsidering the June 23, 2006 orders regarding the D & E Companies' allocation of revenue increases to access charges. The Commission directed that the revenues collected from increases in access charges by the D & E Companies would be subject to refund, depending upon the outcome of the expedited hearings. November 15, 2006 order, Ordering Paragraph Nos. 6 and 10 at 18.

ALJ Susan Colwell's Recommended Decision issued February 22, 2007 recommended that no rescission or amendment of the June 23, 2006 Orders was warranted. However, on July 11, 2007, the Commission reversed the Recommended Decision, in part, holding that the D & E

⁸ The D & E Companies include: Buffalo Valley Telephone Company, Conestoga Telephone & Telegraph Company and Denver & Ephrata Telephone & Telegraph Company.

⁹ See Act 183 of 2004, P. L. 1398 (66 Pa.C.S. §§ 3011-3019), which repealed the prior Chapter 30 law.

Companies' proposed increases in intrastate access charges were contrary to access charge reform and should, therefore, be rejected. As such, the Commission: 1) rescinded and amended its June 23, 2006 orders; 2) expressly rejected using PSI/SPI revenues for increases to access charges; and 3) directed the D & E Companies to file the appropriate tariffs to recover their allowable 2006 Annual PSI/SPI revenue in any manner consistent with their Chapter 30 Plans. Order entered July 11, 2007 at 38, Ordering Paragraph No. 4.

The D & E Companies subsequently filed a Petition for Reconsideration of our July 11, 2007 order. By order entered August 9, 2007, we granted reconsideration, pending review of and consideration on the merits, and on December 7, 2007, we entered an order addressing the D & E Companies' Petition for Reconsideration. In that order, we granted D & E a waiver to increase the current Residential one-party (R-1) benchmark/rate cap of \$18.00 and any equivalent Business one-party (B-1) benchmark/rate cap beyond the current benchmark/rate caps, on the condition that the difference between the benchmark/caps and the new rates will be recovered from its local exchange customers and not from the PaUSF. We further clarified that we would permit D & E to recover the revenues previously assigned to access charges, as well as its 2007 banked revenues, through increases from its noncompetitive service rates. December 7, 2007 order at 42, Ordering Paragraph No. 5. Additionally, we referenced a new matter raised by the OSBA in its Answer and New Matter in this proceeding as to whether the maximum weighted average R-1 rate of \$18.00, and limited increases to the weighted average business rates, should remain in effect in light of the terms and conditions contained in the Joint Access Proposal filed on December 16, 2002, at Docket No. M-00021596 by the RTCC, Sprint/United, the OCA, and OTS. In this regard, the OSBA stated:

14. The Joint Access Proposal indicated that the \$18 cap on weighted average residential rates would remain in effect "for a minimum three (3) year period January 1, 2004 through December 31, 2006." Joint Access Proposal. "Elements of Proposal" section, Paragraph 4.

15. The Commission has taken no formal action to extend the cap on R-1 and business rates beyond December 31, 2006. Therefore, there is a question as to whether this, or any other, element of the Joint Access Proposal remains in effect.

As such, we directed that we would address this matter, as well as whether the \$18.00 benchmark/rate cap and its application to recover rate increases resulting from PSI/SPI filings under the new Chapter 30 rules should be modified, when we would consider the pending motions for further stay of our generic access charge investigation in our Order at Docket No. I-00040105. December 7, 2007 Order at 37.

We note that on December 17, 2007, the OCA filed a Petition for Reconsideration of our December 7, 2007 order requesting that we reconsider our granting the waiver that would permit D & E to increase its current R-1 benchmark/rate cap of \$18.00 and any equivalent B-1 benchmark/rate cap beyond the current benchmark/rate caps, on the condition that the difference between the benchmark/caps and the new rates would be recovered from its local exchange customers and not from the PaUSF. On December 31, 2007, the Verizon Companies filed its answer. On January 10, 2008, the D & E Companies filed a Motion to Strike the Verizon Companies'

Answer and on January 30, 2008, the Verizon Companies filed a Motion to Enforce Compliance with Refund Obligation and Payment of Interest. The OCA Petition for Reconsideration, the D & E Companies' Motion to Strike and the Verizon Companies' Motion to Enforce are all being addressed by a separate Order which we considered concurrently at the April 9, 2008, Public Meeting.

Background of the PAUSF from the *Global Order*

We established the PaUSF through our *Global Order* wherein we stated:

The USF is a means to reduce access and toll rates for the ultimate benefit of the end-user and to encourage greater toll competition, while enabling carriers to continue to preserve the affordability of local service rates. Although it is referred to as a fund, it is actually a pass-through mechanism to facilitate the transition from a monopoly environment to a competitive environment—an exchange of revenue between telephone companies which attempts to equalize the revenue deficits occasioned by mandated decreases in their toll and access charges.

Global Order, page 142.

The establishment of the PaUSF was carried out on a revenue-neutral basis and included the rebalancing of intrastate access charges, toll rates, and local rates by the rural local exchange carriers. The PaUSF was a modified version of a settlement plan submitted by the RTCC and Bell Atlantic-Pennsylvania, Inc. (Bell is now Verizon-PA).

The components of the PaUSF, from the standpoint of the RTCC members, are briefly summarized below:

1. All small incumbent local exchange carriers, which included all ILECs other than Bell and GTE North (GTE North is now Verizon-North), were directed to be recipients of the PaUSF. The PaUSF was established for the purpose of the rate rebalancing needs of the rural local exchange carriers including reductions in their intrastate access and toll rates. All Pennsylvania telecommunications service providers (excluding wireless carriers) were directed to contribute to the PaUSF based upon their intrastate end-user revenues.

2. The RTCC members were permitted to restructure, modify and reduce their access, toll and local rates, as follows:

- a) Intrastate traffic sensitive switched access rates and structure (including local transport restructure) were converted to mirror interstate switched access rates and structure in effect on July 1, 1998.
- b) The Common Carrier Line Charge ("CCLC") was restructured as a flat-rate Carrier Charge ("CC") and reduced to an intrastate rate not exceeding \$7.00 per line and allocated to intrastate toll providers based on their relative minutes of use.
- c) The RTCC members were given the opportunity to reduce their intrastate toll rates to an average rate not lower than \$.09 per minute.
- d) The RTCC members with low local exchange rates were permitted to increase their residential one-party basic, local rates to an average monthly charge of at least \$10.83, to the extent necessary to offset the reduced toll rates.
- e) Those RTCC members with an average monthly R-1 rate above \$16.00 (inclusive of touch-tone) were directed to provide their customers with a Universal Service credit to effectively reduce the rate to \$16.00 with the difference coming out of the PaUSF.

See *Global Order* at pp. 151-152. Sprint/United (now known as Embarq PA) was not an original participant in the RTCC plan in the *Global* proceeding, but after pleading its inclusion in the PaUSF at the *Global Order* hearings, the Commission ordered that Sprint/United be included as a recipient carrier and in exchange for access charge reductions, it be allowed to draw \$9,000,000 from the PaUSF annually.

We also stated in our *Global Order*:

[W]e shall initiate an investigation on or about January 2, 2001, to further refine a solution to the question of how the Carrier Charge (CC) pool can be reduced. At its conclusion, but no later than December 31, 2001, the pool will be reduced. In addition, we shall consider the appropriateness of a Toll Line Charge (TLC)[or an intrastate Subscriber Line Charge] to recover any resulting reductions.

Global Order at 60.

The cap on average monthly R-1 rates is now \$18.00 per our order of July 15, 2003. As discussed above, to date, only D & E Telephone Company has been granted a waiver that permits it to increase its rates over the current R-1 benchmark/rate cap of \$18.00 and any equivalent B-1 benchmark/rate cap beyond \$18.00 without first drawing from the PaUSF in order to satisfy revenue increases it is due from Chapter 30 PSI/SPI annual calculations. While we do not know the exact weighted averaged intrastate access charges the D & E Telephone Company is charging, we do know that D & E Telephone Company's residential rates in rate bands 4, 6 and 7 are the only currently active ones. We estimate the rates to be as follows: Rate Group 4 (\$16.14), Rate Group 6 (\$18.30) and Rate Group 7 (\$19.38). We believe the D & E Telephone Company's other Rate Groups 1, 2, 3, and 5 have rates lower than \$16.00.

Further Access Charge/Federal USF Reform History

In addition to the Commission's competitive undertakings on the intrastate side, the FCC instituted numerous proceedings aimed at further addressing an orderly transition from monopoly to a more competitive environment.

Pursuant to TA-96, the FCC undertook reform of both interstate access charges and Federal universal service support mechanisms. Beginning in 1997, the FCC adopted several measures to move interstate access charges for price cap carriers toward lower, cost-based levels by revising the recovery of loop and other non-traffic sensitive costs from per-minute charges to flat per line charges thereby aligning rates more closely with the way the costs are incurred.

For example, in order to phase out interstate carrier common line ("CCL") charges, the per-minute charges assessed on interexchange ("IXC") carriers through which ILECs recover their residual non-traffic sensitive interstate loop costs that are not recovered through their capped Federal subscriber line charges ("SLCs"), the FCC created the presubscribed interexchange carrier charge ("PICC"), a flat, per line monthly charge imposed on IXCs. The FCC also shifted the non-traffic sensitive costs of the line ports from per-minute local switching charges to the common line category and established a mechanism to phase out the per-minute transport interconnection charge (TIC). The FCC held that more rate structure modifications would be required to create a system that accurately reflects the true cost of service in all respects.

In its *Interstate Access Support Order*¹⁰ the FCC continued the process of access charge and universal service reform for price cap local exchange carriers. That order prescribed a more straightforward, and purportedly economically rational, common line rate structure by increasing the caps on the SLC, a flat monthly charge assessed directly on end-users to recover interstate loop costs, and phasing out the PICC, which the FCC viewed as economically inefficient due to the indirect flow of loop costs to end-users through IXCs. The FCC also revisited the controversial "X-factor," in the Federal price cap mechanism changing its function from a productivity offset to a tool for reducing per-minute access charges to target levels proposed by parties participating before the Federal agency.

The FCC also established a new interstate access support mechanism, capped at \$650 million annually, to replace what the FCC deemed implicit support included in the interstate access charges of price cap carriers, finding \$650 million to be a reasonable amount that would provide sufficient, but not excessive, support. In this regard, the FCC observed that a range of funding levels might be deemed "sufficient" for purposes of TA-96, and that "identifying an amount of implicit support in our interstate access charge system to make explicit is an imprecise exercise."¹¹

In recognition of the need for a more comprehensive review of the issues of access charge and universal service reform for the remaining 1,300 or so rural local exchange carriers serving less than 2% of the nation's access lines, the FCC placed such reforms for the non-price cap carriers on a separate track. As documented in a series of white papers prepared by the Rural Task Force, an *ad hoc* stakeholder group constituted by the FCC to study the differences between the provision of telecommunications services in rural and non-rural areas, rural carriers generally have higher operating and facilities costs due to lower subscriber population density, smaller exchanges and limited economies of scale.¹² Significantly, rural carriers rely more heavily on revenues from access charges and universal service support in order to provide ubiquitous and affordable local service. On May 23, 2001, the FCC released its *Fourteenth Report and Order and Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Report and Order, 16 FCC RCD 11244 (released May 23, 2001) ("*Rural Task Force Order*").

The *Rural Task Force Order* changed the manner in which rural interstate universal service support is currently calculated and applied. Among other things, the *Rural Task Force Order* endorsed use of a modified embedded cost mechanism for rural carriers, as opposed to a forward-looking cost mechanism required for price cap carriers, to determine rural carrier support, and included implementation of a rural growth factor (the sum of annual line growth and a general inflation factor) and a "safety net" additive and "safety valve" to provide support for new investment and growth above stated thresholds. While created as an interim plan, the FCC also made clear its intention to develop "a long-term plan

¹⁰ *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charges*, CC Docket Nos. 96-262, 94-1, 91-213, 95-72, First Report and Order, 12 FCC Rcd 15982, May 31, 2000, (*Access Charge Reform Order*) at 15998 Par. 35.

¹¹ *Interstate Access Support Order* at 13046 par. 201.

¹² See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9164-65 (1977) (*Universal Service First Report and Order*) at 8917 par. 253 (subsequent history omitted); *Rural Task Force Order*.

that better targets support to carriers serving high-cost areas, while at the same time recognizing the significant differences among rural carriers, and between rural and non-rural carriers.”¹³

The FCC also took major steps in beginning to reform interstate high-cost support, interstate access charges and universal service support systems for non-rural carriers through a series of reports and orders in the matter of *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45 and the *Interstate Access Support Order*, and the interstate high-cost support for rural carriers through the *Rural Task Force Order*, the FCC began to address the matter of interstate access charge and universal service support reforms for the rural carriers. On November 8, 2001, the FCC issued its *Second Report and Order* at CC Docket Nos. 01-304, 00-256 (MAG Plan), 96-45 (USF), 98-77 (Access Charge Reform) and 98-166 (Authorized ROR), in what is referred to as the *MAG Order*. In the *MAG Order*, the FCC stated its intent to align the interstate access rate structure with a lower, more cost-based level, remove what the FCC deemed to be implicit support for universal service and replace it with explicit, portable and competitively neutral support. Specifically, the *MAG Order* lowered interstate access charges from approximately \$0.046 per minute to possibly as low as \$0.022 per minute, increased the interstate SLC over a period of time, and phased out the CCL by July 1, 2003, replacing it with a portable interstate common line support (“ICLS”) universal service mechanism. In addition, SLC caps were increased effective January 1, 2002, raising monthly per line SLC rates from a range of \$3.50—\$5.00 for residence and single line business to a range of \$6.00—\$6.50. These interstate changes have resulted in significant increases to most Pennsylvania consumers, which are in addition to the intrastate increases in local service rates under Pennsylvania’s intrastate access charge reforms and the rate effects of Chapter 30.

More recently, in late Spring 2007, Congressional Representatives Rick Boucher and Lee Terry, members of the House Energy and Commerce Committee, which oversees telecommunications issues in the House, introduced a bill to reform the Federal Universal Service Fund (“USF”). Called the Universal Service Reform Act of 2007, the bill proposed to cap the growth of the Federal USF, in part, by limiting the number of eligible carriers and also by compensating them based upon their actual costs. The act also proposed to allow disbursements to be used for broadband deployment. This bill is pending.

This past summer, following a recommendation of the Federal-State Joint Board on Universal Service (“the Joint Board”), Senators Daniel Inouye, Chair of the U.S. Senate Committee on Commerce, and Ted Stevens began writing new legislation intending to address universal service reform. The Joint Board issued a statement on September 2, 2007, setting forth a set of guidelines for comprehensive reform of the Federal USF high cost fund. They recommended considering among other things state participation in determining support mechanisms.

Discussion

In the instant proceeding, the Joint Movants request that the Commission issue an order staying the above-captioned investigation for at least one year after the Commission enters an order acting on this Joint Motion, or until the FCC rules on its *Unified Intercarrier Compensation* proceeding at CC Docket No. 01-92, whichever is

earlier. This would be the third such 12-month stay. The parties in opposition to the Joint Motion request the Commission resume a full investigation of all issues.

The Joint Movants claim that because the FCC’s *Unified Intercarrier Compensation* proceeding at CC Docket No. 01-92 and pending Federal legislation may substantially alter the law governing intrastate universal service programs, these continuing Federal administrative and legislative activities present a “moving target” of uncertain result with respect to the parameters and outcomes of any further investigation undertaken in this docket at this time. Therefore, the Joint Movants believe there is no value in continuing an active investigation on the questions posed by the Commission in its December 16, 2004 Order initiating the investigation. The Commission’s and interested parties’ resources would be better spent elsewhere to address intrastate intercarrier compensation issues, according to the Joint Movants.

The Office of Small Business Advocate (OSBA) filed an answer and new matter agreeing with the Joint Movants that the *Unified Intercarrier Compensation* proceeding and pending Congressional legislation could significantly impact the issues raised in the instant proceeding. Thus, OSBA averred that the Joint Motion should be granted in its entirety and the caps on R-1 and corresponding business rates in the RTCC/Sprint/OCA/OTS/Embarq Joint Access Proposal filed on December 16, 2002 at Docket No. M-00021596 should remain in effect throughout the stay.

Omnipoint Communications Inc. d/b/a T-Mobile, Omnipoint Communications Enterprises LLC d/b/a T-Mobile and Voicestream Pittsburgh LP d/b/a T-Mobile (T-Mobile) filed as an intervenor supporting the Joint Motion with regard to the request for a further stay of the proceeding and reserving its rights on the substantive issues.

Cellco Partnership d/b/a Verizon Wireless (“Verizon Wireless”) concurs with T-Mobile’s response to the Joint Motion. Verizon Wireless filed a separate statement on November 5, 2007, clarifying that it intervened for the limited purpose of asserting that pursuant to 66 Pa.C.S. § 102, the Commission lacked jurisdiction under the Public Utility Code to impose state universal service contribution obligations on commercial mobile service providers such as Verizon Wireless. Verizon Wireless takes no position on bifurcating the investigation for the purpose of allowing proceedings to continue with respect to rural incumbent telephone companies’ intrastate access rates provided that any such proceeding not address whether wireless carriers should contribute to the Pennsylvania Universal Service Fund (“PaUSF”).

Verizon¹⁴ also responded to the Joint Motion opposing continuation of a full stay of the investigation. Instead, Verizon requested the Commission act to reduce the gap between the highest rural local exchange carrier’s access rates and the rates Verizon and other carriers are permitted to charge for the same services. Verizon requests the Commission require the rural ILECs to make substantial progress towards reducing their access rates and to disclose their intrastate switched access rate elements and average rate per minute of use for the years 2006 and 2007. Verizon claims that it charges on average about \$0.017 per minute for intrastate switched access service in Pennsylvania, a rate below the national aver-

¹⁴ Verizon filed on behalf of the Verizon ILECs, Verizon Pennsylvania Inc. and Verizon North Inc. as well as Verizon’s CLEC, MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services, (collectively referred to as “Verizon”). As already discussed, Verizon Wireless filed separately in response to the Joint Motion.

¹³ *Id.* at 11249 par. 8.

age, while most of the rural ILECs' switched access rates average over \$0.04 per minute, and some are as high as \$0.07 or \$0.10 per minute. While Verizon's carrier charge is \$0.58 per line per month, most rural ILECs still maintain much higher access charges. Many range from \$4 per month to \$15 per month.

If the Commission decides to grant the stay, Verizon requests additional measures. First, Verizon requests we prohibit any rural ILEC from increasing its switched access rates during the stay period. Second, Verizon requests the Commission require the rural ILECs to comply with all orders arising out of the second stay of this investigation in 2006, including making Verizon and other carriers whole for the subsequently rejected attempts by certain of the moving parties to raise their access rates during the period of the stay. Third, Verizon requests that if the Commission stays the investigation, that we also direct that the PaUSF fund size will not be expanded for revenue increases consistent with Price Stability Index/Service Price Index ("PSI/SPI") report filings by rural ILECs during the period of the stay. Further, Verizon wants maintenance of the *status quo* under the current PaUSF regulations.

We agree that there should be no increases in intrastate access charges during the stay period; however, the issue regarding increases to the PaUSF during the stay period due to rural ILECs' PSI/SPI filings requesting revenue increases will be referred to the Office of Administrative Law Judge (OALJ) for hearing and determination. Rural ILECs entitled to annual revenue increases may mainly choose to increase local residential rates up to the 18.00 cap on R-1 rates, to increase rates on non-competitive services, or to bank their revenue increases. The PaUSF was set initially at \$34 million and Verizon generally contributes approximately half of the revenues of the fund each year.

At some point, the system of the PaUSF whereby other operating companies in the Commonwealth support the incumbent rural ILECs during what is supposed to be a transitory time between local telephone monopolies into competitive markets must be reexamined. Until then, we will open the investigation for limited purposes, one of which is examining whether the \$18.00 R-1 rate cap should be increased on monthly service rates and corresponding business rates and whether the PaUSF funding should increase to accommodate the Chapter 30 rural ILECs' annual revenue increases due to PSI/SPI filings.

AT&T Communications of Pennsylvania, LLC ("AT&T") filed as Intervenor requesting the Commission resume this proceeding with the objective of removing implicit subsidies by reducing intrastate access rates to appropriate levels and rebalancing reduced ILEC revenues through increases to retail rates and a state universal service funding mechanism that would result in more economically rational prices for all rural incumbent local exchange carriers ("rural ILECs") services.

AT&T argues that eight years ago the *Global Order* promised access rates would be reduced and implicit subsidies eliminated. AT&T claims that Commonwealth Telephone's intrastate access charges to AT&T are more than \$0.07 per access minute, exceeding its \$0.027 interstate charge and are more than four times higher than Verizon's corresponding intrastate charges. AT&T further claims that Embarq PA is maintaining intrastate access charges of nearly \$0.05 per minute while its corresponding interstate charges are less than a penny. Likewise, AT&T claims Denver & Ephrata continue to have intrastate access charges approaching \$0.06 per minute, but less

than \$0.025 interstate. AT&T claims North Pittsburgh's intrastate access charges are nearly \$0.05 per minute, but interstate charges just slightly above \$0.02. Finally, AT&T claims Conestoga's intrastate access charges are nearly \$0.045 per minute but its interstate charges are only \$0.027. AT&T claims these high intrastate access charges are keeping long distance prices higher than they should be for all Pennsylvanians.

AT&T avers that the Commission should resume the proceeding and remove implicit subsidies by reducing intrastate access charges to appropriate levels and rebalance revenues through increases to retail rates and the PaUSF. AT&T supports the Missoula Plan before the FCC, and AT&T does not address the problems that our State can potentially face if we further reduce access charges only to be financially penalized by the FCC's possible adoption of the Missoula Plan. We note that AT&T advocates increasing the size of the PaUSF as opposed to increasing rural ILECs' intrastate access charges. AT&T is a major contributor to the PaUSF.

We are mindful and appreciative of AT&T's claim that the rural ILECs' intrastate access charges do not mirror current interstate access charges. While we are not in favor of arbitrage brought about by non-mirroring of intrastate and interstate access charges, we note that a lot has changed on the Federal front regarding intercarrier compensation since our *Global Order* of September 30, 1999, as detailed in this order. In our judgment, another one-year stay of our investigation would be prudent since the FCC's ruling may be imminent and is likely to have a major impact on our own access charge investigation.

Qwest Communications Corporation ("Qwest"), and Sprint Communications Company, L.P.I, Sprint Spectrum, L.P.I, Nextel Communications of the Mid-Atlantic, Inc. and NPCR, Inc. Coalition, (collectively "Sprint") filed as Intervenor to the Joint Motion requesting the Commission resume the investigation because no Federal action directly impacting rural local exchange company intrastate access charges is imminent and further delay prevents the Commission from making progress on the important access charge and universal service issues we identified as the focus of this investigation in December, 2004.

Qwest requests the Commission deny OSBA's request for a determination on the proper level of the R-1 and business rates to the extent that such determination occurs without a formal adjudication where interested parties are provided with adequate notice and opportunity to be heard on the rate issue. In accordance with *Commonwealth v. Thompson*, 444 Pa. 312, 316, 281 A.2d 856, 858 (1971), we will refer the caps issue to the OALJ for a due process hearing for interested parties to determine whether the residential rate cap on R-1 and cap on business rates should be lifted.

Sprint urges this Commission to deny the Joint Motion on the grounds that intrastate access reform, particularly for the rural carriers, is urgently needed. Sprint claims it pays an average intrastate access rate in Pennsylvania that is much higher than the national average intrastate access rate and significantly higher than interstate access rates paid to Pennsylvania ILECs. Sprint claims the average per minute intrastate access rate paid to rural ILECs in Pennsylvania is the ninth highest in the nation. Sprint claims that the intrastate per minute expense paid by Sprint is on average \$0.025 higher than the national average. Sprint's average intrastate access cost per minute paid to rural ILECs in Pennsylvania is \$0.0617,

while the interstate average cost per minute for these same rural ILECs is less than \$0.0096. Sprint argues the costs should be the same. Further delay in the reduction of implicit subsidies in intrastate access rates is not warranted according to Sprint, and if the FCC acts while the investigation is ongoing, that action could be factored into the proceeding and any necessary adjustments addressed at that time. However, Sprint argues that it is unlikely the FCC will act before 2009. Further, Sprint argues that it is uncertain whether preemptive action by the FCC against the states would be upheld by the courts. Sprint admits the FCC's resolution of the proceeding will have an impact on Pennsylvania's local exchange carriers, but Sprint denies that any evidentiary record compiled by moving forward with the investigation would be moot or stale if the FCC acts. Finally, although Sprint admits there is legislative activity underway at the Federal level addressing universal service, Sprint argues that no time frame is set for deliberations and any definitive legislative action may not take place for several congressional sessions.

However, we are not persuaded by Sprint's argument to resume the access charge portion of the investigation at this time. The looming decision of the FCC regarding the Missoula Plan and of pending Federal legislation warrant a further one-year stay of the investigation. Sprint's assertions that it pays more in Pennsylvania for intrastate access charges are considered, but each company pays a different average access charge amount. Sprint did not offer any direct comparison between rural ILECs operating in our state with similar companies in other states.

At this time, the Commission believes that a just and reasonable rate standard as provided in 66 Pa.C.S. § 1301, should continue to apply to the analysis of the appropriate residential rate for basic local exchange service provided by the rural ILECs. In view of the Chapter 30 modified alternative regulation plans that contain reduced or eliminated inflation offset values in the price stability mechanisms for most of the rural ILECs, these companies are permitted to annually increase their respective residential rates. Therefore, the investigation should address the section 1301 requirement that rates be just and reasonable, that universal telecommunications service is available throughout the Commonwealth at affordable rates, and that the payment of reasonable charges for protected telecommunications services should be available on a nondiscriminatory basis in accordance with the Public Utility Code. 66 Pa.C.S. §§ 1301, 3011(2), 3011(3), 3015(g), and 3019(h).

Also, we direct that the reopening of the investigation encompasses the issue of whether the PaUSF can be used for the provision of revenue support to the rural ILECs of their Chapter 30 annual revenue increases resulting in piercing the residential R-1 rate cap which currently stands at \$18.00 per month. In doing so, the contemplated investigation will also examine whether a "needs based" test (and applicable criteria) should be used for determining which rural ILECs should qualify for Pa. USF support funding. This "needs based" test will take into account the support that the Federal USF affords the Pennsylvania rural ILECs. The "needs based" test will also be conducted in a forward looking manner and will examine circumstances that exist as of the time a company requests to recover basic service costs above the rate cap from the PaUSF. In prior Commission Orders that addressed the need to reopen the investigation at Docket No. I-00040105, various linkages have been identified in

the regulated intrastate and interstate operations of the rural ILECs that affect the potential outcome of these issues:

However, the intrastate access charge reform for the rural ILECs is not independent from the potential outcomes of the FCC's *Unified Intercarrier Compensation* proceeding. A number of the rural ILECs operating in Pennsylvania are "average schedule companies," *i.e.*, their operational revenues, expenses, and assets are not subject to jurisdictional intrastate/interstate allocations. Thus, the overall annual revenue level of these ILECs depends on the receipt of Federal Universal Service Fund (USF) support distributions. Similarly, these ILECs are also recipients of support contributions from the Pennsylvania USF (Pa. USF). Furthermore, certain outcomes of the FCC's *Unified Intercarrier Compensation* proceeding can directly affect the intrastate carrier access charges of the rural ILECs.

Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers, and the Pennsylvania Universal Service Fund, Docket No. I-00040105, Order entered August 30, 2005, at 16 (footnotes omitted).

In view of the preceding discussion, we believe that the reopened investigation should encompass the following additional issues and inquiry areas:

1. Whether the Commission has the authority under Chapter 30 and other relevant provisions of the Public Utility to perform a just and reasonable rate analysis of the rural ILECs' residential rates for basic local exchange services when such rates exceed the appropriate residential rate benchmark.

2. The reopened investigation should address the appropriate benchmark for the rural ILEC residential rate for basic local exchange service taking into account the statutory requirements for maintaining and enhancing universal telecommunications services at affordable rates. Participating parties should be availed of the opportunity to submit appropriate studies and testimony, including economic cost studies, that can provide the necessary information for the establishment of the appropriate residential benchmark rate for maintaining and enhancing universal telephone service goals in Pennsylvania.

3. Whether Pa. USF funding support should be received by rural ILECs that incrementally pierce the appropriate residential rate benchmark because of the regular annual Chapter 30 revenue increases, and whether the Commission's PaUSF regulations at 52 Pa. Code § 63.161 *et seq.* should be accordingly revised. The relevant inquiry should include the role of non-expired "banked revenues" that rural ILECs may have accumulated through the operation of their respective Chapter 30 modified alternative regulation plans and corresponding price stability mechanisms.

4. The reopened investigation should address whether the potential availability of PaUSF support distributions to those rural ILECs that pierce the appropriate residential benchmark rate because of their respective annual Chapter 30 annual revenue increases has any anti-competitive or other adverse effects, especially with respect to the currently established PaUSF support contribution mechanism and its participating telecommunications utility carriers.

5. The "needs based" test should address the following interlinked areas that involve the operations of the rural ILECs:

a. The Chapter 30 annual rural ILEC price stability mechanism revenue increases;

b. The annual Federal USF support that the Pennsylvania rural ILECs receive;

c. The fact that most of the Pennsylvania rural ILECs are “average schedule” telephone utility companies that do not jurisdictionalize a number of revenue, expense, and asset parameters for their regulated operations;

d. Whether there is any relevance that rural ILEC assets and facilities may be used both for the provision of regulated intrastate telecommunications services, but also for the provision of non-jurisdictional services that potentially include unregulated services;

e. Whether the overall financial health of the rural ILECs that continue to get both PaUSF and Federal USF support should play a role for continuing to receive PaUSF support distributions;

f. Whether the PaUSF level of support distributions to the recipient rural ILECs should be adjusted in relation to the revenue increases in local exchange rates that have been or are implemented through their respective Chapter 30 modified alternative regulation plans and price stability mechanisms.

The rest of the investigation, however, will again be stayed for 12 months from the date of entry of this order or upon completion of the FCC’s *Unified Intercarrier Compensation* proceeding, whichever occurs first. The Office of Administrative Law Judge will be given twelve months from the date of entry of this order within which time to complete this reopened investigation and issue a Recommended Decision.

Although the Joint Motion does not expressly state that the Joint Movants advocate a continuation of the current PaUSF under the existing regulations codified at 52 Pa. Code §§ 63.161–63.171, it can be inferred that it is the position of the Joint Movants that the *status quo* be maintained until there is a resolution after an investigation and until a future rulemaking determines otherwise. We are of the opinion that maintaining the *status quo* will also ensure that the current levels of intrastate access charges will not be increased during the stay. It has been, and continues to be the intention of this Commission, since the *Global Order* of 1999, to gradually lower intrastate access charges so as to allow for greater competition in the intrastate and interexchange toll markets. At the same time we are assuring that local service rates do not become unreasonably high in those incumbent service territories, and that there are always reasonably affordable phone carriers operating in all areas of this State.

We acknowledge that the Missoula Plan as well as other proposals before the FCC in the *Unified Intercarrier Compensation* proceeding could have a significant impact on rural access reform as many of these proposals advocate interstate and intrastate access charge reform as well as Federal and state universal service funds. Most of the proposals suggest that rural carriers should continue to receive funding of their networks to foster universal service and in many cases create supplemental rural universal service funding or access charge replacement funding to compensate rural carriers for additional required access reform. In addition, the Missoula Plan contains provisions that, if adopted, may affect our jurisdiction over setting intrastate access charges.

We submitted comments to the FCC requesting the Amended Missoula Plan be rejected because the Federal

Benchmark Mechanism (FBM) unfairly proposed to compensate states for rates that exceed a \$20–\$25 range for early adopter support.¹⁵ The FBM may not support lower benchmarks like Pennsylvania’s \$18.00 capped benchmark of residential monthly rates. The FBM also proposes to pay to lower high intrastate access rates. If we further reduce access rates now, we may jeopardize our state’s ability to obtain Federal funding for this change.

Currently, our PaUSF reimburses rural ILECs for revenues lost due to reductions in intrastate access charges and intraLATA toll rates on a revenue-neutral basis. The PaUSF collects approximately \$34 million annually from the certificated telecommunications carriers operating in Pennsylvania on a *pro rata* share based upon their net end user retail revenues. The proposed FBM would limit state USF compensation to only \$10 million, with no provision to provide any additional Federal support to individual state USFs beyond the aggregate \$10 million amount. With this proposal before the FCC, it is in this Commonwealth’s best interest that we delay further reductions in access charges in order to avoid being penalized by a potential Federal policy that could preempt us from regulating intrastate access charges and/or penalizes us financially for taking a proactive stance towards reducing access charges independently with a State-operated universal service fund.¹⁶

The Missoula Plan also advocates that the FCC should exercise its authority to preempt state regulation of intrastate access and local interconnection and establish alternative cost recovery mechanisms within the intrastate jurisdiction. If adopted, it is unclear what this would cost Pennsylvania carriers and their ratepayers. If a Federal USF were to replace individual state USFs in access charge reform, it is possible that Pennsylvania would continue to be a substantial net-contributor to the Federal Fund regarding access charge reform because we have already undertaken reform within our State, and our intrastate access charges are lower than some other states. Thus, other states would have a greater need to draw from a Federal USF or restructuring mechanism to support their respective revenue-neutral intrastate access charge reductions.

The Missoula Plan further proposes an “Early Adopter Fund” of \$200 million to support states like Pennsylvania that have already reduced intrastate access charges to closer mirror interstate access charges. However, since our PaUSF’s inception in April, 2000, our 35 rural ILECs alone have received over \$200 million from the PaUSF in the aggregate. Therefore, Pennsylvania would possibly not be able to fully recover its PaUSF support outlays under the “Early Adopter Fund” as proposed. The Missoula Plan also brings into question whether this Commission should act quickly to order further intrastate access charge reductions, which possibly then would hurt our chances in the future of receiving Federal subsidy monies for these reductions. Given all of these potential changes at the Federal level that can affect universal service, we agree that the Joint Motion should be granted in part.

¹⁵ In January 2007, the Missoula Plan proponents generated an analysis detailing the putative benefits of the Missoula Plan. That initial analysis has since become the Amended Missoula Plan. The proponents filed an *ex parte* letter with the FCC on January 30, 2007 which this Commission has urged the FCC to reject. See *Comment of the Pennsylvania Public Utility Commission in the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, DA 07-738.

¹⁶ Our PaUSF is a “closed” system. Certificated carriers offering service in Pennsylvania help support the intrastate access charge reform by contributing to the PaUSF. Intrastate revenues are re-distributed within the state. The PaUSF supports rural ILECs by providing local service subsidies to help keep local rates affordable as those companies rebalance their rates from a monopoly rate structure to a competitive rate structure resulting in decreases to access charges and offsetting increases to local service rates.

Under the Missoula Plan, the Low-Rate Adjustment (LRA) in the FBM will cap the interstate residential subscriber line charge (SLC) for carriers with rates less than \$20.00 to \$2.00. This means that a carrier in a state with rates less than \$20 will have to increase its lower rates by no more than \$2.00. If it does, it obtains support from the Restructuring Mechanism. The LRA cap rewards carriers and state commissions that did not aggressively pursue rate rebalancing or access reform before the Missoula Plan. Under the Amended Missoula Plan, those commissions and carriers now must increase their largely unreformed local rate by no more than \$2.00 before they benefit from the Restructure Mechanism. We are concerned about this and since we have permitted Denver & Ephrata Telephone and Telegraph Company to increase its R-1 monthly rates beyond the \$18.00 PaUSF cap, and other ILECs may want the same relief in future PSI/SPI filings.

It is important to note that the inflation offset factors for most of the rural telephone companies have been reduced to zero and this has resulted in more annual revenue increase opportunities for rural ILECs than ever previously allowed in the past. In this regard, the limited investigation we institute by this Order should specifically address whether the \$18.00 cap should be modified in light of the greater increases now allowed by the new Chapter 30. If it is determined that the \$18.00 cap should be increased, the investigation should also determine whether the size of the fund should be increased, decreased or remain the same. In addition, the investigation shall address whether or not a "needs based" test (and applicable criteria) for rural ILEC support funding from the PaUSF in conjunction with the Federal USF support payments that the rural ILECs receive should be established in order to determine which rural ILECs qualify for PaUSF funding.

We are further persuaded to stay the rest of the investigation because there is pending Federal legislation designed to change existing Federal USF funding and potentially related issues. Under these circumstances, further stay of the procedural schedule at Docket No. I-00040105 remains both judicious and warranted until changes arising from the Federal legislative landscape have settled and are known.

Accordingly, for these above-stated reasons, the Joint Motion will be granted with the exception that the issue of whether to increase PaUSF funding and whether to raise the \$18.00 cap on R-1 residential monthly service rates and corresponding business rate caps/benchmarks shall be referred to the OALJ for a due process hearing and Recommended Decision.

Since there has been no resolution to access charge reform, the *status quo* stays in place, and the PaUSF shall continue under the existing regulations codified at 52 Pa. Code §§ 63.161–63.171 until such time as new regulations are promulgated eliminating or modifying the Fund; *Therefore,*

It Is Ordered:

1. That the Joint Motion of the Rural Telephone Company Coalition, Office of Consumer Advocate, Office of Trial Staff, and the United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania is granted in part and denied in part as follows:

(a) that this investigation is reopened for the express and limited purposes of addressing whether the cap of \$18.00 on residential monthly service rates and any corresponding cap on business monthly service rates

should be raised, whether funding for the Pennsylvania Universal Service Fund should be increased, and whether or not a "needs based" test (and applicable criteria) for rural ILEC support funding from the PaUSF in conjunction with the Federal USF support payments that the rural ILECs receive should be established in order to determine which rural ILECs qualify for PaUSF funding as described in the body of this order;

(b) that the remainder of the investigation shall be further stayed pending the outcome of the FCC's *Unified Intercarrier Compensation* proceeding at CC Docket No. 01-92 or for one year from the date of entry of this Order, whichever is earlier; and

(c) that this matter be referred to the Office of Administrative Law Judge (OALJ) for hearing and recommended decision within twelve (12) months of the date of entry of this Order.

2. That in order to assist the Commission in resolving these key issues in Ordering Paragraph No. 1, the investigation should also encompass the following additional issues.

(a) Whether the Commission has the authority under Chapter 30 and other relevant provisions of the Public Utility to perform a just and reasonable rate analysis of the rural ILECs' residential rates for basic local exchange services when such rates exceed the appropriate residential rate benchmark.

(b) The reopened investigation should address the appropriate benchmark for the rural ILEC residential rate for basic local exchange service taking into account the statutory requirements for maintaining and enhancing universal telecommunications services at affordable rates. Participating parties should be availed of the opportunity to submit appropriate studies and testimony, including economic cost studies that can provide the necessary information for the establishment of the appropriate residential benchmark rate for maintaining and enhancing universal telephone service goals in Pennsylvania.

(c) Whether PaUSF funding support should be received by rural ILECs that incrementally pierces the appropriate residential rate cap because of the regular annual Chapter 30 revenue increases, and whether the Commission's PaUSF regulations at 52 Pa. Code § 63.161 *et seq.* should be accordingly revised. The relevant inquiry should include the role of non-expired "banked revenues" that rural ILECs may have accumulated through the operation of their respective Chapter 30 modified alternative regulation plans and corresponding price stability mechanisms.

(d) The reopened investigation should address whether the potential availability of PaUSF support distributions to those rural ILECs that pierce the appropriate residential rate cap because of their respective annual Chapter 30 annual revenue increases has any anti-competitive or other adverse effects, especially with respect to the currently established PaUSF support contribution mechanism and its participating telecommunications utility carriers.

(e) The "needs based" test should address the following interlinked areas that involve the operations of the rural ILECs:

(i) The Chapter 30 annual rural ILEC price stability mechanism revenue increases;

(ii) The annual Federal USF support that the Pennsylvania rural ILECs receive;

(iii) The fact that most of the Pennsylvania rural ILECs are "average schedule" telephone utility companies

that do not jurisdictionalize a number of revenue, expense, and asset parameters for their regulated operations;

(iv) Whether there is any relevance that rural ILEC assets and facilities may be used both for the provision of regulated intrastate telecommunications services, but also for the provision of non-jurisdictional services that potentially include unregulated services;

(v) Whether the overall financial health of the rural ILECs that continue to get both PaUSF and Federal USF support should play a role for continuing to receive PaUSF support distributions;

(vi) Whether the PaUSF level of support distributions to the recipient rural ILECs should be adjusted in relation to the revenue increases in local exchange rates that have been or are implemented through their respective Chapter 30 modified alternative regulation plans and price stability mechanisms.

3. That upon the resumption of the full investigation, the participating parties shall be afforded due process opportunities to supplement the evidentiary record.

4. That upon resumption of the full investigation, the participating parties shall address and provide record evidence on the legal, ratemaking and regulatory accounting linkages between: a) the Federal Communications Commission's ruling in its *Unified Intercarrier Compensation* proceeding; b) the intrastate access charge reform for rural ILECs in view of the new Chapter 30 law and its relevant provisions at 66 Pa.C.S. §§ 3015 and 3017; c) the Pennsylvania Universal Service Fund; and d) the potential effects on rates for the basic local exchange services of the rural ILECs.

5. That the Commission Staff from the Office of Special Assistants and the Law Bureau is hereby directed to continue monitoring the Federal Communications Commission's *Unified Intercarrier Compensation* proceeding.

6. That the Commission shall entertain future requests for further stays of this investigation for good cause shown and for the purpose of coordinating this Commission's actions with the Federal Communications Commission's ruling in its *Unified Intercarrier Compensation* proceeding.

7. That upon the expiration of the 12-month stay of the access charge portion of the instant investigation or the issuance of a Federal Communications Commission ruling in the *Unified Intercarrier Compensation* proceeding, whichever occurs earlier, the parties to this proceeding shall submit status reports to the Commission pertaining to common or related matters in the instant investigation and the Federal Communications Commission's *Unified Intercarrier Compensation* proceeding and the need for any coordination of those matters or any new matters that may arise once the instant investigation is reinstated. Status reports are due 30 days prior to the expiration of the 12-month stay or 30 days after the FCC decision is made regarding the *Unified Intercarrier Compensation* proceeding, whichever occurs earlier.

8. That upon receipt of the status reports directed in Ordering Paragraph No. 6, above, the Office of Special Assistants and Law Bureau shall prepare a Staff recommendation for the Commission's timely consideration at a Public Meeting on reinstating this investigation and taking any other appropriate action.

9. That the Pennsylvania Universal Service Fund shall continue under the existing regulations codified at 52

Pa. Code §§ 63.161—63.171 until such time as new regulations are promulgated eliminating or modifying the Fund.

10. That absent extraordinary circumstances, intrastate access charges of the rural incumbent local exchange carriers including Embarq shall not increase during the period of this stay.

11. That the current average benchmark caps on R-1 and corresponding business rate caps shall remain in effect pending the outcome of the ALJ hearing and final Commission determination.

12. That pending the outcome of the ALJ hearing and final Commission determination, the rural recipient carriers of the PaUSF shall not increase their revenues from the PaUSF during the stay for purposes of revenue increases associated with annual PSI/SPI report filings. Instead, the rural ILECs are permitted to bank their revenue increases, or increase local rates up to and including the \$18 cap for R-1 services and the current related cap on business services.

13. That a copy of this order be delivered to all telecommunications carriers operating in Pennsylvania and to Solix, Inc., the current Administrator of the Pennsylvania Universal Service Fund.

14. That a copy of this order be delivered for publication to the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-907. Filed for public inspection May 9, 2008, 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 May 26, 2008. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to *begin* operating as *common carriers* for transportation of *persons* as described under each application.

A-2008-2036325. Dynasty Limousine Service, LLC (64 East Uwchlan Avenue, No. 210, Exton, Chester County, PA 19320)—limousine service, from points in the Counties of Chester, Delaware, Lancaster, Montgomery, and the City and County of Philadelphia, to points in Pennsylvania, and return; excluding areas under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* Richard T. Mulcahey, Jr., Esq., Two Penn Center, Suite 1400, 1500 JFK Boulevard, Philadelphia, PA 19102.

A-2008-2037045. Rodney L. Huber (958 Village Road, Lancaster, Lancaster County, PA 17602)—persons, in paratransit service, limited to persons whose personal

convictions prevent them from owning or operating motor vehicles, from points in the Counties of Chester, Lancaster and York, to points in Pennsylvania, and return.

A-2008-2038511. Rayco Transportation, Inc. (R. D. 4, Box 189B, Tyrone, Blair County, PA 16686)—persons, in paratransit service, to medical appointments from points in Bedford, Blair, Cambria, Center, Clearfield and Huntingdon Counties, to points in Pennsylvania, and return.

Application of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under the application.

A-2008-2037188. Executive Car & Limousine Service, Inc. (1009 Hearthstone Way, Lewisburg, Union County, PA 17837)—inter alia—persons, in limousine service, from points in the Counties of Union and Lycoming, to points in Pennsylvania and return: *So As To Permit* the transportation of persons in limousine service between points in Pennsylvania. *Attorney:* Fred P. Rinaldi, Rinaldi & Poveromo, PC, 520 Spruce Street, P. O. Box 826, Scranton, PA 18501.

Applications of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under each application.

A-00123712. Envoy Transportation, Inc., t/a Envoy Transportation (P. O. Box 228, Paoli, PA 19301), a corporation of the Commonwealth—persons, in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in the Counties of Bucks, Chester, Delaware, Montgomery and Philadelphia to points in Pennsylvania, and return, excluding service that is under the jurisdiction of the Philadelphia Parking Authority.

A-2008-2038147. Lancaster County Taxi Service Company, Inc. (505 Foggy Bottom Road, Ephrata, Lancaster County, PA 17522), a corporation of the Commonwealth persons, in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in the County of Lancaster, to points in Pennsylvania, and return.

Applications of the following for approval to begin operating as a broker for transportation of persons as described under each application.

A-2008-2038516. QVC Local, Inc., t/a QVC Productions (1200 Wilson Drive, West Chester, PA 19380), a corporation of the State of Delaware, for a brokerage license, evidencing the Commission's approval of the beginning of the right and privilege to operate as a broker, to arrange for the transportation of persons, between points in Pennsylvania.

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Jenks, Inc., t/a Georgia Carroll Moving Company; Doc. No. A-00113657C

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation

and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Jenks, Inc., t/a Georgia Carroll Moving Company, respondent, maintains its principal place of business at 42 Ridgcrest Drive, Pittsburgh, Pennsylvania 15235.

2. That respondent was issued a certificate of public convenience by this Commission on June 26, 1997, at Application Docket No. A-00113657.

3. That respondent, on May 4, 2007, transported household goods for Mary A. Evans from 1625 Centre Avenue, Pittsburgh, Pennsylvania to 439 Crawford Street, Pittsburgh, Pennsylvania. The shipper was not provided with a written estimate or Information for Shippers statement.

4. That respondent, by failing to use and complete the written form for estimates of charges titled "Estimated Costs of Service," violated 52 Pa. Code § 31.122(2). Penalty is \$250.00.

5. That respondent, by failing to furnish the complainant with an "Information for Shippers" statement prior to the preparation of an order for service, violated 52 Pa. Code § 31.121(a). Penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Jenks, Inc., t/a Georgia Carroll Moving Company the sum of five hundred dollars (\$500.00) for the illegal activity described in this complaint, and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date _____

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services and Enforcement
Division
Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary
 Pennsylvania Public Utility Commission
 P. O. Box 3265
 Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. The penalty could include a fine, the suspension or revocation of your certificate of public convenience or other remedy.

C. You may elect not to contest this complaint by paying the fine proposed in this complaint by certified check or money order. Payment must be made to the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of your payment, the complaint proceeding shall be closed.

D. If you file an answer which admits or fails to deny the allegations of the complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

E. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

Complaint

Raymond Frank Wertz
 226 East Fayette Street
 Uniontown, PA 15401

In Re: Pennsylvania Public Utility Commission

v.
 Raymond Frank Wertz
 Docket No.: C-20077639

Dear Mr. Wertz:

On May 9, 2007, the Bureau of Transportation and Safety instituted a complaint against Raymond Frank Wertz, Respondent, alleging that respondent, on December 12, 2006, at approximately 10:30 a.m., at the Amtrak Station, Pittsburgh, Allegheny County, Pennsylvania, purported himself to be a "car service." Respondent offered to provide transportation to Pittsburgh District Office Manager Denise H. Cohen while driving a 1992 Chevy Van bearing Pennsylvania License No. GHB0007, Vehicle Identification No. 2GBEG25K6N4132072. That Respondent, in performing this act violated the Public Utility Code, 66 Pa.C.S. § 1101.

Respondent was duly notified that, if no Answer was filed within twenty (20) days from the date of service of the Complaint that either admitted or failed to deny the allegations of the Complaint, the penalty would be imposed.

The Complaint and Notice which were mailed May 9, 2007 by certified mail, return receipt requested, were returned to the Pennsylvania Public Utility Commission on May 27 2007, by the United States Postal Service marked "return to sender; attempted - not known; unable to forward."

On July 9, 2007, PUC Enforcement Officer James R. Murray, attempted to hand deliver the Complaint and Notice at the address on record for Raymond Frank Wertz. The address listed was occupied by the East End Mission Homeless Shelter. The resident manager of said shelter advised PUC Enforcement Officer Murray that Raymond Wertz was a homeless individual who no longer resided at the shelter.

The Complaint and Notice were then published in The Pennsylvania Bulletin on Saturday, September 29, 2007, and, to date, more than thirty (30) days later, no response has been received from Respondent.

Therefore, the allegations in the Complaint are admitted and the Complaint is sustained.

Respondent, within twenty (20) days from the date of the service of this letter, shall pay a fine of One Thousand Dollars (\$1,000.00) by certified check or money order payable to the Pennsylvania Public Utility Commission at P. O. Box 3265, Harrisburg, PA 17105-3265, as provided in the Public Utility Code, 66 Pa.C.S. §§ 3301 and 3315, shall cease and desist from further violations of the Public Utility Code, 66 Pa.C.S. §§ 101, et seq., and the Regulations of this Commission, 52 Pa. Code §§ 1.1, et seq.

Very truly yours,
 JAMES J. MCNULTY,
 Secretary

[Pa.B. Doc. No. 08-908. Filed for public inspection May 9, 2008, 9:00 a.m.]

STATE BOARD OF PHARMACY

**Bureau of Professional and Occupational Affairs v.
 Oluwole Ayotunde Olumide, R.Ph.; Doc. No.
 1294-54-07**

On February 27, 2008, the State Board of Pharmacy (Board) suspended the license of Oluwole Ayotunde Olumide, license no. RP-043278-L, of Atlanta, GA, until he submits proof of completion of 30 hours of continuing education, issued a public reprimand and assessed a \$3,000 civil penalty based on having failed to complete 30 hours of continuing education as required by the Board's regulations and in that he procured a license through fraud, misrepresentation or deceit, by falsely indicating that he had 30 hours of ACPE approved continuing education.

Individuals may obtain a copy of the adjudication by writing to Carole L. Clarke, Board Counsel, State Board of Pharmacy, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final Board decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board counsel.

MICHAEL A. PODGURSKI, R. Ph.,
 Chairperson

[Pa.B. Doc. No. 08-909. Filed for public inspection May 9, 2008, 9:00 a.m.]

