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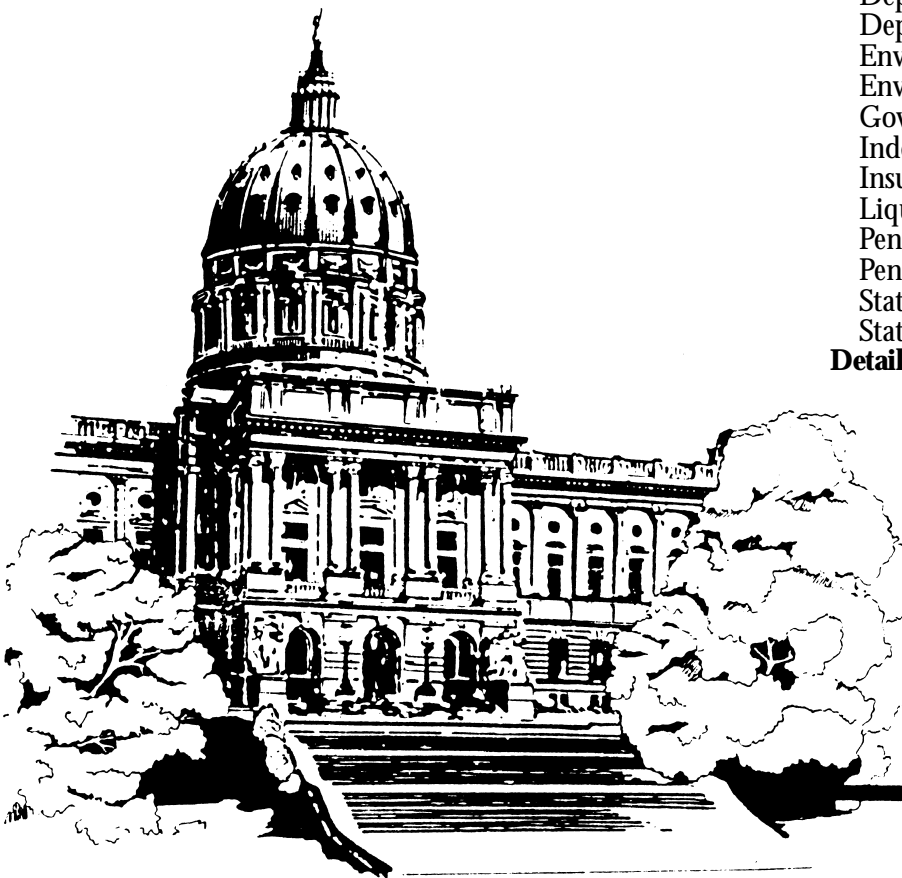
# PENNSYLVANIA BULLETIN

Volume 39  
Saturday, February 7, 2009 • Harrisburg, PA  
Number 6  
Pages 663—820

## Agencies in this issue

The General Assembly  
The Courts  
Department of Banking  
Department of Conservation and Natural Resources  
Department of Environmental Protection  
Department of Health  
Department of Public Welfare  
Department of Revenue  
Department of Transportation  
Environmental Hearing Board  
Environmental Quality Board  
Governor's Office  
Independent Regulatory Review Commission  
Insurance Department  
Liquor Control Board  
Pennsylvania Gaming Control Board  
Pennsylvania Public Utility Commission  
State Employees' Retirement Board  
State Real Estate Commission

**Detailed list of contents appears inside.**



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**No. 411, February 2009**

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# CONTENTS

## THE GENERAL ASSEMBLY

### HOUSE OF REPRESENTATIVES

Committee designation under the Regulatory Review Act—House of Representatives . . . . . 670

### SENATE OF PENNSYLVANIA

Committee designation under the Regulatory Review Act—Senate of Pennsylvania . . . . . 671

## THE COURTS

### DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of disbarment . . . . . 681  
Notice of suspension . . . . . 681

### JUDICIAL CONDUCT

Order amending rules 19 and 21 of the rules governing standards of conduct of magisterial district judges; no. 254; magisterial doc. no. 1 . . . . . 675

### JUVENILE RULES

Order amending rules 200, 232 and 330 of the rules of juvenile court procedure; no. 459; supreme court rules; doc. no. 1 . . . . . 676

### LOCAL COURT RULES

#### Northumberland County

Revision of rules to conduct custody proceedings in accord with Pa.R.C.P. no. 1915.4-1 and 1915.4-2; misc. no. 09-51 . . . . . 679

#### Pike County

Promulgation of rule 316; no. 113-2009-civil . . . . . 680

### RULES OF CIVIL PROCEDURE

Promulgation of rule 1036.1; governing reinstatement of claim dismissed upon affidavit of noninvolvement; no. 507; civil procedural rules; doc. no. 5 . . . . . 676

### SUPREME COURT

In re: Act 98 of 2008; no. 253; magisterial doc. no. 1 . . . . . 681

## EXECUTIVE AGENCIES

### DEPARTMENT OF BANKING

#### Notices

Actions on applications . . . . . 686

### DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

#### Notices

Execution of oil and gas lease for State forest lands . . 686

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Notices

Applications, actions and special notices . . . . . 687  
Availability of technical guidance . . . . . 733

Cleanup Standards Scientific Advisory Board; change of meeting date . . . . . 734  
Climate Change Advisory Committee meeting . . . . . 734  
General NPDES permit for discharges from small flow treatment facilities (PAG-04); public notice of availability . . . . . 734  
Proposed NPDES general permit for stormwater associated with mining activities (BMR GP-104) . . . . . 734  
Proposed total maximum daily load (TMDL):  
Casselman River, Somerset and Fayette Counties . . 732  
Water Resources Advisory Committee; special meeting . . . . . 736

### DEPARTMENT OF HEALTH

#### Notices

#### Applications for exception:

Bethlehem Endoscopy Center . . . . . 736  
The Children's Institute . . . . . 736  
Easton Hospital . . . . . 737  
Evangelical Community Hospital . . . . . 737  
Mahoning Valley Ambulatory Surgery Center . . . . . 738  
Penn State Hershey Rehabilitation Hospital . . . . . 738  
SAM Surgery Center, LLC . . . . . 738  
Southwest Regional Medical Center . . . . . 738  
Surgery Center at Limerick . . . . . 739  
Waynesboro Hospital . . . . . 739  
Westfield Surgery Center . . . . . 739  
Exception to 28 Pa. Code § 127.32 . . . . . 737  
Organ Donation Advisory Committee meeting . . . . . 740  
Required ground and air ambulance equipment and supplies . . . . . 740

### DEPARTMENT OF PUBLIC WELFARE

#### Notices

Changes to an additional class of disproportionate share payments . . . . . 746  
Nursing Facility Assessment Program . . . . . 746

### DEPARTMENT OF REVENUE

#### Notices

Annual inflation adjustment; Pennsylvania gaming cash flow management . . . . . 748

### DEPARTMENT OF TRANSPORTATION

#### Notices

Meetings scheduled for 2009 . . . . . 748

### ENVIRONMENTAL HEARING BOARD

#### Notices

Allegheny Energy Supply Company, LLC v. DEP; EHB doc. no. 2009-006-R; 12/30/08 issued NPDES permit; amendment no. PA0002941-A1 . . . . . 748

### ENVIRONMENTAL QUALITY BOARD

#### Notices

Meeting cancellation . . . . . 749

### GOVERNOR'S OFFICE

#### Notices

Regulatory agenda . . . . . 749

---

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**INDEPENDENT REGULATORY REVIEW ACT**

**Notices**

Notice of comments issued ..... 797

**INSURANCE DEPARTMENT**

**Notices**

Review procedure hearings; cancellation or refusal of insurance ..... 799

Review procedure hearings under the unfair insurance practices act (2 documents) ..... 799, 800

RiverSource Life Insurance Company; rate increase filing for LTC forms 30225-PA, 30225-PA1 and 30225A-PA1; rate filing ..... 800

RiverSource Life Insurance Company; rate increase filing for LTC forms 30240-PA; rate filing ..... 801

**LIQUOR CONTROL BOARD**

**Rules and Regulations**

Marketing by vendors and agents; special orders; luxury item orders; samples and unlawful acts ..... 682

**PENNSYLVANIA GAMING CONTROL BOARD**

**Statements of Policy**

Slot machine tower lights ..... 685

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Notices**

Electric transmission ..... 801

Implementation order ..... 802

Service of notice of motor carrier applications ..... 813

Telecommunications (4 documents) ..... 815, 816

Water service ..... 816

**STATE EMPLOYEES' RETIREMENT BOARD**

**Notices**

Second amended and restated Right-to-Know Law policy ..... 816

**STATE REAL ESTATE COMMISSION**

**Notices**

Bureau of Professional and Occupational Affairs v. Melquisidec Caraballo; doc. no. 2191-56-2008 ..... 820

# 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 2009.

<b>4 Pa. Code (Administration)</b>		<b>Proposed Rules</b>	
<b>Adopted Rules</b>		403a .....	418
6 .....	406	435a .....	418
		441a .....	418
<b>Statements of Policy</b>		461a .....	418, 423
9 .....	427	463a .....	423
		465a .....	418
<b>7 Pa. Code (Agriculture)</b>		<b>Statements of Policy</b>	
<b>Adopted Rules</b>		461b .....	685
143 .....	308		
<b>Statements of Policy</b>		<b>207 Pa. Code (Judicial Conduct)</b>	
28 .....	310	<b>Adopted Rules</b>	
		51 .....	675
<b>22 Pa. Code (Education)</b>		<b>210 Pa. Code (Appellate Procedure)</b>	
<b>Adopted Rules</b>		<b>Adopted Rules</b>	
14 .....	17	1 .....	508
		9 .....	508
<b>25 Pa. Code (Environmental Protection)</b>		11 .....	508
<b>Adopted Rules</b>		19 .....	508
260a .....	201	21 .....	508
261a .....	201	25 .....	508
262a .....	201	37 .....	508
263a .....	201		
264a .....	201	<b>225 Pa. Code (Rules of Evidence)</b>	
265a .....	201	<b>Adopted Rules</b>	
266a .....	201	ART. I .....	410
266b .....	201		
267a .....	201	<b>231 Pa. Code (Rules of Civil Procedure)</b>	
269a .....	201	<b>Adopted Rules</b>	
270a .....	201	200 .....	304
806 .....	19	1000 .....	676
		2950 .....	304
<b>40 Pa. Code (Liquor)</b>		<b>234 Pa. Code (Rules of Criminal Procedure)</b>	
<b>Adopted Rules</b>		<b>Adopted Rules</b>	
13 .....	682	4 .....	8
		<b>237 Pa. Code (Juvenile Rules)</b>	
<b>49 Pa. Code (Professional and Vocational Standards)</b>		<b>Adopted Rules</b>	
<b>Adopted Rules</b>		2 .....	676
7 .....	219	3 .....	676
13 (correction) .....	414, 523		
47 .....	417	<b>Proposed Rules</b>	
		16 .....	9
<b>55 Pa. Code (Public Welfare)</b>		<b>249 Pa. Code (Philadelphia Rules)</b>	
<b>Statements of Policy</b>		Unclassified .....	189, 192
2600 .....	26		
<b>58 Pa. Code (Recreation)</b>		<b>255 Pa. Code (Local Court Rules)</b>	
<b>Adopted Rules</b>		Unclassified ...	10, 16, 306, 306, 513, 514, 517, 520, 679, 680
29 .....	523		
401a .....	235		
443a .....	21		



# THE GENERAL ASSEMBLY

## HOUSE OF REPRESENTATIVES

### Committee Designation Under the Regulatory Review Act—House of Representatives

Under the provisions of Act 181 of 1982, as amended and reenacted, known as the Regulatory Review Act, as Speaker of the Pennsylvania House of Representatives, I hereby designate the following House standing committees for the purpose of regulatory review as authorized in the act.

The designated standing committee for any departmental board, commission, committee and other agency not listed herein shall be the standing committee listed for that department unless otherwise specified herein. The Committee on State Government shall be the designated standing committee for the purpose of regulatory review for any other agency not specifically listed.

KEITH R. MCCALL,  
*The Speaker*

#### *Aging and Older Adult Services Committee*

Department of Aging  
Department of Health—(Only those regulations promulgated by the Department relating exclusively to services rendered in long-term care nursing facilities.)  
Department of Public Welfare—(Only those regulations promulgated by the Department relating to services rendered in personal care homes and assisted living residences.)

#### *Agriculture and Rural Affairs Committee*

Agriculture Land Preservation Board  
Bureau of Farm Show  
Department of Agriculture  
Milk Marketing Board  
State Conservation Commission

#### *Appropriations Committee*

Auditor General  
Budget  
Pennsylvania Infrastructure Investment Authority  
State Treasurer

#### *Children and Youth Committee*

Department of Public Welfare—(Only those regulations promulgated by the Office of Children, Youth and Families, and any other regulations issued by the Department of Public Welfare relating to child care.)

#### *Commerce Committee*

Department of Banking  
Department of Community and Economic Development—(Except for regulations promulgated by the Department relating exclusively to community affairs.)  
Pennsylvania Housing Financing Agency  
Pennsylvania Industrial Development Authority  
Securities Commission

#### *Consumer Affairs Committee*

Attorney General—(Only those regulations promulgated by the Bureau of Consumer Protection in the Office of Attorney General.)  
Public Utility Commission

#### *Education Committee*

Board of Governors of State System of Higher Education  
Department of Education  
Higher Education Facilities Authority  
PHEAA  
Public School Employees' Retirement System  
Professional Standards and Practices Commission  
State Board of Education  
State Board of Private Academic Schools  
State Board of Private Licensed Schools  
State Public School Building Authority

#### *Environmental Resources and Energy Committee*

Board of Coal Mine Safety  
Department of Environmental Protection  
Department of Conservation and Natural Resources  
Environmental Hearing Board  
Environmental Quality Board  
State Board for Sewage Treatment Plant and Waterworks Operators

#### *Finance Committee*

Board of Claims  
Board of Finance and Revenue  
Commonwealth Financing Authority  
Department of Revenue—(Except for regulations promulgated by the State Lottery.)  
State Tax Equalization Board

#### *Gaming Oversight Committee*

Gaming Control Board—(Except for regulations promulgated by the Board relating to the sale and service of liquor and malt or brewed beverages by slot machines licensees.)  
Harness Racing Commission  
Horse Race Commission  
State Lottery

#### *Health and Human Services Committee*

Department of Health—(Except for regulations promulgated by the Department relating exclusively to care rendered in long-term care nursing facilities.)  
Department of Public Welfare—(Except for regulations promulgated by the Department relating to services rendered in personal care homes and assisted living residences; and except for regulations promulgated by the Office of Children, Youth and Families, and any other regulations issued by the Department relating to child care.)  
Health Care Cost Containment Council

#### *Insurance Committee*

Department of Insurance  
State Workmen's Insurance Board  
Underground Storage Indemnification Fund

#### *Judiciary Committee*

Attorney General—(Except for regulations promulgated by the Bureau of Consumer Protection)  
Board of Pardons  
Board of Probation and Parole  
Department of Corrections  
Municipal Police Officers Education and Training Commission  
Office of General Counsel  
Pennsylvania Commission on Crime and Delinquency

Pennsylvania Commission on Sentencing  
State Police  
State Ethics Commission

*Labor Relations Committee*

Civil Service Commission  
Department of Labor and Industry  
Industrial Board  
Labor Relations Board  
Office for the Deaf and Hearing Impaired  
Unemployment Compensation Appeals Board of Review  
Workmen's Compensation Appeal Board

*Liquor Control Committee*

Gaming Control Board—(Only those regulations promulgated by the Board relating to the sale and service of liquor and malt or brewed beverages by slot machines licensees.)

Liquor Control Board

*Local Government Committee*

Pennsylvania Municipal Retirement System

*Professional Licensure Committee*

Accountancy Board  
Architect Licensure Board  
Auctioneer Examiners Board  
Barbers Examiners Board  
Certified Real Estate Appraisers Board  
Chiropractic Examiners Board  
Cosmetology Board  
Dentistry Board  
Funeral Directors Board  
Landscape Architects Board  
Massage Therapy Board  
Medicine Board  
Navigation Commission for the Delaware River  
Nurse Board  
Nursing Home Administrators Board  
Occupational Therapy Education and Licensure Board  
Optometrical Examiners Board  
Osteopathic Medicine Board  
Pharmacy Board  
Physical Therapy Board  
Podiatry Board  
Professional Engineers Board  
Psychology Board  
Real Estate Commission  
State Board of Social Workers, Marriage and Family Therapists and Professional Counselors  
State Board of Crane Operators  
Speech-Language and Hearing Examiners Board  
Vehicle Board  
Veterinary Medical Examiners Board

*State Government Committee*

Department of General Services  
Department of State  
Governor's Office  
Human Relations Commission  
Independent Regulatory Review Commission  
Joint Committee on Documents  
Office of Open Records  
PPTN  
Public Employee Retirement Commission  
State Athletic Commission  
State Employees' Retirement System

*Tourism and Recreational Development Committee*

Historical and Museum Commission

*Transportation Committee*

Department of Transportation  
State Transportation Commission  
Turnpike Commission

*Urban Affairs Committee*

Department of Community and Economic Development—  
(Only those regulations promulgated by the Department relating exclusively to community affairs.)

*Veterans Affairs and Emergency Preparedness Committee*

Department of Military and Veterans Affairs  
Pennsylvania Emergency Management Agency

[Pa.B. Doc. No. 09-186. Filed for public inspection February 6, 2009, 9:00 a.m.]

## SENATE OF PENNSYLVANIA

### Committee Designation Under the Regulatory Review Act—Senate

Under the provisions of Act 181 of 1982, as amended and reenacted, known as the Regulatory Review Act, as President Pro Tempore of the Senate, I hereby designate the following standing committees for the purpose of regulatory review as authorized in the act.

The designated standing committee for any departmental board, commission, committee, and other agency not listed herein shall be the standing committee listed for that department. The Committee on Rules and Executive Nominations shall be the designated standing committee for the purpose of regulatory review for any other agency not specifically listed.

JOSEPH B. SCARNATI, III,  
*President Pro Tempore*

<i>Agency</i>	<i>Committee</i>
Governor and Office of the Governor	State Government
Attorney General and Office of the Attorney General	Judiciary
Auditor General and Office of the Auditor General	Finance
State Treasurer and Treasury Department	Finance
Adjutant General and Department of Military and Veterans' Affairs	Veterans' Affairs and Emergency Preparedness
Secretary and Department of Aging	Aging and Youth
Secretary and Department of Agriculture	Agriculture and Rural Affairs
Secretary and Department of Banking	Banking and Insurance
Secretary and Department of Community and Economic Development	Community, Economic and Recreational Development

<i>Agency</i>	<i>Committee</i>	<i>Agency</i>	<i>Committee</i>
Secretary of the Commonwealth and Department of State	State Government	Constable Education and Training Board	Judiciary
Secretary and Department of Conservation and Natural Resources	Environmental Resources and Energy	PA Commission on Sentencing	Judiciary
Secretary and Department of Corrections	Judiciary	Coroners' Education Board	Local Government
Secretary and Department of Education	Education	Council on the Arts	State Government
Secretary and Department of Environmental Protection	Environmental Resources and Energy	Deputy Sheriffs' Education and Training Board	Local Government
Secretary and Department of General Services	State Government	Environmental Hearing Board	Environmental Resources and Energy
Secretary and Department of Health	Public Health and Welfare	Environmental Quality Board	Environmental Resources and Energy
Commissioner and Department of Insurance	Banking and Insurance	Harness Racing Commission	Community, Economic and Recreational Development
Secretary and Department of Labor and Industry	Labor and Industry	Higher Education Assistance Agency	Education
Secretary and Department of Public Welfare	Public Health and Welfare	Higher Education Facilities Authority	Education
Secretary and Department of Revenue	Finance	Historical and Museum Commission	State Government
Commissioner and PA State Police	Law and Justice	Horse Racing Commission	Community, Economic and Recreational Development
Secretary and Department of Transportation	Transportation	Human Relations Commission	Labor and Industry
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Secretary and Office of Budget	Appropriations	Joint Committee on Documents	Rules and Executive Nominations
Commissioner and Bureau of Professional and Occupational Affairs	Consumer Protection and Professional Licensure	Labor Relations Board	Labor and Industry
Executive Board	State Government	Liquor Control Board	Law and Justice
Armory Board	Veterans' Affairs and Emergency Preparedness	Lobbying Disclosure Law Regulation Promulgation Committee	State Government
Ben Franklin Technology Development Authority	Community, Economic and Recreational Development	Milk Marketing Board	Agriculture and Rural Affairs
Board of Claims	State Government	Municipal Employees' Retirement Board	Local Government
Board of Coal Mine Safety	Environmental Resources and Energy	Municipal Police Officers Education and Training Commission	Law and Justice
Board of Finance and Revenue	Finance	Office of Open Records	State Government
Board of Governors of State System of Higher Education	Education	PA Commission on Crime and Delinquency	Judiciary
Board of Pardons	Judiciary	PA Economic Development Financing Authority	Community, Economic and Recreational Development
Board of Probation and Parole	Judiciary	PA Emergency Management Agency	Veterans' Affairs and Emergency Preparedness
Civil Service Commission	State Government	PA Energy Development Authority	Environmental Resources and Energy
Commonwealth Financing Authority	Community, Economic and Recreational Development	PA Gaming Control Board	Community, Economic and Recreational Development

<i>Agency</i>	<i>Committee</i>	<i>Agency</i>	<i>Committee</i>
PA Housing Finance Agency	Urban Affairs and Housing	Workers' Compensation Appeals Board	Labor and Industry
PA Industrial Development Authority	Community, Economic and Recreational Development	State Workers' Insurance Board	Labor and Industry
PA Infrastructure Investment Authority	Environmental Resources and Energy	State Board of Accountancy	Consumer Protection and Professional Licensure
PA Minority Business Development Authority	Community, Economic and Recreational Development	Architects Licensure Board	Consumer Protection and Professional Licensure
PA Public Television Network Commission	Communications and Technology	State Board of Auctioneer Examiners	Consumer Protection and Professional Licensure
Public Employee Retirement Commission	Finance	Barber Examiners Board	Consumer Protection and Professional Licensure
Public School Employees' Retirement Board	Finance	State Board of Chiropractic	Consumer Protection and Professional Licensure
Professional Standards and Practices Commission	Education	State Board of Cosmetology	Consumer Protection and Professional Licensure
Public Utility Commission	Consumer Protection and Professional Licensure	State Board of Crane Operators	Consumer Protection and Professional Licensure
Securities Commission	Banking and Insurance	State Board of Dentistry	Consumer Protection and Professional Licensure
State Athletic Commission	State Government	Funeral Directors Board	Consumer Protection and Professional Licensure
State Board of Education	Education	Landscape Architects Board	Consumer Protection and Professional Licensure
State Employees' Retirement Board	Finance	State Board of Massage Therapy	Consumer Protection and Professional Licensure
State Board for Certification of Sewage Enforcement Officers	Environmental Resources and Energy	State Board of Medicine	Consumer Protection and Professional Licensure
State Board for Certification of Water and Wastewater Systems Operators	Environmental Resources and Energy	State Board of Certified Real Estate Appraisers	Consumer Protection and Professional Licensure
State Board of Private Academic Schools	Education	State Board of Vehicle Manufacturers, Dealers and Salespersons	Consumer Protection and Professional Licensure
State Board of Private Licensed Schools	Education	Navigation Commission for the Delaware River and its Navigable Tributaries	Consumer Protection and Professional Licensure
State Conservation Commission	Agriculture and Rural Affairs	State Board of Nursing	Consumer Protection and Professional Licensure
State Ethics Commission	Rules and Executive Nominations	State Board of Examiners of Nursing Home Administrators	Consumer Protection and Professional Licensure
State Health Care Policy Board	Public Health and Welfare	Occupational Therapy Education and Licensure Board	Consumer Protection and Professional Licensure
State Public School Building Authority	Education	State Board of Optometry	Consumer Protection and Professional Licensure
State Tax Equalization Board	Finance	State Board of Osteopathic Medical Examiners	Consumer Protection and Professional Licensure
State Transportation Commission	Transportation	State Board of Pharmacy	Consumer Protection and Professional Licensure
Turnpike Commission	Transportation	State Board of Physical Therapy	Consumer Protection and Professional Licensure
Underground Storage Tank Indemnification Board	Banking and Insurance	State Board of Podiatry	Consumer Protection and Professional Licensure
Unemployment Compensation Board of Review	Labor and Industry	State Board of Psychology	Consumer Protection and Professional Licensure
Veterans' Commission	Veterans' Affairs and Emergency Preparedness		

*Agency*

State Registration Board for  
Professional Engineers, Land  
Surveyors and Geologists

Real Estate Commission

State Board of Examiners in  
Speech-Language and  
Hearing

*Committee*

Consumer Protection and  
Professional Licensure

Consumer Protection and  
Professional Licensure

Consumer Protection and  
Professional Licensure

*Agency*

PA State Board of Veterinary  
Medicine

State Board of Social Workers,  
Marriage and Family  
Therapists and Professional  
Counselors

*Committee*

Consumer Protection and  
Professional Licensure

Consumer Protection and  
Professional Licensure

[Pa.B. Doc. No. 09-187. Filed for public inspection February 6, 2009, 9:00 a.m.]

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# THE COURTS

## Title 207—JUDICIAL CONDUCT

### PART II. CONDUCT STANDARDS

[ 207 PA. CODE CH. 51 ]

#### Order Amending Rules 19 and 21 of the Rules Governing Standards of Conduct of Magisterial District Judges; No. 254; Magisterial Doc. No. 1

#### Order

*Per Curiam:*

*And Now*, this 21st day of January, 2009, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, Rules 19 and 21 of the Rules Governing Standards of Conduct of Magisterial District Judges are amended to read as follows.

To the extent that notice of proposed rulemaking would be required by Rule 103 of the Pennsylvania Rules of Judicial Administration or otherwise, the immediate amendment of Rules 19 and 21 is hereby found to be required in the interests of justice and efficient administration.

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

#### Annex A

#### TITLE 207. JUCIDIAL CONDUCT

#### PART II. CONDUCT STANDARDS

#### CHAPTER 51. STANDARDS OF CONDUCT OF MAGISTERIAL DISTRICT JUDGES

#### PENNSYLVANIA RULES FOR MAGISTERIAL DISTRICT JUDGES

#### Rule 19. Certification requirements of interested persons.

(a) Magisterial district judges, [ **bail commissioners** ] **arraignment court magistrates**, and judges of the Philadelphia Traffic Court who are not members of the bar of this Commonwealth must complete a course of training and instruction in the duties of their respective offices and pass an examination and be certified by the Administrative Office of Pennsylvania Courts prior to assuming office.

(b)(1) Any interested individual may apply to the [ **Administrative Office of Pennsylvania Courts** ] **Minor Judiciary Education Board** to be enrolled in the course of training and instruction and take the examination to be certified.

(2) Any individual who has successfully completed the course of training and instruction and passed the examination, but who has not served as a magisterial district judge, [ **bail commissioner** ] **arraignment court magistrate**, or judge of the Philadelphia Traffic Court shall be certified for only a two year period, and must complete the continuing education course every year in order to maintain his or her certification.

(c) Any individual certified under paragraph (b) who has not served as a magisterial district judge, [ **bail commissioner** ] **arraignment court magistrate**, or

judge of the Philadelphia Traffic Court within two years will be required to take a review course as defined by the Minor Judiciary Education Board and pass an examination in order to maintain certification by the Administrative Office of Pennsylvania Courts as qualified to perform duties as required by the Constitution of Pennsylvania.

**Official Note:** This rule was amended in 2006 to limit to two years the period of certification for individuals who have successfully completed the certification course and examination but have not served as judges or [ **bail commissioners** ] **arraignment court magistrates**. The rule permits individuals who are certified to serve as judges or [ **bail commissioners** ] **arraignment court magistrates** but who have not done so within two years of certification to take a review course and pass an examination to maintain their certification for an additional two year period. Admission to the review course and recertification examination under paragraph (c) may be limited by the availability of space. In addition, the rule requires that all certified individuals must attend the annual continuing education course to maintain certification.

Added and effective November 14, 1990. Amended January 6, 2005, effective January 29, 2005; November 21, 2005, immediately effective; March 8, 2006, effective July 1, 2006; January 21, 2009, immediately effective.

#### Rule 21. Continuing Education Requirement: Senior Magisterial District Judges.

(a) Any magisterial district judge who has been certified by the Administrative Office of Pennsylvania Courts as eligible to serve as a senior magisterial district judge shall be admitted to the continuing education program sponsored by the Minor Judiciary Education Board every year as required by Rule 20.

(b) In the event that the Court Administrator of Pennsylvania notifies the Minor Judiciary Education Board that a senior magisterial district judge has not accepted an assignment for a continuous period of two years, the Minor Judiciary Education Board may refuse to enroll the senior magisterial district judge in the continuing education program.

**Official Note:** With regard to certification of senior judges, see Pa.R.J.A. No. 701.

This rule was amended in 2006 to delete the provision relating to the continuing education of persons who have successfully completed the course of training and instruction and examination but have not served as judges or [ **bail commissioners** ] **arraignment court magistrates**. The continuing education requirement of those persons is governed by Rule 19.

Added and effective November 14, 1990. Amended April 12, 1995, immediately effective; January 6, 2005, effective January 29, 2005; November 21, 2005, immediately effective; March 8, 2006, effective July 1, 2006; January 21, 2009, immediately effective.

[Pa.B. Doc. No. 09-188. Filed for public inspection February 6, 2009, 9:00 a.m.]

# Title 231—RULES OF CIVIL PROCEDURE

## PART I. GENERAL

[ 231 PA. CODE CH. 1000 ]

### Promulgation of Rule 1036.1; Governing Reinstatement of Claim Dismissed Upon Affidavit of Noninvolvement; No. 507; Civil Procedural Rules; Doc. No. 5

#### Order

*Per Curiam:*

And Now, this 22nd day of January, 2009, Pennsylvania Rule of Civil Procedure 1036.1 is promulgated to read as follows.

This Order shall be processed in accordance with Pa.R.J.A. No. 103(b) and shall be effective March 1, 2009.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

##### CHAPTER 1000. ACTIONS

#### Rule 1036.1. Reinstatement of Claim Dismissed Upon Affidavit of Noninvolvement.

(a) As used in this rule, "action" shall have the meaning as provided in Rule 1036(a).

(b) If a party has been dismissed from an action upon an affidavit of noninvolvement pursuant to Rule 1036, any other party may file a motion to reinstate the dismissed party setting forth facts showing that statements made in the affidavit of noninvolvement were false or inaccurate.

(c) Any party may file a response.

(d) Upon reviewing the motion and any response thereto and determining the existence of a *prima facie* case of involvement of the dismissed party, the court shall enter an order

(1) allowing any party

(i) to conduct limited discovery directed solely to the issue of the involvement of the party which was dismissed.

(ii) prior to the disposition of the motion, to file affidavits, depositions and such other evidentiary materials as would permit a jury to find that any party which was dismissed was involved in any activities upon which the claim is based, and

(2) scheduling an argument to decide the motion.

(e) The argument shall be limited to the sole issue of whether the moving party has produced evidence which, when considered in a light most favorable to that party, would require the issue of the involvement of any party which was dismissed to be submitted to a jury.

#### Explanatory Comment

Reinstatement of a claim dismissed upon an affidavit of noninvolvement is required by two statutes: Section 7502 of the Judicial Code, 42 Pa.C.S. § 7502, relating to construction design professionals and Section 506 of the MCARE Act, 40 P.S. § 1303.506, relating to healthcare providers. Currently, the rules of civil procedure are silent as to reinstatement. New Rule 1036.1 supplies this need.

This new rule is virtually identical to Rule 1036 governing dismissal upon an affidavit of noninvolvement. It sets forth a procedure that requires the party seeking reinstatement to file a motion setting forth facts which show that statements made in the affidavit of noninvolvement were false or inaccurate. Upon initially reviewing the motion, if the court determines that the party seeking reinstatement has established a *prima facie* case, any party may conduct discovery limited to the issue of the involvement of the dismissed party. At final argument on the matter, the court makes a determination as to whether the party seeking reinstatement has produced enough evidence to require submission of the issue of the involvement of the dismissed party to a jury.

*By the Civil Procedural  
Rules Committee*

STEWART L. KURTZ,  
*Chair*

[Pa.B. Doc. No. 09-189. Filed for public inspection February 6, 2009, 9:00 a.m.]

# Title 237—JUVENILE RULES

## PART I. RULES

[ 237 PA. CODE CHS. 2 AND 3 ]

### Order Amending Rules 200, 232 and 330 of the Rules of Juvenile Court Procedure; No. 459; Supreme Court Rules; Doc. No. 1

#### Order

*Per Curiam:*

Now, this 23rd day of January, 2009, upon the recommendation of the Juvenile Court Procedural Rules Committee and an *Explanatory Report* to be published with this *Order*:

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the modifications to the Rules of Juvenile Court Procedure Rules 200, 232 and 330 are approved in the attached form.

To the extent that prior distribution and publication of these rules would otherwise be required, it has been determined that immediate promulgation is required in the interest of justice and efficient administration. Pa.R.J.A. No. 103(a)(3).

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective March 1, 2009.

#### Annex A

### TITLE 237. JUVENILE RULES

#### PART I. RULES

##### CHAPTER 2. COMMENCEMENT OF PROCEEDINGS, ARREST PROCEDURES, WRITTEN ALLEGATION, AND PRE-ADJUDICATORY DETENTION

##### PART A. COMMENCING PROCEEDINGS

#### Rule 200. Commencing Proceedings.

Juvenile delinquency proceedings within a judicial district shall be commenced by:

1) submitting a written allegation pursuant to Rule 231;

2) an arrest without a warrant:

a) when the offense is a felony or misdemeanor committed in the presence of the police officer making the arrest; or

b) upon probable cause when the offense is a felony; or

c) upon probable cause when the offense is a misdemeanor not committed in the presence of the police officer making the arrest, when such arrest without a warrant is specifically authorized by statute;

3) **the filing of a certification [ to ] with the court that a juvenile has failed to comply with a lawful sentence imposed for a summary offense;**

4) transfer of a case from a criminal proceeding pursuant to 42 Pa.C.S. § 6322;

5) the court accepting jurisdiction of a resident juvenile from another state; or **[ 6 ]**

6) the court accepting supervision of a juvenile pursuant to another state's order.

#### Comment

Paragraph (1) allows for commencing delinquency proceedings by submitting a written allegation. This procedure departs from the Juvenile Act, which provides that the filing of a petition commences a proceeding. Rule 800 suspends 42 Pa.C.S. § 6321 only to the extent that it is inconsistent with the procedures of this rule. Petitions filed by any person circumvent the juvenile probation's office ability to divert the case through informal adjustment as provided in 42 Pa.C.S. § 6323. Probation officers may "receive and examine complaints and charges of delinquency . . . of a child for the purpose of considering the commencement of proceedings." 42 Pa.C.S. § 6304(a)(2).

See Rule 231 for procedures on submitting a written allegation.

For the definition of a "written allegation," see Rule 120.

The Juvenile Act provides that "a child may be taken into custody . . . pursuant to the laws of arrest." 42 Pa.C.S. § 6324. Paragraph (2) states the laws of arrest without a warrant in Pennsylvania. See Pa.R.Crim.P. 502.

**A proceeding may be commenced pursuant to paragraph (3) by filing a certification that attests that the juvenile has failed to comply with a lawful sentence imposed for a summary offense, bypassing the need for a written allegation pursuant to Rule 231.**

Under paragraph (4), when a case is transferred from a criminal proceeding pursuant to 42 Pa.C.S. § 6322 to juvenile court, the entire case file is to be transferred. The case file is governed by the disclosure requirements of Rule 160.

Paragraph (5) encompasses a juvenile who lives in Pennsylvania and commits a crime in another state and that state wants Pennsylvania to accept the disposition of the juvenile and supervise the juvenile.

Paragraph (6) encompasses a juvenile who lives outside of Pennsylvania, committed a crime outside of Pennsylvania, is moving to Pennsylvania, and the other jurisdiction would like Pennsylvania to accept the disposition of the juvenile and supervise the juvenile.

For procedures for when the juvenile is alleged to have violated probation, see Rule 612.

For inter-county transfer of juveniles, see Rule 302.

See § 6321(a) of the Juvenile Act for commencement of proceedings under the Juvenile Act. 42 Pa.C.S. § 6321(a).

**Official Note:** Rule 200 adopted April 1, 2005, effective October 1, 2005. Amended March 23, 2007, effective August 1, 2007. Amended May 12, 2008, effective immediately. **Amended January 23, 2009, effective March 1, 2009.**

#### Committee Explanatory Reports:

Final Report explaining the provisions of Rule 200 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 200 published with the Court's Order at 37 Pa.B. 1485 (April 7, 2007).

Final Report explaining the amendments to Rule 200 published with the Court's Order at 38 Pa.B. 2360 (May 24, 2008).

**Final Report explaining the amendments to Rule 200 published with the Court's Order at 39 Pa.B. 676 (February 7, 2009).**

#### PART C. WRITTEN ALLEGATION PROCEDURES

##### Rule 232. Contents of Written Allegation.

Every written allegation shall contain:

- 1) the name of the person making the allegations;
- 2) the name, date of birth, and address, if known, of the juvenile, or if unknown, a description of the juvenile;
- 3) a statement that:
  - a) it is in the best interest of the juvenile and the public that the proceedings be brought; and
  - b) the juvenile is in need of treatment, supervision, or rehabilitation;
- 4) the date when the offense is alleged to have been committed; provided, however:
  - a) if the specific date is unknown, or if the offense is a continuing one, it shall be sufficient to state that it was committed on or about any date within the period of limitations; and
  - b) if the date or day of the week is an essential element of the offense alleged, such date or day shall be specifically set forth;
- 5) the place where the offense is alleged to have been committed;
- 6) a) **[ i ]** a summary of the facts sufficient to advise the juvenile of the nature of the offense alleged; and
  - b) **[ ii ]** the official or customary citation of the statute and section, or other provision of law which the juvenile is alleged to have violated, but an error in such citation shall not affect the validity or sufficiency of the written allegation; **[ or**
  - b) a certification that the juvenile has not complied with the sentence imposed for a conviction of a summary offense; ]**
- 7) the name and age of any conspirators, if known;
- 8) a statement that the acts were against the peace and dignity of the Commonwealth of Pennsylvania or in violation of an ordinance of a political subdivision;
- 9) a notation if criminal laboratory services are requested in the case;



10) a verification by the person making the allegation that the facts set forth in the written allegation are true and correct to the person's personal knowledge, information, or belief, and that any false statement made is subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities; **[ and ]**

11) the signature of the person making the allegation and the date of execution of the written allegation; **and**

**12) the name and address of the juvenile's guardian, or if unknown, the name and address of the nearest adult relative.**

#### Comment

This rule sets forth the required contents of all written allegations whether the person making the allegation is a law enforcement officer, a police officer, or a private citizen. See <http://www.courts.state.pa.us> for a copy of the written allegation form that is to be submitted.

**Official Note:** Rule 232 adopted April 1, 2005, effective October 1, 2005. Amended December 3, 2007, effective immediately. **Amended January 23, 2009, effective March 1, 2009.**

#### *Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 232 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 232 published with the Court's Order at 37 Pa.B. 6743 (December 22, 2007).

**Final Report explaining the amendments to Rule 232 published with the Court's Order at 39 Pa.B. 676 (February 7, 2009).**

### CHAPTER 3. PRE-ADJUDICATORY PROCEDURES PART C. PETITION

#### **Rule 330. Petition: Filing, Contents, Function.**

A. *Certification.* The District Attorney of any county may require that an attorney for the Commonwealth shall file all petitions. If the District Attorney elects to require an attorney for the Commonwealth to file the petition, the District Attorney shall file a certification with the court of common pleas. The certification shall:

1) state that an attorney for the Commonwealth shall file petitions; and

2) specify any limitations on the filing or classes of petitions.

B. *Filings.* In every delinquency proceeding, the attorney for the Commonwealth or the juvenile probation officer shall file a petition with the clerk of courts if it has been determined that informal adjustment or another diversionary program is inappropriate.

C. *Petition contents.* Every petition shall set forth plainly:

- 1) the name of the petitioner;
- 2) the name, date of birth, and address, if known, of the juvenile, or if unknown, a description of the juvenile;
- 3) a statement that:
  - a) it is in the best interest of the juvenile and the public that the proceedings be brought; and
  - b) the juvenile is in need of treatment, supervision, or rehabilitation;

4) the date when the offense is alleged to have been committed; provided, however:

a) if the specific date is unknown, or if the offense is a continuing one, it shall be sufficient to state that it was committed on or about any date within the period of limitations; and

b) if the date or day of the week is an essential element of the offense alleged, such date or day shall be specifically set forth;

5) the place where the offense is alleged to have been committed;

6) a) i) a summary of the facts sufficient to advise the juvenile of the nature of the offense alleged; and

ii) the official or customary citation of the statute and section, or other provision of law which the juvenile is alleged to have violated, but an error in such citation shall not affect the validity or sufficiency of the written allegation; or

b) a certification that the juvenile has not complied with the sentence imposed for a conviction of a summary offense.

7) the name and age of any conspirators, if known;

8) a statement that the acts were against the peace and dignity of the Commonwealth of Pennsylvania or in violation of an ordinance of a political subdivision;

9) a notation if criminal laboratory services are requested in the case;

10) a verification by the petitioner that the facts set forth in the petition are true and correct to the petitioner's personal knowledge, information, or belief, and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities;

11) the signature of the petitioner and the date of the execution of the petition;

12) the whereabouts of the juvenile and if taken into custody, the date and time thereof;

13) the name and address of the juvenile's guardian, or if unknown, the name and address of the nearest adult relative; and

14) an averment as to whether the case is eligible pursuant to 42 Pa.C.S. § 6307(b)(1)(ii) for limited public information.

#### Comment

Under paragraph (A), the District Attorney may file a certification with the court of common pleas stating that only an attorney for the Commonwealth may file a petition. If a certification has not been filed, then an attorney for the Commonwealth or a juvenile probation officer may file a petition.

A private citizen has the right to file a written allegation, not a petition. See Rule 800. The written allegation commences the proceedings in the juvenile system. See Rule 200. The case should progress in the same manner as any other case in the juvenile system. If the written allegation is disapproved, the private citizen may file a motion challenging the disapproval with the court of common pleas. See Comment to Rule 233.

Informal adjustment or other diversionary programs should be considered before a petition is filed. Once a

petition is filed, informal adjustment is not permitted. *See Commonwealth v. J.H.B.*, 760 A.2d 27 (Pa. Super. Ct. 2000).

Petitions should be filed without unreasonable delay. *See Commonwealth v. Dallenbach*, 729 A.2d 1218 (Pa. Super. Ct. 1999).

The contents of a petition are the same as a written allegation except for the additional requirements in paragraphs (C)(6)(b), (12), [(13), ] and (14).

Pursuant to paragraph (14), the petitioner is to designate whether the allegations in the juvenile's petition make the case eligible for limited public information. See 42 Pa.C.S. § 6307(b)(2). When the case is designated, the clerk of courts is to mark the file clearly. For information that is available to the public in those eligible cases, see Rule 160.

**Official Note:** Rule 330 adopted April 1, 2005, effective October 1, 2005; amended August 20, 2007, effective December 1, 2007. **Amended January 23, 2009, effective March 1, 2009.**

*Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 330 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 330 published with the Court's Order at 37 Pa.B. 4866 (September 8, 2007).

**Final Report explaining the amendments to Rule 330 published with the Court's Order at 39 Pa.B. 676 (February 7, 2009).**

*Introduction*

The Supreme Court of Pennsylvania has adopted the proposed changes to Rules 200, 232, and 330. The changes are effective March 1, 2009.

### EXPLANATORY REPORT JANUARY 2009

#### Rule 200—Commencing Proceedings

A filing of a written allegation commences a proceeding in juvenile court. The written allegation is unnecessary if a proceeding is commenced in another manner as set forth in Rule 200. See paragraphs (2)—(6).

A Comment to this Rule has been added to explain that a written allegation is unnecessary for cases in which a proceeding has been commenced pursuant to paragraph (3) by the filing of a certification that the juvenile has not complied with a lawful sentence imposed for a summary offense.

#### Rule 232—Contents of Written Allegation

Paragraph (6)(B) of this Rule has been deleted because a certification that the juvenile has not complied with the sentence imposed for a conviction of a summary offense is no longer necessary in the written allegation. In April of 2007, Rule 200 was amended to include this certification as a method to commence a proceeding but this Rule was not amended to reflect this change.

A new paragraph (12) has been added to this Rule. The written allegation shall include the guardian's name and address, or if unknown, the name and address of the nearest adult relative. This paragraph was added because this information is essential for the juvenile probation officer to locate the juvenile's guardian.

#### Rule 330—Petition: Filing, Contents, Function

The Comment to this Rule was amended to reflect the changes in Rule 232.

[Pa.B. Doc. No. 09-190. Filed for public inspection February 6, 2009, 9:00 a.m.]

## Title 25—LOCAL COURT RULES

### NORTHUMBERLAND COUNTY

#### Revision of Rules to Conduct Custody Proceedings in Accord with Pa.R.C.P. No. 1915.4-1 and 1915.4-2; Misc. No. 09-51

#### Order

And Now, this 20th day of January, 2009, the Court approves and adopts the attached Northumberland County Local Rules NCV-1915.4, NCV-1915.4-1 and NCV-1915.4-2, effective thirty days after the date of publication in the *Pennsylvania Bulletin*, and the following local rules governing custody are hereby rescinded: NCV-1915.1, NCV-1915.3 and NCV-1920.32.

The Court Administrator is directed to publish this Order and attached Locals Rules once in the *Northumberland County Legal Journal*. In accordance with Pa.R.C.P. No. 239, copies of the said local rules shall be filed or distributed as follows:

1. Seven certified copies to the Administrative Office of the Pennsylvania Courts;
2. Two certified copies and a computer diskette to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
3. One certified copy to the Domestic Relations Procedural Rules Committee; and
4. Two copies to the Prothonotary to be continually available for public inspection and, upon request, the Prothonotary shall furnish a copy of any local rule to any person after payment of reasonable costs of reproduction and mailing.

*By the Court:*

ROBERT B. SACAVAGE,  
*President Judge*

#### Rule NCV-1915.4. Custody Pre-Hearing Conference

(a) Upon the filing of any claim i.e. a pleading, or modification petition, for custody, partial custody or visitation, a proposal shall be attached referring the matter to the Domestic Relations Hearing Officer for a pre-hearing conference. The moving party shall file the original and a copy of the document with the Prothonotary who shall then forward the copy to the Custody office for scheduling purposes.

(b) A pre-hearing conference shall be scheduled no sooner than ten days after the pleading commencing the action has been filed.

(c) The pre-hearing conference shall be held to identify the issues of fact and law and to explore the possibilities of a negotiated consent order.

(d) The conference may proceed even if the respondent fails to appear.

(e) If an agreement is reached at the conference, the court will enter a consent order in the following form:

*And Now*, this \_\_\_ day of \_\_\_\_\_, 200\_\_\_, the attached stipulation of the parties is incorporated by reference and made an Order of this Court with full force and effect for enforcement.

*By the Court:*

\_\_\_\_\_  
J.

(f) If an agreement is not reached, the parties should be promptly provided a date and time for a hearing before the Domestic Relations Hearing Officer, or upon motion of a party in actions where (1) there are complex questions of law, fact or both or (2) the parties certify to this Court that there are serious allegations affecting the child's welfare, before a judge.

**Rule 1915.4-1. Notice of Hearing—Conduct of Hearing**

(a) The hearing before the Domestic Relations Hearing Officer shall be scheduled no sooner than fifteen (15) days after the order setting the time and date for hearing, but in no event shall be more than forty-five (45) days from the date of the conference. An interim order may be entered following the conference, usually to maintain the status quo, based upon a recommendation of the Domestic Relations Hearing Officer, until a full hearing can be held.

(b) Hearings shall be stenographically recorded, and witnesses may be sequestered. The hearing officer may recommend to the court that the parties and/or the child or children submit to examination and evaluation by experts. A stenographer appearance fee of \$50.00 will be assessed as costs against each party.

(c) The hearing officer shall file with the court and serve the parties a report and recommendation no later than ten (10) days after the conclusion of the hearing. The report may be in narrative form stating the reasons for the recommendation and shall include a proposed order.

**Rule 1915.4-2. Exceptions to Hearing Officer's Report—Order**

(a) Within twenty (20) days after the date the Domestic Relations Hearing Officer's report has been mailed to the parties, exceptions may be filed by any party to rulings on objections to evidence, to statements or findings of fact, to conclusions of law, or to any other matters occurring during the hearing. Each exception shall set forth a separate objection precisely and without discussion. Matters not covered by exceptions are deemed waived unless, prior to the entry of the final order, leave is granted to file exceptions raising those matters. If exceptions are filed, any other party may file exceptions within twenty (20) days of the date of service of the original exceptions.

(b) If no exceptions are filed within the twenty day period, a final order will be entered upon praecipe of a party.

(c) If exceptions are filed, the costs of transcription of the testimony shall be the responsibility of the party or parties taking the same, unless otherwise ordered by the court.

(d) Exceptions shall be served upon the Domestic Relations Hearing Officer, the Court Administrator and opposing counsel. A scheduling form shall be delivered to the

Court Administrator, to be scheduled as a civil motions matter to be heard within forty-five days of the date the last party files exceptions.

(e) No exceptions may be filed to the final order.

[Pa.B. Doc. No. 09-191. Filed for public inspection February 6, 2009, 9:00 a.m.]

\_\_\_\_\_  
**PIKE COUNTY**

**Promulgation of Rule 316; No. 113-2009-Civil**

**Order**

*And Now*, this 21st day of January, 2009, the Court *Orders* the following:

1. Local Rule of Criminal Procedure 316 is hereby adopted effective thirty (30) days after publication in the *Pennsylvania Bulletin*;

2. The Court Administrator of the 60th Judicial District is hereby *Ordered* to do the following:

a. File seven (7) certified copies of this *Order* and the pertinent Rules with the Administrative Office of Pennsylvania Courts;

b. File two (2) certified copies and a computer diskette containing this *Order* and the pertinent Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

c. File one (1) certified copy of this *Order* and the pertinent Rule with the Criminal Procedural Committee;

d. Provide one (1) copy of this *Order* and the Local Rule to each member of the Pike County Bar Association who maintain an active practice in Pike County; and

e. Keep continuously available for public inspection, copies of this *Order* and the Local Rules.

*By the Court*

HONORABLE JOSEPH F. KAMEEN,  
*President Judge*

**Local Rule 316—ARD Costs and Expenses**

(a) All Defendants admitted into the ARD program shall be required to pay in addition to other allowed costs, fees and restitution, the cost of administering the ARD program.

(b) The cost of administering the program shall be paid in full as a condition for applying for consideration of admission into the ARD program.

(c) The cost of administering the ARD program shall be as periodically certified by the District Attorney.

(d) The reasonable costs associated with administering the program shall be collected in the same manner as cost of prosecution and shall be payable to the County of Pike.

[Pa.B. Doc. No. 09-192. Filed for public inspection February 6, 2009, 9:00 a.m.]

# DISCIPLINARY BOARD OF THE SUPREME COURT

## Notice of Disbarment

Notice is hereby given that Dennis H. Marchuk having been removed from the roll of attorneys licensed to practice law in the State of Illinois by Order and Mandate of the Supreme Court of Illinois dated November 22, 1993, the Supreme Court of Pennsylvania issued an Order on January 21, 2009, disbaring Dennis H. Marchuk from the Bar of this Commonwealth, effective February 20, 2009. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 09-193. Filed for public inspection February 6, 2009, 9:00 a.m.]

## Notice of Suspension

Notice is hereby given that Samuel Bailey, Jr., having been suspended from the practice of law in the District of Columbia for a period of 9 months by Opinion and Order of the District of Columbia Court of Appeals dated September 15, 2005, the Supreme Court of Pennsylvania issued an Order dated January 21, 2009, suspending Samuel Bailey, Jr., from the practice of law in this Commonwealth for a period of 9 months, effective February 20, 2009. In accordance with Rule 217(f), Pa.R.D.E.,

since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 09-194. Filed for public inspection February 6, 2009, 9:00 a.m.]

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# SUPREME COURT

**In Re: Act 98 of 2008; No. 253; Magisterial Doc.  
No. 1**

## Order

*Per Curiam*

*And Now*, this 21st day of January, 2009, in accordance with Act 98 of 2008 and pursuant to the authority set forth by Article V, Section 10(c) of the Constitution of Pennsylvania and 42 Pa.C.S. § 1701 et seq., it is hereby ordered that all references in any court rule, court order, court form (including citation), automated statewide court case management system (i.e., PACMS, CPCMS and DJS) or any other legal authority, except as provided for in Act 98 of 2008, to "bail commissioner" shall be deemed to be a reference to "arraignment court magistrate."

JOHN A. VASKOV,  
*Deputy Prothonotary*

[Pa.B. Doc. No. 09-195. Filed for public inspection February 6, 2009, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 40—LIQUOR

### LIQUOR CONTROL BOARD

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

#### Marketing by Vendors and Agents; Special Orders; Luxury Item Orders; Samples and Unlawful Acts

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

#### *Purpose*

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

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

There is an ever-growing demand for fine wines and spirits which happen to be in limited quantity. Although wine historically has been the product category most characterized by rarity and high prices, there is also a growing market niche for super-premium spirits. Looking forward, the Board has reason to believe that the trend toward rarity and specialty products will continue, both for wine and spirits products. Section 301 of the Liquor Code (47 P. S. § 3-301) makes the Board the sole retailer of wine and spirits. As drafted, these regulations will permit the Board to procure the rare high-quality wine and spirits in furtherance of its statutory mandates.

As the regulations currently stand, if a liquor vendor believes that a rare product has a niche market within this Commonwealth, such as, within certain high-end restaurants or specific cultural or cuisine venues, a vendor may be unwilling to share the products with the Board, by means of the Board's wine and spirits stores, since allowing its product to be sold as a stock item would preclude the vendor from processing orders by means of SLO on behalf of members of the niche market, such as, private individuals or fine-dining restaurant licensees. In making the regulatory change, thereby permitting vendors of the "luxury items" to process orders both from the Board and from licensees or other persons, the Board will be in a better position to acquire the products in furtherance of its statutory mandate. The ability to acquire the products will benefit both individual consumers and licensees of the Board, who will have greater accessibility to the products, at the best possible prices.

#### *Summary of Amendments*

The regulatory amendments create a subcategory of stock merchandise, known as "luxury items." These are varieties of wine and spirits that are in short supply or high demand, as may be determined by the Board. Vendors will be allowed to process orders for "luxury items" both from the Board as well as from Board licensees and other persons, similar to current procedures for SLOs.

#### *Affected Parties*

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

#### *Paperwork Requirements*

The regulatory amendments will not significantly increase paperwork for the Board or the regulated community.

#### *Fiscal Impact*

Because the market forces of supply and demand and the popularity and availability of certain vintages of fine wine or rare spirits will affect the Board's identification of an item as a "luxury item," fiscal impact is virtually impossible to estimate. In the 2007 Fiscal Year, the Board's revenue from sales of SLO items, which are similar in nature to "luxury items," was approximately \$70,000,000. Over 90% of these sales are to licensees, such as hotels and restaurants.

#### *Effective Date*

These final-form regulations will become effective upon publication in the *Pennsylvania Bulletin*.

#### *Public Comment/Contact Person*

Comments or questions should be addressed to James F. Maher, Assistant Counsel, Office of Chief Counsel, Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 7, 2008, the Board submitted a copy of the notice of proposed rulemaking, published at 38 Pa.B. 4629 (August 23, 2008), to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Liquor Control Committee and Senate Law and Justice Committee (Committees) for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act, on December 17, 2008, these final-form regulations were deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on December 18, 2008, and approved the final-form regulations.

*Findings*

The Commission finds that:

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

(2) The amendments to the Board's regulations in the manner provided in this order are necessary and appropriate for the administration of the Liquor Code.

*Order*

The Board, acting under authorizing statute, orders that:

(a) The regulations of the Board, 40 Pa. Code Chapter 13, are amended by amending §§ 13.73, 13.86 and 13.87; and by deleting § 13.77 to read as set forth at 38 Pa.B. 4629; and by amending §§ 13.71, 13.78 and 13.79 to read as set forth in Annex A.

(b) The Executive Director of the Board shall certify this order, 38 Pa.B. 4629 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

PATRICK J. STAPLETON, III,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 104 (January 3, 2009).)*

**Fiscal Note:** Fiscal Note 54-65 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 40. LIQUOR**

**PART I. LIQUOR CONTROL BOARD**

**CHAPTER 13. PROMOTION**

**Subchapter B. MARKETING BY VENDORS AND AGENTS; SPECIAL ORDERS; LUXURY ITEM ORDERS; SAMPLES AND UNLAWFUL ACTS**

**§ 13.71. Definitions.**

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

*Agent*—An individual employed by a licensed vendor, to promote the sale of liquor through State Liquor Stores. A person who is a licensee or the holder of a Malt or Brewed Beverage License, or an officer, director, agent or employee of either a licensee or such a licensee, or who is not at least 21 years of age, and of good character, is not eligible to be an agent of a vendor under this subchapter.

*Licensed vendor*—A licensee holding a Manufacturer or Importer License, or a vendor's permit, and selling liquors to the Board.

*Licensee*—A natural person, partnership, association or corporation holding a Hotel, Restaurant, Club or Public Service Liquor License issued by the Board.

*Luxury items*—Stock merchandise which, based upon their short supply or high demand, have been designated as such by the Board. Sales of luxury items may be initiated at a State Liquor Store or by a vendor or its agent on behalf of a licensee or other person.

*Miniature*—A container containing less than 6 ounces of a liquor, as prepared for the market.

*Other persons*—Nonlicensee individuals, such as private citizens.

*Special order listing*—The formal filing with the Board, on its prescribed form, of information the Board requires as to brand, age, proof, type, blend, cost, and the like, of liquors to be sold through the Special Liquor Order Division. The listing does not become effective until approved by the Board or its authorized representative.

*Stock merchandise*—Liquors which are obtainable at a State Liquor Store, without placing a special liquor order.

*Vendor's permit*—A permit issued to a nonresident vendor under section 208(j) of the Liquor Code (47 P. S. § 2-208(j)). An application for the permit shall be filed with the Board accompanied by proper fees in accordance with section 614-A of The Administrative Code of 1929 (71 P. S. § 240.14A). A permit will be issued for the calendar year only.

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

(a) Orders obtained in accordance with this subchapter and presented by licensed vendors or their agents to State Liquor Stores for licensees shall be filled at the established wholesale case prices prescribed by the Board for sales to licensees. The wholesale prices apply only when the retail value of the order equals or exceeds the minimum retail value established by the Board.

(b) Orders presented at State Liquor Stores by agents on behalf of persons other than licensees, such as individuals, or orders presented by individual customers themselves, shall be at the established retail special liquor order or luxury item prices. No order may be taken for less than two bottles.

(c) A licensed vendor or the vendor's agents may not obtain an order from either a licensee or other person unless there is obtained at the same time a sum not less than the amount required by the Board for deposit on special order sales under the Liquor Code. State Liquor Stores may, at the time of receiving the order or releasing the liquor to the purchaser, accept the checks of licensees in payment.

(d) A licensed vendor or the vendor's agent may not extend credit to a licensee or any other person.

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

(a) Licensed vendors and their agents shall place special orders for liquor at State Liquor Stores.

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

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

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

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

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

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

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

[Pa.B. Doc. No. 09-196. Filed for public inspection February 6, 2009, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 58—RECREATION

### PENNSYLVANIA GAMING CONTROL BOARD

[ 58 PA. CODE CH. 461b ]

#### Slot Machine Tower Lights

The Pennsylvania Gaming Control Board (Board), at its January 21, 2009, public meeting, amended the technical standards concerning tower lights.

The Board's regulation in § 461b.2 (relating to slot machine tower lights and error conditions) sets forth the various light combinations that slot machine licensees may use for their slot machines.

The current provisions contain combinations that may be used on slot machines having denominations of \$1, \$2 and \$5 but don't set any light combinations for slot machines with a \$3 or \$4 denomination. This amendment will provide a combination that can be used for any denomination between \$1 and \$5.

The authority to approve the use of the alternative color schemes in paragraph (3) has also been changed from the Board to the Bureau of Gaming Laboratory Operations. This will reduce the time required to act on these requests.

#### *Fiscal Impact*

The provisions in this statement of policy will give slot machine licensees additional operating flexibility when setting the denominations on slot machines. It will also reduce the amount of time required to gain approval to utilize an alternative color scheme for the bottom light of the slot machine tower light. These changes may result in some slight savings for slot machine licensees and will have no fiscal impact on the Board.

#### *Contact Person*

The contact persons for questions about this statement of policy are Michael Cruz, Director of Gaming Laboratory Operations, (717) 214-8231 and Richard Sandusky, Director of Regulatory Review, (717) 214-8111.

#### *Effective Date*

This statement of policy took effect January 21, 2009.

MARY DIGIACOMO COLINS,  
*Chairperson*

*(Editor's Note: The regulations of the Gaming Control Board are amended by amending a statement of policy in 58 Pa. Code § 461b.2 to read as set forth in Annex A, with ellipses referring to the existing text of the policy statement.)*

**Fiscal Note:** 125-98. No fiscal impact; (8) recommends adoption.

#### **Annex A**

#### **TITLE 58. RECREATION**

#### **PART VII. GAMING CONTROL BOARD**

#### **Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT**

#### **CHAPTER 461b. TECHNICAL STANDARDS—STATEMENT OF POLICY**

#### **§ 461b.2. Slot machine tower lights and error conditions.**

\* \* \* \* \*

(b) A slot machine tower light must consist of two separate lights, one on top of the other, that function in accordance with this section.

\* \* \* \* \*

(3) A slot machine licensee may, with the approval of the Bureau of Gaming Laboratory Operations, utilize an alternative color scheme for the bottom light of the slot machine tower light in paragraph (2). The alternative color scheme may include:

\* \* \* \* \*

(iv) Assignment of the color blue to identify combinations of all \$1 and \$2 denomination slot machines or all \$1 to \$5 denomination slot machines.

\* \* \* \* \*

[Pa.B. Doc. No. 09-197. Filed for public inspection February 6, 2009, 9:00 a.m.]

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# NOTICES

## DEPARTMENT OF BANKING

### Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending January 27, 2009.

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

#### BANKING INSTITUTIONS

##### Branch Applications

##### De Novo Branches

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-22-2008	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	5301 Chew Avenue Building D Philadelphia Philadelphia County	Opened
1-22-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	155 Towne Center Drive Wexford Allegheny County	Approved

##### Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-20-2008	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	5700 North Broad Street Philadelphia Philadelphia County	Closed

#### SAVINGS INSTITUTIONS

No activity.

#### CREDIT UNIONS

No activity.

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

STEVEN KAPLAN,  
*Secretary*

[Pa.B. Doc. No. 09-198. Filed for public inspection February 6, 2009, 9:00 a.m.]

## DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

### Execution of Oil and Gas Lease for State Forest Lands

Effective December 2, 2008, a replacement Oil and Gas Lease for State Forest Lands, Contract No. M-110325R-09 was executed by and between the Commonwealth, acting through the Department of Conservation and Natural Resources and the Eastern American Energy Corporation (lessee), with its principal place of business located at 501 56th Street, Charleston, WV 25304.

The lease is for Tract 325, located in Girard Township, Clearfield County, within the Moshannon State Forest. The lease was reactivated and issued to the lessee, which was the same prior lessee of record for the same tract, but which lease had expired. The lessee is also the current lessee of record for an immediately adjacent tract where it operates a

natural gas well. A Memorandum of Lease Agreement was recorded at the Clearfield County courthouse on January 13, 2009, instrument No. 200900391. Contract No. M-110325-09 may be viewed online at [contracts.patresury.org/Admin/Upload/16888\\_M110325R09.pdf](http://contracts.patresury.org/Admin/Upload/16888_M110325R09.pdf).

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

MICHAEL DIBERARDINIS,  
*Secretary*

[Pa.B. Doc. No. 09-199. Filed for public inspection February 6, 2009, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

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#### APPLICATIONS

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#### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

#### APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

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

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

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

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

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

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

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

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

**I. NPDES Renewal Applications**

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0063878 (Mun. Sewage)	Northeastern Schuylkill Joint Municipal Authority P. O. Box 170 Barnesville, PA 18214	Schuylkill County Rush Township	Pine Creek 03A	Y
PA0040690 (Minor Sewage)	Lakeland School District 1569 Lakeland Drive Jermyn, PA 18433-3140	Scott Township Lackawanna County	South Branch Tunkhannock Creek 4F	Y
PA0060429 (Minor Sewage)	Camp Speers—Eljabar YMCA R. R. 1 Box 89 Dingmans Ferry, PA 18328	Delaware Township Pike County	UNT to Dingmans Creek 01D	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0084085 (SEW)	Country View Estates MHP P. O. Box 175 Newville, PA 17421	Cumberland County Upper Frankford Township	Bosler Creek 7B	Y
PA0081345 (SEW)	Grier Foundation c/o Grier School P. O. Box 308 Tyrone, PA 16686-0308	Huntingdon County Warriors Mark Township	Little Juniata River 11-A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0228770 CAFO	Bishcroft Farm, LLC R. D. 1 Box 58 Roaring Branch, PA 17765	Tioga County Liberty Township	Little Elk Creek 10A	N
PA0209651 Sewerage	Columbia Investment Corp. 6009 Columbia Boulevard Bloomsburg, PA 17815	Main Township Columbia County	UNT to Catawissa Creek 5E	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0210358	Patricia C. and Robert G. Gabreski 842 Quaker Hill Road Warren, PA 16365	Glade Township Warren County	UNT to Conewango Creek 16-B	Y

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

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

**PA0054305**, Industrial Waste, SIC 4226, **Sunoco Partners Marketing and Terminals, LP**, 525 Fritztown Road, Sinking Spring, PA 19608. This existing facility is located in West Whiteland Township, **Chester County**.

Description of Proposed Activity: Renewal of the NPDES permit for discharge of stormwater runoff by means of an oil/water separator from Sunoco Exton Terminal, a petroleum marketing terminal.

The receiving stream, a UNT to Valley Creek, is in the State Water Plan Watershed 3H and is classified for: CWF, aquatic life, water supply and recreation.

The proposed requirements for Outfall 001 apply to the discharge of stormwater:

Parameters	Mass (lb/day)		Concentration (mg/l)		Instantaneous Maximum (mg/l)
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
Total Recoverable Petroleum Hydrocarbons Diesel Range Organics, Total			15		30
					Monitor and Report

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

1. Monitoring and Reporting Requirements.
2. Remedial Measures if Unsatisfactory Effluent.
3. BAT/ELG Reopener.
4. Requirement to Remove Oil from Stormwater.
5. PPC Plan.
6. No Discharge of Untreated or Inadequately Treated Water.
7. Definitions.
8. Hydrostatic Test Water Discharge Requirements.

**PA0012891**, Sewage, SIC 4952, **The Upper Hanover Authority**, 1704 Pillsbury Road, East Greenville, PA 18041. This proposed facility is located in Upper Hanover Township, **Montgomery County**.

Description of Proposed Activity: This application is for renewal of an NPDES permit to discharge treated sewage from The Upper Hanover Authority wastewater treatment plant in Upper Hanover Township, Montgomery County.

The receiving stream Perkiomen Creek is in the State Water Plan Watershed 3E and is classified for TSF. The nearest downstream public water supply intake is for Philadelphia Suburban Water Company, which is located 26.81 miles below this discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.098 mgd:

Parameters	Mass (lb/day)		Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Average Weekly	Average Monthly	Average Weekly	
CBOD <sub>5</sub> (5-1 to 10-31)	20	32	25	40	50
Total Suspended Solids	25	37	30	45	60
Ammonia as N (5-1 to 10-31)	4.0		5.0		10.0
(11-1 to 4-30)	12.0		15.0		30.0
Phosphorus as P (4-1 to 10-31)	0.4		0.5		1.0
Total Dissolved Solids	817	1,635	1,000	2,000	2,500
Fecal Coliform		Daily Max	200 #/100 ml	Daily Max	1,000 #/100 ml
Dissolved Oxygen			3.0 Minimum at all times		
pH (Standard Units)			Within Limits of 6.0 to 9.0 Standard Units at all times		

The EPA waiver is in effect.

Other Requirements:

1. Operator Notification.
2. "Average Weekly" Definition.
3. Remedial Measures.
4. No Stormwater.
5. Acquiring Necessary Property Rights.
6. Small Stream Discharge.
7. Change in Ownership.
8. Proper Sludge Disposal.
9. Applicable TMDL/WLA Analysis.
10. Certified Operator Requirements.
11. "Instantaneous Maximum" Definition.
12. 2/Month Monitoring Requirements.

13. Operation and Maintenance Plan.
14. Fecal Coliform Monitoring Requirements.
15. UV Disinfection.

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

**PA-0046388-A1**, Sewage, **Butler Township**, 415 West Butler Drive, Drums, PA 18222. This proposed facility is located in Butler Township, **Luzerne County**.

Description of Proposed Activity: Increase discharge of treated sewage from 0.6 mgd to 2.2 mgd.

The receiving stream, Nescopeck Creek, is in the State Water Plan Watershed 5D and is classified for: TSF. The nearest downstream public water supply intake for Danville Water Supply is located on Susquehanna River approximately 30 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.6 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N (5-1 to 10-31)	12.0		24
Dissolved Oxygen	A minimum of 5.0 mg/l at all times.		
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a Geometric Mean 2,000/100 ml as a Geometric Mean		
pH	6.0 to 9.0 Standard Units at all times.		
Total Residual Chlorine	1.0		2.0

The proposed effluent limits for Outfall 001 based on a design flow of 2.2 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N (5-1 to 10-31) (11-1 to 4-30)	4.7 14.0		9.3
Dissolved Oxygen	A minimum of 5.0 mg/l at all times.		
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a Geometric Mean 2,000/100 ml as a Geometric Mean		
pH	6.0 to 9.0 Standard Units at all times.		
Total Residual Chlorine	0.28		0.65

Chesapeake Bay Tributary Strategy Nutrient Requirements

<i>Parameter</i>	<i>Concentration (mg/l)</i>		<i>Mass (lbs)</i>
	<i>Monthly Average</i>	<i>Monthly Load</i>	<i>Annual Load</i>
Ammonia-N	Report	Report	Report**
Kjeldahl-N	Report	Report	
Nitrate-Nitrate as N	Report	Report	
Total Nitrogen	Report	Report	Report
Total Phosphorus	Report	Report	Report
Net Total Nitrogen		Report	40,182 lbs*/yr.
Net Total Phosphorus		Report	5,351 lbs*/yr.

\* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department of Environmental Protection's (Department) Trading of Nutrients and Sediment Reduction Credits Policy and Guidelines (Document No. 392-0900-001, December 30, 2006). The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

\* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2010. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2010.

\*\* Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011.

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

1. Whole Effluent Toxicity Testing Monitoring.

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

**Application No. PA 0020478**, Sewage, **Bloomfield Borough**, P. O. Box 144, New Bloomfield, PA 17068. This facility is located in Bloomfield Borough, **Perry County**.

Description of activity: The application is for renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, a UNT to Trout Run, is in Watershed 7-A, and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for United Water Company is located on the Susquehanna River, approximately 18.9 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.25 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N			
(5-1 to 10-31)	3.5		7.0
(11-1 to 4-30)	10.5		21
Total Zinc	0.019		0.047
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform		200/100 ml as a Geometric Average	
(5-1 to 9-30)		2,000/100 ml as a Geometric Average	
(10-1 to 4-30)			

*Chesapeake Bay Requirements*

<i>Parameter</i>	<i>Concentration (mg/l) Monthly Average</i>	<i>Monthly</i>	<i>Mass (lbs)</i>	<i>Annual</i>
Ammonia-N	Report			
Kjeldahl-N	Report			
Nitrate-Nitrite as N	Report			
Total Nitrogen	Report			
Total Phosphorus	Report			

Persons may make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator at (717) 705-4732.

The EPA waiver is in effect.

**Application No. PA 0010502**, Industrial Waste, SIC Code 3489, 3471 and 3483, **Letterkenny Army Depot**, One Overcash Avenue, Building 14, Chambersburg, PA 17201-4150. This facility is located in Greene Township, **Franklin County**.

Description of activity: The application is for renewal of an NPDES permit for existing discharge of treated industrial waste.

The receiving stream, Rowe Run (Outfalls 001 and S02), is in Watershed 7-B, and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Carlisle Borough located on the Conodoguinet Creek, approximately 44.9 miles downstream. The discharge is not expected to affect the water supply.

The receiving stream, a UNT to Conococheague Creek (Outfall S01), is in Watershed 13-C, and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Hagerstown Borough, MD located on the Conococheague Creek, approximately 62 miles downstream. The discharge is not expected to affect the water supply.

The receiving stream, Rocky Spring Branch (Outfall S03), is in Watershed 13-C, and classified for TSF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Hagerstown Borough, MD located on the Conococheague Creek, approximately 60 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.290 mgd are:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
pH (Standard Units)	XXX	XXX	6.0 (Minimum)	XXX	9.0
Oil and Grease	36	72	15	30	30

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	48	97	20	40	50
Total Suspended Solids	24	48	10	20	25
Total Phosphorus	4.8	9.7	2.0	4.0	5.0
Total Chromium	4.13	6.70	1.71	2.77	4.25
Total Lead	0.10	0.20	0.042	0.84	0.105
Total Nickel	1.06	2.12	0.44	0.88	1.10
Total Cyanide	Monitor and Report	Monitor and Report	0.65	1.20	1.62
Total Silver	0.14	0.27	0.57	0.114	0.142
Total Zinc	1.54	3.09	0.64	1.28	1.60
Total Toxic Organics	XXX	XXX	XXX	2.13	XXX
Total Cadmium	0.0048	0.009	0.002	0.004	0.005
Total Copper	0.19	0.38	0.079	0.158	0.197
Interim Bis (2-Ethylhexyl Phthalate (PED to )	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	XXX
Final Bis (2-Ethylhexyl) Phthalate ( to expiration)	0.077	0.154	0.032	0.064	0.080

The proposed effluent limits for Outfalls S01 and S03 discharging stormwater are:

Parameter	Concentration (mg/l)		
	Average Monthly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	XXX	XXX	Monitor and Report
Chemical Oxygen Demand	XXX	XXX	Monitor and Report
Total Suspended Solids	XXX	XXX	Monitor and Report
Total Phosphorus	XXX	XXX	Monitor and Report
Total Kjeldahl Nitrogen	XXX	XXX	Monitor and Report
Total Iron	XXX	XXX	Monitor and Report
Oil and Grease	XXX	XXX	Monitor and Report
pH (Standard Units)	XXX	XXX	Monitor and Report

The proposed effluent limits for Outfall S02 discharging stormwater are:

Parameter	Concentration (mg/l)		
	Average Monthly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	XXX	XXX	Monitor and Report
Chemical Oxygen Demand	XXX	XXX	Monitor and Report
Total Suspended Solids	XXX	XXX	Monitor and Report
Total Phosphorus	XXX	XXX	Monitor and Report
Total Kjeldahl Nitrogen	XXX	XXX	Monitor and Report
Total Iron	XXX	XXX	Monitor and Report
Oil and Grease	XXX	XXX	Monitor and Report
pH (Standard Units)	XXX	XXX	Monitor and Report
Total Cadmium	XXX	XXX	Monitor and Report
Total Chromium	XXX	XXX	Monitor and Report
Total Copper	XXX	XXX	Monitor and Report
Total Lead	XXX	XXX	Monitor and Report
Total Nickel	XXX	XXX	Monitor and Report
Total Silver	XXX	XXX	Monitor and Report
Total Zinc	XXX	XXX	Monitor and Report
Total Cyanide	XXX	XXX	Monitor and Report
TTO	XXX	XXX	Monitor and Report

Persons may make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator at (717) 705-4732.

The EPA waiver is not in effect.

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

**PA0094382**, Sewage, **Greensburg Salem School District**, 1 Academy Hill Place, Greensburg, PA 15601. This application is for renewal of an NPDES permit to discharge treated sewage from Metzgar Elementary School STP in Salem Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Loyalhanna Lake, 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 Municipal Authority of Buffalo Township.

*Outfall 001:* existing discharge, design flow of 0.005 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 <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen	25			50
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0032247**, Sewage, **Department of Conservation and Natural Resources, Bureau of State Parks**, 1454 Laurel Hill Park Road, Somerset, PA 15501-5629. This application is for renewal of an NPDES permit to discharge treated sewage from Laurel Hill State Park STP in Middlecreek Township, **Somerset County**.

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

*Outfall 001:* existing discharge, design flow of 0.19 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 <sub>5</sub>	15			30
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	3.0			6.0
(11-1 to 4-30)	9.0			18.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.0			3.3
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0090981**, Sewage, **German Township**, R. D. 1, Box 287, McClellandtown, PA 15458-0287. This application is for renewal of an NPDES permit to discharge treated sewage from Footedale STP in German Township, **Fayette County**.

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

*Outfall 001:* existing discharge, design flow of 0.085 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 <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	5.5			11.0
(11-1 to 4-30)	16.5			33.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.3			3.1
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.



**PA0217921**, Sewage, **Indiana Investments, Inc.**, R. D. 2, Box 305, Shelocta, PA 15774. This application is for renewal of an NPDES permit to discharge treated sewage from Indiana Investments STP in Armstrong Township, **Indiana County**.

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

*Outfall 001*: existing discharge, design flow of 0.00625 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 <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	22.0			44.0
(11-1 to 4-30)	Monitor and Report			
Fecal Coliform (5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0098060**, Sewage, **Eugene J. Smith, Jr.**, 106 Chrissy's Crossing, Fombell, PA 16123. This application is for renewal of an NPDES permit to discharge treated sewage from Smithwind Mobile Home Park STP in Franklin Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Slippery Rock Creek, which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the PA American Water Company, Ellwood District, on Slippery Rock Creek.

*Outfall 001*: existing discharge, design flow of 0.0022 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 <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	2.5			5.0
(11-1 to 4-30)	6.0			12.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	0.06			0.14
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

**PA0036994-Amendment No. 1**, Sewage, **Borough of Pleasantville**, 114 West State Street, P. O. Box 150, Pleasantville, PA 16341. This proposed facility is located in Pleasantville Borough, **Venango County**.

Description of Proposed Activity: Amendment of an NPDES Permit for an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Parker City intake is located on the Allegheny River and is approximately 63 miles below point of discharge.

The receiving stream, West Pithole Creek, is in Watershed 16-E and classified for: CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.31 mgd.

## Interim Limits

Parameters	Loadings			Concentrations	
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX				
CBOD <sub>5</sub>	64	103	25	40	50
Total Suspended Solids	77	116	30	45	60
NH <sub>3</sub> -N					
(5-1 to 10-31)	5		2		4
(11-1 to 4-30)	15		6		12
Fecal Coliform					
(5-1 to 9-30)		200/100 ml as a Geometric Average			
(10-1 to 4-30)		2,000/100 ml as a Geometric Average			
Total Residual Chlorine			0.03		0.1
Dissolved Oxygen			minimum of 6 mg/l at all times		
Phosphorus as "P"	4		XX		
Total Nitrogen	12		XX		
pH			6.0 to 9.0 Standard Units at all times		

The proposed effluent limits for Outfall 001 are based on a design flow of 0.4 mgd.

## Final Limits

Parameters	Loadings			Concentrations	
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX				
CBOD <sub>5</sub>	33	50	10	15	20
Total Suspended Solids	33	50	10	15	20
NH <sub>3</sub> -N					
(5-1 to 10-31)	6.5		2		4
(11-1 to 4-30)	20		6		10
Fecal Coliform					
(5-1 to 9-30)		200/100 ml as a Geometric Average			
(10-1 to 4-30)		2,000/100 ml as a Geometric Average			
Dissolved Oxygen			minimum of 6 mg/l at all times		
Phosphorus as "P"	1.5		0.5		
Total Nitrogen	12		3.6		
pH			6.0 to 9.0 Standard Units at all times		

XX—Monitor and report on monthly DMRs.

The EPA waiver is in effect.

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

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

**WQM Permit No. 4609401**, Sewerage, **Pottstown Borough Authority**, 100 East High Street, Pottstown, PA 19464. This proposed facility is located in Pottstown Borough, **Montgomery County**.

Description of Action/Activity: New 30" sewer to replace 100 (+/-) feet of existing 21" sewer from Beech Street south to Hanover Street

**WQM Permit No. 4609402**, Sewerage, **Upper Pottsgrove Township**, 1409 Farmington Avenue, Pottstown, PA 19464. This proposed facility is located in Upper Pottsgrove Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a sewage pump station.

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

**WQM Permit No. 4809401**, Sewerage, **EPI, LLC/EAST P I, LLC**, 6831 East 32nd Street, Indianapolis, IN 46226. This proposed facility is located in Lower Nazareth and Bethlehem Townships, **Northampton County**.

Description of Proposed Action/Activity: This project is for the construction of a sewage treatment plant and spray irrigation system with a design capacity of 7,500 gpd.

**WQM Permit No. 1308404**, Sewerage, **Big Boulder Corporation**, P. O. Box 707, Blakeslee, PA 18610-0707. This proposed facility is located in Kidder Township, **Carbon County**.

Description of Proposed Action/Activity: This project involves treatment plant modifications and construction of an additional soil absorption bed. The treatment plant modifications include installation of a second flocculator and tray settler, replacement of the existing chlorine disinfection unit with an ultraviolet disinfection system and conversion of the existing chlorine contact tank to an equalization tank.

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

**WQM Permit No. 0509401**, Sewerage, **David Graham**, 117 Valentine Acres Road, Clearville, PA 15535. This proposed facility is located in Southampton Township, **Bedford County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of a small flow sewage treatment system to serve their single family residence on Valentine Acres Road.

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

**WQM Permit No. 6109401**, Sewerage, **Matric Limited Inc.**, 2099 Hill City Road, Seneca, PA 16345 This proposed facility is located in Cranberry Township, **Venango County**.

Description of Proposed Action/Activity: Construction of a 6,800 gpd extended aeration package plant to replace a malfunctioning onlot system to treat sewage from their facility that currently employs 300+ employees.

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

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10-G466-R	Orleans Homebuilders, Inc. 333 Street Road Suite 101 Bensalem, PA 19020	Chester	West Bradford Township	Broad Run EV West Branch Brandywine Creek WWF-MF
PAI01 1505043-R	The Hankin Group 707 Eagleview Boulevard Exton, PA 19341	Chester	Uwchlan Township	Shamona Creek HQ-TSF
PAI01 1509001	IHM Immaculata—Villa Maria House of Studies 1140 King Road Immaculata, PA 19345	Chester	East Whiteland Township	UNT Ridley Creek HQ-TSF
PAI01 1509002	Phoenix Property Group 100 French Creek Parkway Phoenixville, PA 19460	Chester	Phoenixville Borough	French Creek/Schuylkill River TSF
PAI01 1509003	Lanchester Properties, LLC 155 Ponds View Drive Oxford, PA 19363	Chester	East Nottingham Township	West Branch Big Elk Creek HQ-TSF-MF
PAI01 1509004	BK Campbell, Inc. 402 Bayard Road Suite 101 Kennett Square, PA 19348	Chester	Lower Oxford Township	West Branch Big Elk Creek HQ-TSF-MF

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024503001R	James P. Ertle R. R. 2 Box 30 Kunkletown, PA 18058 and Northeast Site Contractors 4499 Route 611 Suite C Stroudsburg, PA 18360	Monroe	Hamilton and Stroud Townships	Pocono Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023909004	Christopher Fencel Cedar—Trexler Hamilton, LLC 3307 Trindle Road Camp Hill, PA 17011	Lehigh	Lower Macungie and Upper Macungie Townships	UNT to Iron Run HQ-CWF
PAI023909005	Mark Leuthe Robyn Realty Co. 3906 Mountain View Drive Danielsville, PA 18038	Lehigh	Lowhill Township	UNT to Jordan Creek HQ-CWF, MF Lehigh River WWF
PAI023909002	Susanne Meixsell Northwestern Lehigh School District 6493 Route 309 New Tripoli, PA 18066	Lehigh	Heidelberg and Lynn Townships	UNT of Jordan Creek HQ-CWF, MF School Creek EV
PAI023909006	Pravin Desai Yamunaji Corp. 7471 Keebler Way Allentown, PA 18106	Lehigh	Upper Macungie Township	Iron Run, Spring Creek Little Lehigh Creek HQ-CWF

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

*Centre County Conservation District: 414 Holmes Avenue, Suite 4, Bellefonte, PA 16823, (814) 355-6817.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041409001	John Elnitski Bellefonte Airport 225 Snowbird Lane Bellefonte, PA 16823	Centre	Benner Township	UNT to Buffalo Run CWF

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

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

## **STATE CONSERVATION COMMISSION**

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

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

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

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

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

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

## NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET—APPLICATIONS

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal/ New</i>
Joe Jurgelewicz and Son, Ltd. P. O. Box 257 Shartlesville, PA 19554	Berks	490.5	339.4	Ducks	None	Renewal
		214.1 Nutrient Mgmt. Acres				

### PUBLIC WATER SUPPLY (PWS) PERMIT

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

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

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

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

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

#### SAFE DRINKING WATER

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

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

**Application No. 0908503**, Public Water Supply.  
 Applicant **Perkasie Borough Authority**  
 Township East Rockhill  
 County **Bucks**  
 Responsible Official Gary J. Winton  
 301 North Fifth Street  
 Perkasie, PA 18944

Type of Facility PWS  
 Consulting Engineer Anderson Engineering Corporation  
 306 North Fifth Street  
 Perkasie, PA 18944  
 Application Received Date January 23, 2008  
 Description of Action Development of Well No. 7.

**Application No. 4608505**, Public Water Supply.  
 Applicant **Ambler Borough Water Department**  
 Township Whitpain  
 County **Montgomery**  
 Responsible Official Robert C. Schmauk  
 122 East Butler Avenue  
 Ambler, PA 19002

Type of Facility PWS  
 Consulting Engineer Gilmore & Associates, Inc.  
 350 East Butler Avenue  
 New Britain, PA 18901  
 Application Received Date January 24, 2008  
 Description of Action Construction and development of Well No. 15.

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

**Permit No. 3809501**, Public Water Supply.  
 Applicant **Annville-Cleona School District**  
 Municipality North Annville Township  
 County **Lebanon**  
 Responsible Official Heath Dresch, Director of Buildings and Grounds  
 520 South White Oak Street  
 Annville, PA 17003

Type of Facility Public Water Supply  
 Consulting Engineer Stephen B. Fulton, P. E.  
 ARM Group, Inc.  
 1129 West Governor Road  
 Hershey, PA 17033-0797  
 Application Received: January 2, 2009

Description of Action Installation of corrosion control treatment facilities for orthophosphate addition at the North Annville Elementary School. Treatment is necessary to reduce lead and copper concentrations below the action levels.

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

**Application No. 6109501**, Public Water Supply.

Applicant **Borough of Pleasantville**  
 Township or Borough **Pleasantville Borough Venango County**  
 Responsible Official **Randy Baker, Borough Council President**  
 Consulting Engineer **Arthur M. Kuholski, P. E. Senior Project Engineer Lake Engineering 140 Meadville Street Edinboro, PA 16412**  
 Application Received Date **January 23, 2009**  
 Description of Action **Replacement of existing Dunham Road elevated water storage tank with new 250,000 gallon elevated tank; upgrades to Phillips Booster Pump Station.**

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION UNDER ACT 2, 1995 PREAMBLE 1

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

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

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

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

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

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

**Joan Buranich**, Mount Carmel Borough, **Northumberland County**. REPSG, 6901 Kingessing Avenue, Philadelphia, PA 19142 on behalf of Joan Buranich, 701 East 7th Street, Mount Carmel, PA 17851 has submitted a Notice of Intent to Remediate soil contaminated with heating oil. The applicant proposes to remediate the site to meet the Statewide Health Standard.

## 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) 826-2507.*

**35-322-010: Alliance Sanitary Landfill** (398 South Keyser Avenue, Taylor, PA 18517) for installation of three new flares at their facility in Ransom Township and Old Forge Borough, **Lackawanna County**.

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

**62-176A: Allegheny Pellet Corp.** (1055 Matthews Run Road, Youngsville, PA 16371) for installation of a 22 mmBtu/hr wood-fired pellet drying operation at their facility in Brokenstraw Township, **Warren County**.

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

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

**PA No. 66-315-050: The Procter & Gamble Paper Products Co.** (P. O. 31, Mehoopany, PA 18692), to increase the operating hours of existing pulp handling equipment (source ID-PG11) at the existing facility in Washington Township, **Wyoming County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue Plan Approval No. 66-315-

050 to The Procter & Gamble Paper Products Co., P. O. Box 31, Mehoopany, PA 18692, for their plant in Washington Township, Wyoming County. The facility currently has Title V Permit No. 66-00001. This plan approval will be incorporated into the Title V operating permit through an administrative amendment at a later date, and the action will be published as a notice in the *Pennsylvania Bulletin*.

Plan Approval No. 66-315-050 is to increase the operating hours of existing pulp handling equipment (source ID -PG11) at the existing facility. This project does not impact emissions from other sources at the site. The PM emissions increase due to modification will be 1.71 tpy, based on a 12-month rolling sum. No production increases are anticipated due to these changes.

The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711.

Any persons wishing to provide the Department with additional information which they believe should be considered prior to the issuance of this permit may submit the information to the address shown in the preceding paragraph. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit No.: 66-315-050

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the comments received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Raymond Kempa, P. E., Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711, (570) 826-2531 within 30 days after publication date.

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

**06-05002H: Lehigh Cement Co.** (537 Evansville Road, Fleetwood, PA 19522-8541) for installation of Selective Non-Catalytic Reduction (SNCR) control system on each of the Portland cement kilns at the Evansville Plant in Maiden Creek Township, **Berks County**. The systems are designed to reduce the emissions of NOx from the cement kilns during the ozone season. The kilns are subject to 40 CFR Part 63, Subpart LLL, National Emission Standards for HAPs from Portland Cement Plants, MACT. The plan approval will include monitoring, work practices, recordkeeping, reporting and other requirements designed to keep the sources operating within all applicable air quality requirements. The facility is presently covered by the Title V operating permit No. 06-05002. The plan approval will be incorporated into this permit in accordance with 25 Pa. Code § 127.450 (Administrative Amendment).

**ER-36-03161A: Compass Quarries** (47 McIlvaine Road, Paradise, PA 17562) for an Air Quality Emission Reduction Credit (ERC) approval of 0.57 ton of PM/PM10, 6.73 tons of NOx, 1.35 tons of SOx, 15.9 tons of CO, 3.91 tons of VOCs and 0.0018 ton of lead (Pb) at their Paradise Quarry plant, located in Paradise Township, **Lancaster County**. The ERCs being generated are a result of the January 25, 2009, shutdown of the lime plant, Source ID 102.

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

**10-303C: C.U.E. Inc.** (11 Leonberg Road, Cranberry Township, PA 16066) to add three new casting machines use to manufacture polyurethane plastic items and to increase facility wide VOC and HAP emission rates in **Butler County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection intends to issue a plan approval to add three new casting machines use to manufacture polyurethane plastic items and to increase facility wide VOC and HAP emission rates. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Synthetic Minor Operating Permit through an administrative amendment at a later date.

**25-326A: Foamex LP** (466 South Shady Avenue, Corry, PA, 16407) for installation of a polyurethane foam dip coating line at their facility in the City of Corry, **Erie County**. This is a Title V facility.

Under 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue Plan Approval 25-326A to Foamex LP for installation of a polyurethane foam dip coating line at the company's facility at 466 South Shady Avenue, City of Corry, Erie County. The facility currently has a Title V permit No. 25-00326. The Plan Approval will subsequently be incorporated into the Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. 25-326A is for the installation of a polyurethane foam dip coating line. Based on the information provided by the applicant and the Department's own analysis, the proposed sources will emit a total of 9.97 tons of VOCs per year.

The Plan Approval will contain additional recordkeeping and work practice requirements designed to keep the facility operating within all applicable air quality requirements. This proposed installation will additionally be subject to the applicable requirements of 25 Pa. Code § 129.52 for surface coating processes.

Copies of the application, the Department's analysis, and other documents used in the evaluation are available for public inspection between 8 a.m. and 4 p.m. weekdays at the address shown. To make an appointment, contact Records Management at (814) 332-6340.

Anyone wishing to provide the Department with additional information they believe should be considered may submit the information to the address shown. Comments must be received by the Department within 30 days of the last day of publication. Written comments should include the following:

1. Name, address and telephone number of the person submitting comments.
2. Identification of the proposed Plan Approval; No. 25-326A.

3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted on the comments received during the public comment period. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to John Guth, Regional Air Quality Manager, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6940.

#### OPERATING PERMITS

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

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

**39-00028: Buckeye Terminals, LLC, Macungie Terminal** (Five Tek Park, Breinigsville, PA 18031) for operation of bulk gasoline terminals in Lower Macungie Township, **Lehigh County**. This is a renewal of a Title V Operating Permit.

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

**67-05009: York Plant Holding, LLC** (P. O. Box 3492, York, PA 17402) for operation of their electrical power generating facility in Springettsbury Township, **York County**. The Title V operating permit will include emission restrictions, work practice standards, testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. The facility is subject to 40 CFR Part 60, Subpart GG—Standards of Performance for Stationary Gas Turbines. This is a renewal of the Title V operating permit issued in 2002.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, Muhammad Zaman, Facilities Permitting Chief, (570) 327-0512.*

**47-00003: The Department of Public Welfare** (P. O. Box 700, Danville, PA 17821-0700) for renewal of the Title V Operating Permit for their Danville State Hospital facility in Mahoning Township, **Montour County**. The facility is currently operating under TVOP 47-00003, which was issued September 30, 2003. The facility's sources include 10 combustion units, 17 emergency engine-generators, two aboveground storage tanks and two parts washers. The facility has the potential to emit major quantities of SOx. The facility has the potential to emit NOx, CO, PM/PM10, VOCs, combined HAPs and individual HAP emissions below the major emissions thresholds. The proposed Title V Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**49-00003: ACF Industries** (P. O. Box 700, Milton, PA 17847-0109) for renewal of the Title V Operating Permit for their facility in Milton Borough, **Northumberland County**. The facility is currently operating under TVO 49-00003, which was issued November 18, 2003. The



facility's main sources include 51 combustion units, four furnaces, surface coating operation, grit blasting operations, four curing ovens, one flash off oven, metal cutting and torching operations, stencil cleaning machine and solvent clean up operations. The facility has the potential to emit major quantities of PM/PM10 and VOCs. The facility has the potential to emit NOx, CO and HAPs (individual and combined) emissions less than the major emissions thresholds. The proposed Title V operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

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

**16-00035: The Commodore Corp.—Commodore/Colony Factory Crafted Homes** (20898 Paint Boulevard, Clarion, PA 16743) to re-issue a Title V Permit to operate a Mobile/Modular Home manufacturing facility in Shippensburg Borough, **Clarion County**. This is a major facility due to its potential to emit VOC emissions from the surface coating and adhesive application operations.

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

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

**46-00101: Ball Aerosol & Specialty Container, Inc.** (431 Privet Road, Horsham, PA 19044-1220) for renewal of a Non-Title V Facility, State-only, Synthetic Minor Permit in Horsham Township, **Montgomery County**. Ball Aerosol & Specialty Container, Inc. is a metal can manufacturing facility. The sources of emissions include: six side seam stripe lines, stripe cleaning and parts washers. The facility took voluntary total VOC and total HAP emission limits of 20.6 and 25 tpy. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

**46-00239: SEI Investments Co.** (100 Cider Mill Road, Oaks, PA 19456) for a State-only, Synthetic Minor Operating Permit in Upper Providence Township, **Montgomery County**. The company has three emergency generators less than 750 kW and two emergency generators of 1,250 kW operated using No. 2 fuel oil. Each of two 1,250-kW emergency generators shall be limited to 200 hours of operation for a 12-month rolling basis. The facility is limited to NOx emissions of 7.77 tons per ozone season and 11.62 tpy on a 12-month rolling basis. The permit will include monitoring, recordkeeping and reporting requirements designed to address all applicable air quality requirements.

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

**40-00057: Pennsy Supply, Inc.** (1001 Paxton Street, Harrisburg, PA 17104) for operation of a batch asphalt plant and associated air cleaning devices at their facility in Dorrance Township, **Luzerne County**. This action is a renewal of the State-only (Synthetic Minor) Operating Permit for this facility. This Operating Permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

**40-00025: Sunoco Partners Marketing & Terminals LP—Kingston Terminal** (525 Fritztown Road,

Sinking Spring, PA 19608) for operation of a bulk petroleum storage facility in Edwardsville Borough, **Luzerne County**. This is a renewal of a State-only Synthetic Minor operating permit issued in July 2003.

**39-00029: Gulf Oil Limited Partnership, Fullerton Terminal** (2451 Main Street, Whitehall, PA 18017) for operation of a bulk fuel distribution terminal in Whitehall Township, **Lehigh County**. This is a renewal of a State-only Synthetic Minor operating permit issued in August 2003.

**54-00060: Woodland Crematorium, Inc.** (461 Woodland Drive, Auburn, PA 17922) for operation of a human crematory in South Manheim Township, **Schuylkill County**. This is a renewal of a State-only Synthetic Minor operating permit issued in July August 2004.

**48-00077: Falk Funeral Homes & Crematory** (1418 Main Street, Hellertown, PA 18055) for operation of funeral services and crematory in Hellertown Borough, **Northampton County**. This is a renewal of a State-only Natural Minor operating permit issued in February 2005.

**13-00009: Weatherly Casting and Machine Co.** (P. O. Box 21, Weatherly, PA 18255) for operation of gray iron foundries in Weatherly Borough, **Carbon County**. This is a renewal of a State-only Natural Minor operating permit issued in October 2001.

**13-00017: Mountain Crest Crematory** (10 East Kline Road, McAdoo, PA 18237) for operation of a crematory in Banks Township, **Carbon County**. This is a State-only Natural Minor operating permit.

**48-00047: Highway Materials, Inc.** (1750 Walton Road, Blue Bell, PA 19422) for manufacturing of asphalt paving mixtures and blocks in Upper Nazareth Township, **Northampton County**. This is a renewal of a State-only Synthetic Minor operating permit issued in April 2001.

**64-00015: Bedrock Quarries, Inc.** (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) for operation of a quarry in Damascus Township, **Wayne County**. This is a State-only Natural Minor operating permit.

**54-00015: Sunoco Partners Marketing & Terminals LP—Tamaqua Terminal** (65 Tuscarora Park Road, Tamaqua, PA 18252-4501) for operation of a bulk petroleum storage facility in Rush Township, **Schuylkill County**. This is a renewal of a State-only Synthetic Minor operating permit issued in October 2003.

**66-00006: Geary Enterprises Gulf Oil Limited Partnership—Fullerton Terminal** (2451 Main Street, Whitehall, PA 18615) for operation of a mineral wet processing facility in Falls Township, **Wyoming County**. This is a State-only Natural Minor operating permit.

**39-00021: Lehigh Valley Hospital & Health Network** (1627 Chew Street, Allentown, PA 18104) for operation of general medical and surgical hospitals in Allentown City, **Lehigh County**. This is a renewal of a State-only Synthetic Minor operating permit issued in May 2002.

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

**01-05020: Knouse Foods Cooperative, Inc.** (P. O. Box 807, Biglerville, PA 17307) to operate their Biglerville fruit processing facility in Biglerville Borough, **Adams County**. This is a renewal of the State-only operating permit issued in August 2003.

**01-05021: Knouse Foods Cooperative, Inc.** (430 Gardners Station Road, Gardners, PA 17324) to operate

their Gardners fruit processing facility in Tyrone Township, **Adams County**. This is a renewal of the State-only operating permit issued July 2003.

**01-05022: Knouse Foods Cooperative, Inc.** (1505 Orrtanna Road, Orrtanna, PA 17353) to operate their Orrtanna fruit processing facility in Hamiltonban Township, **Adams County**. This is a renewal of the State-only operating permit issued in July 2003.

**06-03087: Arkema, Inc.** (1112 Lincoln Road, Birdsboro, PA 19508) for operation of its nylon polymer manufacturing facility in Exeter Township, **Berks County**. This is a renewal of the State-only operating permit issued in March 2004.

**06-05047: Bradley Specialties Corporation** (P. O. Box 436, Shartlesville, PA 19554-0436) for operation of a fiberglass fabrication facility in Upper Bern Township, **Berks County**. This is a renewal of the State-only operating permit issued in 2004.

**07-03018: Central PA Humane Society** (1837 East Pleasant Valley Boulevard, Altoona, PA 16602) to operate a crematory for animal remains in Logan Township, **Blair County**. This is a renewal of the State-only operating permit issued in May 2004.

**07-03046: Penn Mag, Inc.** (719 Tarrtown Road, Adrian, PA 16210) to operate their iron chromite crushing and classifying facility in Greenfield Township, **Blair County**. This is a renewal of the State-only operating permit issued in June 2004.

**22-05035: Eastern Industries, Inc.** (P. O. Box 177, Winfield, PA 17889) for operation of their Elizabethville quarry in Washington Township, **Dauphin County**. This is a renewal of the State-only operating permit issued in 2004 and amended in 2007.

**28-03016: Contech Construction Products, Inc.** (600 North Washington Street, Greencastle, PA 17225) to operate their steel pipe manufacturing facility in Greencastle Borough, **Franklin County**. This is a renewal of the State-only operating permit issued in November 2003.

**36-03051: Johnson & Johnson Merck Consumer Pharmaceuticals Company** (1838 Colonial Village Lane, Lancaster, PA 17601) for operation of its pharmaceutical facility in East Lampeter Township, **Lancaster County**. This is a renewal of the State-only operating permit issued in 2003.

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

**49-00049: Runnerless Knits** (301 North 5th Street, Sunbury, PA 17801) for their fabric dyeing facility in the City of Sunbury, **Northumberland County**. The facility's main sources include two natural gas/No. 2 fuel oil fired boilers. The facility has the potential to emit SOx, NOx, CO, PM10, VOCs and HAPs below the major emission thresholds. The proposed operating permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are included.

**49-00036: Anthracite Industries, Inc.** (P. O. Box 112, Sunbury, PA 17801-0112) for issuance of a State-only operating permit for operation of its facility in Upper Augusta Township, **Northumberland County**. The facility incorporates one 8.40 mmBtu/hr gas (natural or propane)/No. 2 fuel oil-fired rotary dryer, two propane-

fired dryers (with a total combined heat input of 4.60 mmBtu/hr), and various carbon (coal/coke/graphite) product processing equipment. The facility has the potential to emit up to 93.8 tons of PM/PM10, less than 25 tons of any multiple HAPs, less than 10 tons of any single HAP, 20.7 tons of SOx, 7.3 tons of NOx, less than 2.7 tons of VOCs, and 1.8 tons of CO per year. The proposed operating permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are included.

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

**63-00895: Ensinger, Inc.** (365 Meadowlands Boulevard, Washington, PA 15301-8900) for operation of two sand baths controlled by a common afterburner and 31 electric extruder ventilation lines controlled by a common three-stage filter at the Ensinger, Inc. facility in North Strabane Township, **Washington County**. Yearly NOx, CO, VOC and PM emissions from this facility as shown by the application will be 0.145, 0.355, 0.03 and 0.035 ton respectively.

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

**25-00591: Seaway Manufacturing Corporation—Erie** (2250 East 33rd Street, Erie, PA 16510-2556) to re-issue the referenced permit for this manufacturer of windows, doors and enclosures, in the City of Erie, **Erie County**. This facility is subject to permitting because of their surface coating operations.

#### PLAN APPROVALS

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

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

**PA No. 48-320-015: Cadmus Specialty Publications** (1991 Northampton Street, Easton, PA 18042) for installation of a new two web, eight unit heat-set web printing press at their facility in Wilson Borough, **Northampton County**.

In accordance with 25 Pa. Code §§ 127.44(a) and 127.45(a), the Department of Environmental Protection (Department) has received and intends to issue a Plan Approval to Cadmus Specialty Publications (1991 Northampton Street, Easton, PA 18042) for their facility located in Wilson Borough, Northampton County. The facility currently has a State-only permit No. 48-00008. This Plan Approval No. 48-320-015 will be incorporated into the companies Synthetic Minor Permit through an administrative amendment at a later date.

Plan Approval No. 48-320-015 is for the installation of a new two web, eight unit heat-set web printing press at their facility. The company wants to replace an old printing press with a new printing press No. 85. VOC emissions from the plant will remain under their 50 tpy threshold limit, 12-month rolling sum, which is currently

in the companies State-only permit No. 48-00008. Emissions will be controlled by the use of a new catalytic oxidizer. The oxidizer will be required to have a destruction efficiency of at least 98% or have a post control NMHC concentration of no greater than 7 ppmvd, expressed as propane. These limits will meet BAT requirements for this source. A stack test will be required to verify these limits.

The Department will place a condition for the facility to continuously monitor the inlet and outlet temperatures across the oxidizer. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711.

Any person wishing to provide the Department with additional information, which they believe should be considered prior to the issuance of this permit, may submit the information to the address shown in the preceding paragraph. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed permit No.: 48-320-015.

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted based on the comments received. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Ray Kempa, Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711, (570) 826-2511 within 30 days after publication date.

## COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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

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

particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

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

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

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

Where a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

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

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

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

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

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated

previously each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, telephone number and the interest of the party filing the request, and shall state the reasons why a hearing is

warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

#### *Coal Applications Received*

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

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

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

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

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

**56981301 and NPDES Permit No. PA0215121, Queecreek Mining, Inc.**, (P. O. Box 260, Friednes, PA 15541-0260), to renew and revise the permit for the Queecreek No. 1 Mine in Lincoln and Somerset Townships, **Somerset County** including the GP-12 permit and related NPDES permit. No additional discharges. Application received November 17, 2008.

**56841328 and NPDES Permit No. 033677, Rosebud Mining Company**, (301 Market Street, Kittanning, PA 16201-9642), to revise the permit for the Mine 78 in Adams and Richland Townships, **Cambria County** to add underground permit and subsidence control plan area acres for full extraction mining. Underground Acres Proposed 4,922.0, Subsidence Control Plan Acres Proposed 4,922.0. No additional discharges. Application received October 30, 2008.

**30081601 and NPDES Permit No. PA0235792, Coresco, LLC**, (308 Dents Run Road, Morgantown, WV 26501-2006), to operate the Overland Conveyor in Dunkard Township, **Greene County** and related NPDES permit for an overland coal conveyor belt system. Surface Acres Proposed 500.0. Receiving streams: Dunkard Creek and UNT Dunkard Creek, both classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is East Dunkard Township Water Association and intake Dunkard Creek. Application received May 30, 2008.

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

**11823011 and NPDES No. PA0607614, L & J Energy Company, Inc.**, P. O. Box J, Grampian, PA 16838, permit renewal for reclamation only of a bituminous surface and auger mine in Susquehanna Township, **Cambria County**, affecting 75.0 acres. Receiving stream: UNT to Susquehanna River classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 15, 2009.

**56890101 and NPDES No. PA0598364, Croner, Inc.**, P. O. Box 260, Friedens, PA 15541, permit renewal for reclamation only of a bituminous surface and coal refuse disposal mine in Brothersvalley Township, **Somerset County**, affecting 226.6 acres. Receiving stream: UNTs to/and Buffalo Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 16, 2009.

**32020108 and NPDES No. PA0249351, Amerikohl Mining, Inc.**, 202 Sunset Drive, Butler, PA 16001, permit renewal for reclamation only of a bituminous surface mine in Buffington Township, **Indiana County**, affecting 44.0 acres. Receiving stream: UNT to Mardis Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 20, 2009.

**32930105 and NPDES No. PA0212652, P & N Coal Company, Inc.**, P. O. Box 332, Punxsutawney, PA 15767, permit renewal for reclamation only of a bituminous surface auger and coal refuse disposal mine in Banks Township, **Indiana County**, affecting 86.7 acres. Receiving streams: UNTs to Cush Creek, UNT to South Branch Bear Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 20, 2009.

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

**16070101 and NPDES Permit No. PA0258270. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Revision to an existing bituminous surface strip operation in Monroe Township, **Clarion County** affecting 166.0 acres. Receiving streams: UNTs to Brush Run and Brush Run and UNTs to Piney Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Revision to add 2.0 acres of new area for support acreage and deleting 2.0 acres of unaffected acreage. Application received January 22, 2009.

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

**17090101 and NPDES No. PA0257044. Fair Coal Company, LLC** (41 North Hill Street, Coalport, PA 16627). Commencement, operation and restoration of a bituminous surface mine in Beccaria Township and Glen

Hope Borough, **Clearfield County**, affecting 174.6 acres. Receiving stream: UNT to Clearfield Creek, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 15, 2009.

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

**54930201R3. Wheelabrator Culm Services, Inc.**, (4 Liberty Lane West, Hampton, NH 03842), renewal of an existing anthracite coal refuse reprocessing operation for reclamation activities only in Mahanoy Township, **Schuylkill County** affecting 117.0 acres, receiving stream: none. Application received January 14, 2009.

*Noncoal Applications Received*

*Effluent Limits*—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

Parameter	Table 2		
	30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

\* The parameter is applicable at all times.

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

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

**4379306. H & H Materials, Inc.** (190 Canon Road, Stoneboro, PA 16153). Renewal of NPDES Permit No. PA0118699, Lake Township, **Mercer County**. Receiving streams: Three UNTs to the Little Shenango River and the Little Shenango River, classified for the following use: TSF. There are no potable surface water supply intakes within 10 miles downstream. NPDES Renewal application received January 20, 2009.

**3076SM24. H & H Materials, Inc.** (190 Canon Road, Stoneboro, PA 16153). Renewal of NPDES Permit PA0212083, New Vernon and Lake Townships, **Mercer County**. Receiving streams: Three UNTs to Little Shenango River and Little Shenango River, classified for the following use: TSF. There are no potable surface water supply intakes within 10 miles downstream. NPDES Renewal application received January 20, 2009.

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

**7773SM1A2C8. Reading Materials, Inc.**, (P. O. Box 1467, Skippack, PA 19474), correction to an existing quarry operation in Douglass Township, **Berks County** for a stream relocation of an unnamed intermittent tributary to the Schuylkill River, classified for the following use: WWF. Application received January 15, 2009.

**6275SM2C10 and NPDES Permit No. PA0594539. Hanson Aggregates Pennsylvania, Inc.**, (7660 Imperial Way, Suite A103, Allentown, PA 18195), renewal of

NPDES Permit for discharge of treated mine drainage from a quarry operation in Limestone and Liberty Townships, **Montour County**, receiving stream: UNT to Chillisquaque Creek and Chillisquaque Creek, classified for the following use: WWF. Application received January 23, 2009.

## FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

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

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are

available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

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

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

**WATER OBSTRUCTIONS AND ENCROACHMENTS**

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

**E45-533. Pocono Township**, P. O. Box 197, Tannersville, PA 18372, in Paradise, Pocono and Hamilton Townships, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain water obstructions and encroachments associated with the SR 0611 Pocono and Hamilton Township Sewerage System Project, which consists of four sanitary sewerline crossings of Scott Run (HQ-CWF), three sanitary sewerline crossings of tributaries to Scott Run (HQ-CWF), three sanitary sewerline crossings of Pocono Creek (HQ-CWF), 27 sanitary sewerline crossings of tributaries to Pocono Creek (HQ-CWF), one sanitary sewerline crossing of Bulgers Run (HW-CWF), one sanitary sewerline crossing of a tributary of Bulgers Run (HQ-CWF), one sanitary sewerline crossing of Cranberry Creek (HQ-CWF), one sanitary sewerline crossing of a tributary to Cranberry Creek (HQ-CWF), one sanitary sewerline crossing of Transue Run (HQ-CWF), one sanitary sewerline crossing of Swiftwater Creek (HW-CWF) and eight sanitary sewerline crossings of various wetlands. The project also includes the removal and replacement of an existing pipe under Pocono Creek Drive across a tributary to Pocono Creek, bank stabilization and the construct of four stormwater outfalls. The project begins 0.56 mile northwest of the intersection of I-80 and SR 0033. The project extends 41,000 linear feet northward in 0.01 mile south of the intersection of SR 0611 and SR 0314. The project is located (Mount Pocono, PA Quadrangle Latitude: 41° 1' 0"; Longitude: 75° 17' 30").

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

**E02-584-A8. Hanson Aggregates PMA, Inc.**, 2200 Springfield Pike, Connellsville, PA 15425, in East Franklin and Rayburn Townships, **Armstrong County**, United States Army Corps of Engineers, Pittsburgh District. To amend Permit E02-584, which authorizes commercial sand and gravel dredging in select areas of the Allegheny River (WWF) and Ohio River (WWF), subject to review of fish surveys, mussel surveys and prescribed setbacks in Allegheny, Armstrong, Beaver and Westmoreland Counties to include Allegheny River Mile Points 49.1 to 49.3 (Downstream beginning point: Kittanning, PA Quadrangle N: 20.5 inches; W: 0.1 inch, Latitude: 40° 51' 21.67"; Longitude: 79° 30' 1.41". Upstream end point: Mosgrove, PA Quadrangle N: 19.4 inches; W: 16.7 inches,

Latitude: 40° 51' 26.11"; Longitude: 79° 29' 45.15"), left and right descending banks in East Franklin and Rayburn Townships, Armstrong County.

**E02-919-A8. Tri-State River Products, Inc.**, Box 218, 334 Insurance Street, Beaver, PA 15009, in East Franklin and Rayburn Townships, **Armstrong County**, United States Army Corps of Engineers, Pittsburgh District. To amend Permit E02-919, which authorizes commercial sand and gravel dredging in select areas of the Allegheny River (WWF) and Ohio River (WWF), subject to review of fish surveys, mussel surveys and prescribed setbacks in Allegheny, Armstrong, Beaver and Westmoreland Counties to include Allegheny River Mile Points 49.1 to 49.3 (Downstream beginning point: Kittanning, PA Quadrangle N: 20.5 inches; W: 0.1 inch, Latitude: 40° 51' 21.67"; Longitude: 79° 30' 1.41". Upstream end point: Mosgrove, PA Quadrangle N: 19.4 inches; W: 16.7 inches, Latitude: 40° 51' 26.11"; Longitude: 79° 29' 45.15"), left and right descending banks in East Franklin and Rayburn Townships, Armstrong County.

**E02-1326-A8. Glacial Sand and Gravel Company**, P. O. Box 1022, Kittanning PA 16201, in East Franklin and Rayburn Townships, **Armstrong County**, United States Army Corps of Engineers, Pittsburgh District. To amend Permit E02-1326, which authorizes commercial sand and gravel dredging in select areas of the Allegheny River (WWF) and Ohio River (WWF), subject to review of fish surveys, mussel surveys and prescribed setbacks in Allegheny, Armstrong, Beaver and Westmoreland Counties to include Allegheny River Mile Points 49.1 to 49.3 (Downstream beginning point: Kittanning, PA Quadrangle N: 20.5 inches; W: 0.1 inch, Latitude: 40° 51' 21.67"; Longitude: 79° 30' 1.41". Upstream end point: Mosgrove, PA Quadrangle N: 19.4 inches; W: 16.7 inches, Latitude: 40° 51' 26.11"; Longitude: 79° 29' 45.15"), left and right descending banks in East Franklin and Rayburn Townships, Armstrong County.

**E02-1603. Shaler Township**, 300 Wetzel Road, Glenshaw, PA 15116. To remove accumulated landslide material from the channel in Shaler Township, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (Pittsburgh East, PA Quadrangle N: 22.1 inches; W: 13.8 inches, Latitude: 40° 29' 49"; Longitude: 79° 58' 33"). The applicant proposes to remove accumulated landslide material from the channel of Girty's Run (WWF) for a distance of approximately 150 feet; to construct and maintain a soldier pile and lagging wall approximately 150 feet long and approximately 12 feet high along the left bank of Girty's Run; to construct and maintain riprap along the bank for approximately 27 feet on the upstream end of the proposed wall; to place and maintain fill in the left bank floodplain of Girty's run behind the proposed wall; and to construct and maintain an riprap outfall for a diversion channel to Girty's Run, for the purpose of stabilizing the hill side along the left bank of Girty's Run. The project is located along the east side of Walter Avenue approximately 150 feet south of its intersection with Marvin Street This project will have a secondary impact to a de minimis wetland 0.003 acre in size. This project will impact approximately 175 feet of Girty's Run.

**E30-227. Greensboro Monongahela Township Joint Sewage Authority**, P. O. Box 342, Dawson, PA 15338. To construct a pump station and two utility line stream crossings under the channel bed in Monongahela Township, **Greene County**, United States Army Corps of Engineers, Pittsburgh District (Masontown, PA Quadrangle N: 10.6 inches; W: 9.9 inches, Latitude: 39° 48'

31"; Longitude: 79° 56' 43"). The applicant proposes to construct and maintain the Mapletown Pump Station and a 550 foot long access road in the floodway of Whiteley Creek (WWF). To construct and maintain two utility line stream crossings under the channel bed of UNTs to Whiteley Creek in accordance with General Permit No. 5. The project is for construction of a sewage collection and treatment facility.

#### ENVIRONMENTAL ASSESSMENTS

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105*

**EA64-196CO. Association of Property Owners of the Hideout, Inc.**, 640 The Hideout, Lake Ariel, PA 18436. Salem Township, **Wayne County**, United States Army Corps of Engineers, Philadelphia District.

To rehabilitate Roamingwood Lake Dam across Ariel Creek (HQ-CWF) to provide overtopping protection and achieve compliance with current regulations. The project will necessitate impacts to 0.32-acre of Palustrine Emergent Wetland. The applicant proposes 0.33-acre of replacement wetland. The dam is located approximately 1300 feet east of the intersection of Lakeview Drive and Pocono Court (Lakeville, PA Quadrangle Latitude: 41° 25' 22"; Longitude: 75° 20' 45").

**D35-009EA. Department of Conservation and Natural Resources, Bureau of Forestry**, 401 Samters Building, 101 Penn Avenue, Scranton, PA 18503-2025. Carbondale Township, **Lackawanna County**.

Project proposes to breach and remove Rush Brook Dam across Rushbrook (CWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 500 feet of stream channel. The dam is located approximately 200 feet North of the intersection of Heart Lake Road (SR 107) and Corners Pike (SR 1006) (Carbondale, PA Quadrangle Latitude: 41° 32' 57"; Longitude: 75° 33' 54").

**D09-255EA. Buckingham Township**, 4613 Hughesian Drive, P. O. Box 413, Buckingham, PA 18912. Buckingham Township, **Bucks County**, United States Army Corps of Engineers, Philadelphia District.

Project proposes to breach and remove Lundquist Farm Dam across Watson Creek (CWF) for the purpose of

restoring the stream to a free flowing condition. The project will restore approximately 600 feet of stream channel. The dam is located approximately 1,600 feet southwest of the intersection of SR 263 and Mill Road (T322) (Buckingham, PA Quadrangle Latitude: 40° 18' 26"; Longitude: 75° 04' 15").

**D21-022EA. Cumberland Valley Trout Unlimited**, P. O. Box 520, Camp Hill, PA 17013. Lower Allen and Fairview Townships, **Cumberland and York Counties**, United States Army Corps of Engineers, Baltimore District.

Project proposes to breach and remove Mill Dam across Yellow Breeches Creek (CWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 1,200 feet of stream channel. The dam is located approximately 900 feet southeast of the intersection of Green Lane and Cedar Cliff Drives (Lemoyne, PA Quadrangle Latitude: 40° 13' 28"; Longitude: 76° 53' 54").

#### DAM SAFETY

*Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**D45-290. EL-DO Lake Dam, EL-DO Lake Property Owners Association**, P. O. Box 849, Kresgeville, PA 18333. To modify, operate and maintain the EL-DO Lake Dam across a tributary to Dotters Creek (EV), impacting 0.13 acre of wetlands (PEM) with no proposed impacts to the stream channel and providing for a minimum of 0.13 acre of wetland mitigation, for the purpose of rehabilitating the dam to meet the current Department Regulations (Pohopoco Mountain, PA Quadrangle N: 14.95 inches; W: 5.0 inches) in Polk Township, **Monroe County**.

**D30-073. Bailey No. 5 Sedimentation Pond. Consol PA Coal Company**, P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323. To construct, operate and maintain Bailey No. 5 Sedimentation Pond across Owens Run (WWF), impacting 5.87 acres of wetlands (PEM/PFO) and 25,957 feet of stream and providing 5.87 acres of wetland mitigation, for the purpose of creating a sedimentation pond for a new coal refuse disposal area at the Bailey Central Mine Complex (Wind Ridge, PA Quadrangle N: 13.2 inches; W: 6.3 inches) Richhill Township, **Greene County**.

## ACTIONS

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

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

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

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

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

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

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

#### I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0041076	Department of Conservation and Natural Resources Bureau of Forestry—District 19 HC1 Box 95A Swiftwater, PA 18370-9723	Monroe County Pocono Township	UNT of Scot Run 1E	Y
PA0061271	Armetta Pizzeria, Inc. R. R. 1 Box 222E New Milford, PA 18834	Susquehanna County New Milford Township	UNT to Nine Partners Creek 4F	Y
PA-0061689 (Minor Sewage)	Foster Township Ag-Mar Estates 1000 Wyoming Avenue Freeland, PA 18224	Luzerne County Foster Township	UNT to the Lehigh River 2A	Y
PA0063011	Hazleton City Authority Water Department 400 East Arthur Gardner Parkway Hazleton, PA 18201-7359	Hazle Township Luzerne County	Dreck Creek Reservoir 2B	Y
PA0061255 (Sewage)	Wallace R. McDonald 1647 Forest Acres Drive Clarks Summit, PA 18411-9526	Lackawanna County Newton Township	UNT to Gardner Creek 4G	Y
PA 0042048 (Minor Sewage)	Conyngham Borough Authority P. O. Box 469 Conyngham, PA 18219-0469	Sugarloaf Township Luzerne County	Little Nescopeck Creek 05D	Y
PAS602205	Shafer's Auto Graveyard, Inc. 233 Kramer Road Wind Gap, PA 18091	Bushkill Township Northampton County	UNT to Bushkill Creek 01F	Y



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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0252492 Sewage	Shippingport Borough P. O. Box 76 Shippingport, PA 15077	Beaver County Shippingport Borough	Ohio River	Y
PA0217417 Sewage	Kiski Area School District 200 Poplar Street Vandergrift, PA 15690	Westmoreland County Washington Township	UNT of Beaver Run	Y
PA0095087 Sewage	Chippewa Township Sanitary Authority 2811 Darlington Road Beaver Falls, PA 15010	Beaver County Chippewa Township	Brady's Run	N
PA0034797 Sewage	US Department of Justice Federal Bureau of Prisons NE Regional Office US Customs House 7th Floor Second and Chestnut Streets Philadelphia, PA 19106	Cambria County Allegheny Township	UNT of Clearfield Creek	Y
PA0203688 Sewage	West Pike Run Township Municipal Authority P. O. Box 222 Daisytown, PA 15427	Washington County West Pike Run Township	Pike Run	Y
PA0097268 Sewage	HP/Markleysburg, d/b/a Henry Clay Villa 5253 National Pike Road Markleysburg, PA 15459	Fayette County Henry Clay Township	UNT of Hall Run	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0239160	McCalmont Township Waste Water Treatment Plant 127 Firehouse Lane Anita, PA 15711	McCalmont Township Jefferson County	Elk Run 17-D	Y
PA0005622 Amendment No. 1	Bessemer and Lake Erie R. R. Company 85 Ohl Street Greenville, PA 16125-2350	Hempfield Township Mercer County	Shenango River 20-A	Y
PA0103969	Varischetti and Sons 8796 Route 219 Brockway, PA 15824	Washington Township Jefferson County	UNT to Wolf Run 17-C	Y
PA0030341	East Lawrence Elementary School 1352 Golf Course Road Volant, PA 16156-9041	Plain Grove Township Lawrence County	Taylor Run 20-C	Y

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

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

**NPDES Permit No. PA0011631, Amendment No. 1**, Industrial Waste, **Exelon Generation Company, LLC**, 200 Exelon Way, Kennett Square, PA 19348. This proposed facility is located in East Pikeland Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the amendment to discharge treated process wastewater and cooling water from Cromby Generating station into the Schuylkill River and Stony Run (Outfall 007) in Watershed 3D.

**NPDES Permit No. PA0244279**, Industrial Waste, **Telford Borough Authority**, 122 Penn Avenue, Telford, PA 18969-1912. This proposed facility is located in West Rockhill Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the discharge from a facility known as Telford Borough Authority Well No. 4 into a UNT to Perkiomen Creek in Watershed 3E.

**NPDES Permit No. PA0244287**, Industrial Waste, **Telford Borough Authority**, 122 Penn Avenue, Telford, PA 18969-1912. This proposed facility is located in Hilltown Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the discharge from a facility known as Telford Borough Authority Well No. 6 into a UNT to Mill Creek78 in Watershed 3E.

**NPDES Permit No. PA0056553**, Industrial Waste, **Alan A. Myers, LP, d/b/a Independent Construction Materials**, 638 Lancaster Avenue, Malvern, PA 19355. This proposed facility is located in Charlestown Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge from a facility know as Devault Yard located at 4045 State Road into a UNT to the Pickering Creek in Watershed 3D.

**NPDES Permit No. PA0056847**, Sewage, **East Rockhill Township**, 1622 Ridge Road, Perkasio, PA 18944. This proposed facility is located in East Rockhill Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage from the wastewater treatment plant into the East Branch Perkiomen Creek in Watershed 3E.

**NPDES Permit No. PA0027987**, Sewage, **HMSHost Corporation**, P. O. Box 8, Middletown, PA 17057. This proposed facility is located in Wallace Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage from the sewage treatment plant serving Peter J. Camiel Service Plaza located at MP 304.8 Westbound Pennsylvania Turnpike into a UNT to Marsh Creek in Watershed 3H.

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

**NPDES Permit No. PA0026191, Amendment No. 1**, Sewage, **Borough of Huntingdon**, 530 Washington Street, Huntingdon, PA 16652. This proposed facility is located in Smithfield Township, **Juniata County**.

Description of Proposed Action/Activity: Authorization to discharge Juniata River in Watershed 11-B.

**NPDES Permit No. PA0248410**, CAFO, **Lonnie Robison**, Meadow Valley Dairy, Inc., 4655 Valley Acre Road, York, PA 17406. This proposed facility is located in West Cocalico Township, **Lancaster County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to operate a 1,495-AEU dairy in Watershed 7-J.

**NPDES Permit No. PA0247022**, CAFO, **David Sweigart III**, Ridge View Farms, 189 Ridge View Road South, Elizabethtown, PA 17022. This proposed facility is located in Mount Joy Township, **Lancaster County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to operate a 981-AEU swine and dairy farm in Watershed 7-J.

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

**NPDES Permit No. PA0028487**, Sewage, **Hermitage Municipal Authority**, 800 North Hermitage Road, Hermitage, PA 16148. This proposed facility is located in City of Hermitage, **Mercer County**.

Description of Proposed Action/Activity: Renewal/expansion of an existing discharge of treated sewage.

### **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. 4508406**, Sewerage, **Pennsylvania American Water Company**, 800 West Hersheypark Drive, Hershey, PA 17033. This proposed facility is located in Stroud Township, **Monroe County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit for a pump station and force main to serve 139 townhouses planned in the proposed Mountain Hollow residential development.

**WQM Permit No. 4508405**, Sewerage, **Pennsylvania American Water Company**, 800 West Hersheypark Drive, Hershey, PA 17033. This proposed facility is located in Stroud Township, **Monroe County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit for the upgrade of the existing processing equipment at the Blue Mountain Lake wastewater treatment plant.

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

**WQM Permit No. WQG02360901**, Sewage, **Leola Sewer Authority**, 36 Hillcrest Avenue, Leola, PA 17540. This proposed facility is located in Upper Leacock Township, **Lancaster County**.

Description of Proposed Action/Activity: Construction/Operation of a sewer grinder pumping station to served proposed 13 lot residential subdivision—Bradley Estates.

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

**WQM Permit No. 01490801**, Sewage 4952, **Dennis R. Wineholt**, 851 Seitz Drive, Lewisberry, PA 17339. This proposed facility is located in Point Township, **Northumberland County**.

Description of Proposed Action/Activity: The applicant proposes to construct and operate a single-residence sewage plant. The sewage plant will be a septic tank, buried sand filter and chlorination.

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

**WQM Permit No. 4208404**, Sewerage, **USDA Forest Service—Allegheny National Forest**, 4 Farm Colony Drive, Warren, PA 16365. This proposed facility is located in Corydon Township, **McKean County**.

Description of Proposed Action/Activity: This project documents the existing wastewater collection system and treatment facility and spray irrigation system known as the North Central Lagoon, for the purpose of obtaining a

Pennsylvania Water Quality Management Permit (Part II Permit). The North Central Lagoon was constructed in 1976 to serve two purposes: To treat sewage pumped from vault toilets and holding tanks at National Forest recreation areas around the Allegheny Reservoir and to treat wastewater from the adjacent Bradford Ranger Station.

**WQM Permit No. 2408401**, Sewerage, **USDA Forest Service, Allegheny National Forest**, 4 Farm Colony Drive, Warren, PA 16365. This proposed facility is located in Jones Township, **Elk County**.

Description of Proposed Action/Activity: The treatment system and spray irrigation field are located on a hilltop adjacent to the Twin Lakes Recreation Area and encompass about 2/5 acres. Twin Lakes Recreation Area covers about 60 acres and includes 51 campsites, trailer dump station, two group camping areas, a picnic area, swimming beach and hiking trails. The wastewater system includes gravity and pressure sewage collection systems and an aerated lagoon treatment system with spray irrigation disposal.

**WQM Permit No. 6208201**, Industrial Waste, **Torpedo Specialty Wire, Inc.**, P. O. Box 229, Pittsfield, PA 16340. This proposed facility is located in Pittsfield Township, **Warren County**.

Description of Proposed Action/Activity: This Water Treatment System will replace the existing 600 gallon batch system with a 6,500 gallon automated batch treatment system with filter press to improve the efficiency of the system and the quality of the effluent discharge.

**WQM Permit No. 6108403**, Sewerage, **Cranberry Venango County General Authority**, P.O Box 378, Seneca, PA 16346-0378. This proposed facility is located in Cranberry Township, **Venango County**.

Description of Proposed Action/Activity: This new permit for an upgrade of the Hays Hollow Interceptor Sewer from a 10 inch diameter high-flow interceptor line to a 15 inch diameter high-flow interceptor line which is connected to the Oil City Sewage Treatment Plant.

**WQM Permit No. 4375201**, Industrial Waste, **Amendment No. 1, Bessemer and Lake Erie Railroad**, 85 Ohl Street, Greenville, PA 16125-2350. This proposed facility is located in Hempfield Township, **Mercer County**.

Description of Proposed Action/Activity: Issuance of an amendment to improve the pretreatment of stormwater associated with industrial activities, reducing stormwater flow to wastewater treatment system and improving site drainage.

**WQM Permit No. 4399411**, Sewerage, **Amendment No. 1, Hermitage Municipal Authority**, 800 North Hermitage Road, Hermitage, PA 16148. This proposed facility is located in the City of Hermitage, **Mercer County**.

Description of Proposed Action/Activity: Organic rerating of treatment system.

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

**WQM Permit No. 0908403**, Sewerage, **Chalfont-New Britain Township Joint Sewage Authority**, 1645 Upper State Road, Doylestown, PA 18901-2666. This proposed facility is located in Chalfont Borough, **Bucks County**.

Description of Action/Activity: Replacement of 7,320 linear feet of portions of the West Branch Interceptor ranging in pipe size from 18 to 24 inches. Twenty nine manholes will also be replaced.

**WQM Permit No. WQG02150815**, Sewerage, **Pennsylvania American Water Company**, 4 Wellington Boulevard, Wyomissing, PA 19610. This proposed facility is located in Parkesburg Borough, **Chester County**.

Description of Action/Activity: Construction and operation of an 8" sanitary sewer main that will serve the proposed 323 edu development The Davis Property.

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#### IV. NPDES Stormwater Discharges from MS4 Permit Actions

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#### V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10-G267-R	The Hankin Group 707 Eagleview Boulevard P. O. Box 562 Exton, PA 19341	Chester	Upper Uwchlan Township	Tributary Brandywine Creek HQ-TSF-MF
PAI01 1503054-R	Pulte Homes of PA, LP 1100 Northbrook Drive Suite 200 Trevose, PA 19059	Chester	Upper Uwchlan Township	UNT Pickering Creek HQ-TSF
PAI01 1508031	Joseph and Patricia Kandler 571 Porters Mill Road Pottstown, PA 19465	Chester	East Coventry Township	Stony Run HQ-TSF

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1508062	Diament Building Corporation 144 Byers Road P. O. Box 471 Uwchlan, PA 19480	Chester	West Vincent Township	UNT Pine Creek HQ-TSF
PAI01 1508063	Wilkinson Signature, LLC 1020 Broad Run Road Landenberg, PA 19350	Chester	Franklin Township	Big Elk Creek HQ-TSF-MF
PAI01 1508072	M. William Waid 216 Nottingham Drive Spring City, PA 19475	Chester	East Nantmeal Township	Marsh Creek/Lyons Run HQ
PAI01 1508073	West Bradford Development Co. 806 Baltimore Avenue Glen Mills, PA 19342	Chester	East Fallowfield Township	UNT West Branch Brandywine Creek EV-MF
PAI01 2308008	Anthony Palmieri 1435 Middletown Road Glen Mills, PA 19342	Delaware	Edgmtont Township	Ridley Creek HQ-TSF
PAI01 4608004	Buxmont Riding Club, Inc. 521 Thousand Acre Road Sellersville, PA 18960	Montgomery	Salford Township	UNT Ridge Valley Creek/Unami Creek HQ-TSF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024808020	Myers Power Products, Inc. 200 Highland Avenue Bethlehem, PA 18020	Northampton	Hanover Township	Monocacy 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 &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10Y070R-1	Andy Spear PPL Corp. Brunner Island 2 North 9th Street, Pl 6 Allentown, PA 18101	York	York Haven Borough	Hartman Run— Conewago Creek— Susquehanna River 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 &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041403017(3)	Penn State Central Campus Ian Salada/PSU 113 Physical Plant Building University Park, PA 16802	Centre	State College Borough	Slab Cabin Run CWF Thompson Run HQ-CWF

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

*Washington County Conservation District, 602 Courthouse Square, Washington, PA 15301, (724) 228-6774.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056308003	Protos Development 1370 Washington Pike Bridgeville, PA 15017	Washington	Peters Township	Canonsburg Lake/ Charters Creek WWF-HQ

## **VII. Approvals to Use NPDES and/or Other General Permits**

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

### **List of NPDES and/or Other General Permit Types**

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)

PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Groundwater Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

*General Permit Type—PAG-2*

*Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Bensalem Township Bucks County	PAG200 090701501	Turnpike Commission P. O. Box 67676 Harrisburg, PA 17105	Neshaminy/Poquessing Creeks WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Falls Township Bucks County	PAG200 0907141-1	International Salt Company, LLC 650 Northern Boulevard Summit, PA 18411-0540	Delaware River WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
New Britain Township Bucks County	PAR10- D641-R	Clay Heckler 2312 North Broad Street Colmar, PA 18915-1489	West Branch Neshaminy Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Marlborough Township Chester County	PAG200 1508062	Edward B. Deseta P. O. Box 4549 Greenville, DE 19807	Pocopson Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Whiteland Township Chester County	PAG200 1507005	Whitford Country Club 600 Whitford Hills Road Exton, PA 19341-2051	Colebrook Run CWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Bradford Township Chester County	PAG200 1506079	Genterra Corporation 256 Eagleview Boulevard Suite 325 Exton, PA 19341	West Branch Brandywine Creek CWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Highland Township Chester County	PAG200 1508001	Daniel and Linda Eldridge 10 Western Avenue Parkesburg, PA 19365-9162	UNT Buck Run TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Bradford Township Chester County	PAG200 1507002	Marble and Granite World 252 East Main Street Norristown, PA 19401	UNT Beaver Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Radnor Township Delaware County	PAG200 2307025	Department of Transportation District 6-D 7000 Geerdes Boulevard King of Prussia, PA 19046-4625	Darby Creek CWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Marple Township Delaware County	PAG200 2308041	Cardinal O'Hara High School 1701 South Sproul Road Springfield, PA 19064	Whetstone Run WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower and Upper Salford Townships Montgomery County	PAG200 4607191-1	New Life Youth and Family Services 585 Freeman School Road Schwenksville, PA 19473	UNT East Branch Perkiomen Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
New Hanover Township Montgomery County	PAG200 4608044	Gambone Swamp Pike, LP 1030 West Germantown Pike P. O. Box 2 Fairview Village, PA 19409	UNT Minister Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG201 5107012	Philadelphia Water Department The Aramark Tower 1101 Market Street Philadelphia, PA 19107-2994	Tacony Creek/Delaware River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Scranton Lackawanna County	PAG2003509001	The Commonwealth Medical Education Corporation 150 North Washington Avenue Scranton, PA 18503	Lackawanna River CWF	Lackawanna County Conservation District (570) 281-9495
Lower Saucon Township Northampton County	PAG2004807017	Joel and Cinda Harris P. O. Box 1024 Quakertown, PA 18951	East Branch Saucon Creek CWF	Northampton County Conservation District (610) 746-1971
East Norwegian Township Schuylkill County	PAG2005408022	Schoeneman Realty Co. P. O. Box 600 Route 61 North Pottsville, PA 17901	UNT to the Mill Creek CWF	Schuylkill County Conservation District (570) 622-3742
Manchester Township York County	PAG2006704017-R	Michael N. Rutter 75 Lightner Road York, PA 17404	UNT to Little Conewago Creek TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Windsor Township York County	PAG2006708062	Carl W. Cheek Pyxos Properties, Inc. 174 Walnut Street Red Lion, PA 17356	UNT to Pine Creek CWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
South Heidelberg Township Berks County	PAG2000608052	Peter Eisenhauer Eisenhauer Nissan, Inc. P. O. Box 146 Wernersville, PA 19565	Manor Creek TSF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Hereford Township Berks County	PAG2000608071	James Mack 7180 Pine Tree Road Hereford, PA 18056	UNT to Perkiomen Creek TSF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201

*Facility Location:  
Municipality &  
County**Permit No.**Applicant Name &  
Address**Receiving  
Water/Use**Contact Office &  
Phone No.*

Upper Bern  
Township  
Berks County

PAG2000608064

David Moore  
71 Riverside Drive  
Reading, PA 19605

Irish Creek—Schuylkill  
River  
WWF

Berks County  
Conservation District  
1238 County Welfare  
Road  
Suite 200  
Leesport, PA 19533-9710  
(610) 372-4657, Ext. 201

Bethel Township  
Berks County

PAG2000608079

Rick Triest  
Tulpehocken Area School  
District  
27 Rehersburg Road  
Bethel, PA 19507

Little Swatara Creek  
CWF

Berks County  
Conservation District  
1238 County Welfare  
Road  
Suite 200  
Leesport, PA 19533-9710  
(610) 372-4657, Ext. 201

Alsace Township  
Berks County

PAG2000609002

Ronald Bortz  
L Designs, LLC  
3209 Pricetown Road  
Fleetwood, PA 19522

Laurel Run  
CWF-MF

Berks County  
Conservation District  
1238 County Welfare  
Road  
Suite 200  
Leesport, PA 19533-9710  
(610) 372-4657, Ext. 201

Bern Township  
Berks County

PAG2000603094-R

Joseph Gambone  
Gambone Development  
Company  
1030 West Germantown  
Pike  
East Norristown, PA  
19401

Tulpehocken Creek  
WWF

Berks County  
Conservation District  
1238 County Welfare  
Road  
Suite 200  
Leesport, PA 19533-9710  
(610) 372-4657, Ext. 201

Ontelaunee  
Township  
Berks County

PAG2000609006

Allen Hoffman  
1281 West Leesport Road  
Leesport, PA 19533

Schuylkill River  
WWF

Berks County  
Conservation District  
1238 County Welfare  
Road  
Suite 200  
Leesport, PA 19533-9710  
(610) 372-4657, Ext. 201

Caernarvon  
Township  
Berks County

PAG2000608060

Keith Grant  
Morgantown Affiliates I,  
LP and  
Morgantown Affiliates II,  
LP  
960 Pottstown Pike  
Chester Springs, PA  
19425

Conestoga River  
WWF

Berks County  
Conservation District  
1238 County Welfare  
Road  
Suite 200  
Leesport, PA 19533-9710  
(610) 372-4657, Ext. 201

York City  
York County

PAG2006708073

Matthew Jackson  
Redevelopment Authority  
of the City of York  
49 East Market Street  
York, PA 17401

Codorus Creek  
WWF

York County Conservation  
District  
118 Pleasant Acres Road  
York, PA 17402  
(717) 840-7430

Bradford County  
South Creek  
Township

PAG2000809001

South Creek Township  
P. O. Box 60  
Gillett, PA 16925

South Creek  
CWF

Bradford County  
Conservation District  
Stoll Natural Resource  
Center  
R. R. 5  
Box 5030C  
Towanda, PA 18848  
(570) 265-5539, Ext. 6

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Centre County College, Ferguson and Patton Townships State College Borough	PAG2001406002(1)	Ian Salada Penn State North Campus 113 Physical Plant Building University Park, PA 16802	Big Hollow Run CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817
Centre County Ferguson Township	PAG2001408013	Thomas Songer Torrion Centre 1951 Pine Hall Road Suite 150 State College, PA 16801	UNT to Spring Creek CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817
Centre County Ferguson Township State College Borough	PAG2001408018	Ian Salada Penn State North Campus 113 Physical Plant Building University Park, PA 16802	Big Hollow Run CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817
Clearfield County Sandy Township	PAG2001708012	Sandy Township 1094 Chestnut Avenue DuBois, PA 15801	Pentz Run CWF Sandy Lick Creek CWF Soldier Run CWF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629
Clinton County Allison Township Flemington Borough	PAG2001808004	Flemington Church of Christ 527 Sturdevant Street Flemington, PA 17745	Freedom Run CWF Bald Eagle Creek CWF	Clinton County Conservation District 45 Cooperation Lane Mill Hall, PA 17751 (570) 726-3798
Clinton County East Keating Township	PAG2001808008	Department of Transportation P. O. Box 342 Clearfield, PA 16830-0342	Sinnemahoning Creek WWF	Clinton County Conservation District 45 Cooperation Lane Mill Hall, PA 17751 (570) 726-3798
Fayette County South Union Township	PAG2002608020	Raymond Carolla 145 Windwoods Drive Hopwood, PA 15445	UNT to Redstone Creek WWF	Fayette County Conservation District (724) 438-4497
Greene County Monongahela Township	PAG2003009001	Greensboro/Monongahela Township Joint Sewer Authority P. O. Box 342 Greensboro, PA 15338	Monongahela River and Whiteley Creek WWF	Greene County Conservation District (724) 852-5278
Washington County North Strabane Township	PAG2006309006	William McCloskey, Inc. 571 West McMurray Road Canonsburg, PA 15317	Chartiers Creek WWF	Washington County Conservation District (724) 228-6774
Elk County Jay Township	PAG2092409001	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	UNT to Kersey Run CWF	Department of Environmental Protection Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 (814) 472-1800



*General Permit Type—PAG-3**Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Allentown City Lehigh County	PAR802245	Norfolk Southern Railway Co. Allentown Yard 800 River Drive Allentown, PA 18109	Lehigh River TSF	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
Scranton City Lackawanna County	PAR602224	Morgan Highway Auto Parts 400 Morgan Highway Scranton, PA 18508	Leggetts Creek CWF	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
Allentown City Lehigh County	PAR202216	Prior Coated Metals, Inc. 2233 26th Street S.W. Allentown, PA 18103-6601	Trout Creek CWF	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
York County Springettsbury Township	PAR203610	Worthington Steelpac Systems 1201 Eden Road York, PA 17402-1965	Mill Creek WWF 7-H	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Bradford Township McKean County	PAR318304	Universal Well Services, Inc. 124 Industrial Drive Bradford, PA 16701	East Branch Tunungwant Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-4**Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Berks County Alsace Township	PAG043718	Larry C. Hain P. O. Box 191 Moihrsville, PA 19541-0191	Bernhart Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Franklin County Letterkenny Township	PAG043633	Curvin Gochenour 13103 Cumberland Highway Orrstown, PA 17244	Conodoguinet Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Point Township Northumberland County	PAG045257	Dennis R. Wineholt 851 Seitz Drive Lewisberry, PA 17339	UNT To Susquehanna River CWF	Water Management Program Manager 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666

*General Permit Type—PAG-8**Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
South Middleton Township Cumberland County	PAG083532	Peck's Septic Waste Processing Facility 68 Pine School Road Gardners, PA 17324	South Middleton Township Cumberland County	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

*General Permit Type—PAG-9**Facility Location:**Municipality & County**Permit No.**Applicant Name & Address**Receiving Water/Use**Contact Office & Phone No.*Kutztown Borough  
Berks County

PAG093517

Fisher Sanitary Service,  
Inc.Kutztown Borough  
Berks CountyDEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA  
17110-8200  
(717) 705-4707*General Permit Type—PAG-10**Facility Location:**Municipality & County**Permit No.**Applicant Name & Address**Receiving Water/Use**Contact Office & Phone No.*Burlington  
Township  
Bradford County  
Granville Township  
Bradford County  
West Burlington  
Township  
Bradford County  
Boggs Township  
Clearfield County  
Franklin Township  
Lycoming County  
Jordan Township  
Lycoming County  
Penn Township  
Lycoming County  
Wolf Township  
Lycoming County  
Davidson Township  
Sullivan County

PAG104808

Chief Gathering, LLC  
6051 Wallace Run Road  
Extension  
Wexford, PA 15090North Branch Towanda  
Creek  
CWF  
Sugar Creek  
TSF  
Towanda Creek  
TSF  
UNTs to North Branch  
Towanda Creek  
CWF  
UNTs to Towanda Creek  
CWF  
Clearfield Creek  
CWF  
Raccoon Run  
CWF  
UNTs to Clearfield Creek  
CWF  
Beaver Run  
CWF  
Derr Run  
CWF  
Little Muncy Creek  
CWF  
Marsh Run  
CWF  
Little Indian Run  
CWF  
West Branch Little  
Muncy Creek  
CWF  
Big Run  
CWF  
Gregs Run  
CWF  
Muncy Creek  
TSF  
Sugar Run  
CWFNorthcentral Regional  
Office  
Water Management  
Program  
208 West Third Street  
Suite 101  
Williamsport, PA 17701  
(570) 327-3664**STATE CONSERVATION COMMISSION****NUTRIENT MANAGEMENT PLANS RELATED TO APPLICATIONS FOR  
NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES)  
PERMITS FOR CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO)**

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

Persons aggrieved by any action may appeal under section 517 of Act 38, section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachael Carson State Office Building, 400 Market Street, P. O. Box 8457,

Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

#### ACTIONS—NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproved</i>
Deer Stone Ag, Inc. Drew Deerstein Farm 10049 Ferguson Valley Road Lewistown, PA 17044	Mifflin	22.8	716.5	Swine	HQ	Approved

#### PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

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

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

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for 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

<b>Permit 0905507</b> , Public Water Supply.	
Applicant	<b>Greenacres Health Systems</b> 4 Ivybrook Boulevard Ivyland, PA 18974
Township	Buckingham
County	<b>Bucks</b>
Type of Facility	PWS
Consulting Engineer	John Spitko 1456 Ferry Road Building 500 Doylestown, PA 18901
Permit to Construct Issued	May 16, 2005
<b>Permit 0908508</b> , Public Water Supply.	
Applicant	<b>Richlandtown Borough</b> 125 South Main Street P. O. Box 455 Richlandtown, PA 18955
Township	Richland
County	<b>Bucks</b>
Type of Facility	PWS
Consulting Engineer	Castle Valley Consultants, Inc. 10 Beulah Road New Britain, PA 18901
Permit to Construct Issued	August 29, 2008
<b>Permit 1508510</b> , Public Water Supply.	
Applicant	<b>Pennsylvania America Water Company</b> 800 West Hersheypark Drive Hershey, PA 17033
Township	City of Coatesville
County	<b>Chester</b>
Type of Facility	PWS

Consulting Engineer Pennsylvania America Water Company  
800 West Hersheypark Drive  
Hershey, PA 17033

Permit to Construct Issued October 16, 2008

**Permit 4608512**, Public Water Supply.

Applicant **North Penn Water Authority**  
300 Forty Foot Road  
P. O. Box 1659  
Lansdale, PA 19446

Township Various Municipalities

County **Bucks and Montgomery Counties**

Type of Facility PWS

Consulting Engineer North Penn Water Authority  
300 Forty Foot Road  
P. O. Box 1659  
Lansdale, PA 19446

Permit to Construct Issued December 9, 2008

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

**Permit No. 0608518 MA, Minor Amendment**, Public Water Supply.

Applicant **Pennsylvania American Water Company**

Municipality Spring Township

County **Berks**

Type of Facility Repainting of existing Mountain Tank No. 2.

Consulting Engineer Scott M. Thomas, P. E.  
Pennsylvania American Water Company  
800 West Hersheypark Drive  
Hershey, PA 17033

Permit to Construct Issued January 16, 2009

**Permit No. 0708503**, Public Water Supply.

Applicant **Bellmeade Manor**

Municipality Antis

County **Blair**

Type of Facility Permit is for the addition of Well No. 2 as a source of supply for existing system.

Consulting Engineer Christopher L. Dutrow, P. E.  
Stiffler McGraw and Associates, Inc.  
19 North Juniata Street  
Hollidaysburg, PA 16648

Permit to Construct Issued January 15, 2009

**Permit No. 5008504**, Public Water Supply.

Applicant **Liverpool Municipal Authority**

Municipality Liverpool Borough

County **Perry**

Type of Facility Addition of New Well No. 5 with arsenic treatment.

Consulting Engineer Shannon G. Williams, P. E.  
Herbert, Rowland & Grubic, Inc.  
1846 Charter Lane  
Lancaster, PA 17601

Permit to Construct Issued January 22, 2009

**Permit No. 4408502**, Public Water Supply.

Applicant **Melanie Macknair**

Municipality Derry Township

County **Mifflin**

Type of Facility Installation of nitrate treatment for a catering business.

Consulting Engineer Mark V. Glenn, P. E.  
Gwin, Dobson & Foreman, Inc.  
3121 Fairway Drive  
Altoona, PA 16602-4475

Permit to Construct Issued January 16, 2009

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

**Permit No. 5308501—Construction**, Public Water Supply.

Applicant **Roulette Township**

Township or Borough Roulette Township

County **Potter**

Responsible Official George Baker, Chairperson  
Roulette Township  
P. O. Box 253  
Roulette, PA 16746

Type of Facility Public Water Supply—Construction

Consulting Engineer Harold C. Bloomgren, Jr.  
President  
NW Engineering, Inc.  
R. R. 1  
Box Q  
Tidioute, PA 16351

Permit Issued Date January 21, 2009

Description of Action Increased yield at Well No. 4 and the chlorine contact piping.

**Permit No. 0809501—Operation**, Public Water Supply.

Applicant **Lisa's Little Philly**

Township or Borough Wysox Township

County **Bradford**

Responsible Official Gary Brennan  
Lisa's Little Philly  
R. R. 6  
Box 6174  
Wysox, PA 18854

Type of Facility Public Water Supply—Operation

Consulting Engineer N/A

Permit Issued Date January 22, 2009

Description of Action Operation of the recently constructed iron and barium removal system, including a dual tank ion exchange system, with Purolite SST60 resin.

**Permit No. 1708501—Construction**, Public Water Supply.

Applicant **Township of Sandy**  
Township or Borough Sandy Township  
County **Clearfield**  
Responsible Official Richard Castonguay, Manager  
Township of Sandy  
1094 Chestnut Avenue  
P. O. Box 267  
DuBois, PA 15801

Type of Facility Public Water  
Supply—Construction

Consulting Engineer Mark Glenn, P. E.  
Gwin, Dobson & Foreman, Inc.  
3121 Fairway Drive  
Altoona, PA 16602

Permit Issued Date January 27, 2009

Description of Action Extension of the distribution system to the western Sandy Township area and construction of a 250,000 gallon finished water storage tank, pump station, booster chlorination facilities and related appurtenances.

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

**Permit No. 3790501-MA5**, Public Water Supply.

Applicant **Pennsylvania American Water Company**  
Township or Borough Wayne and Franklin Townships  
County **Lawrence and Beaver Counties**

Type of Facility Public Water Supply  
Consulting Engineer Scott M. Thomas  
Senior Operations Engineer  
800 West Hersheypark Drive  
Hershey PA 17033

Permit to Construct Issued January 21, 2009

**Permit No. 2402501-MA1**, Public Water Supply.

Applicant **Johnsonburg Municipal Authority**  
Township or Borough Johnsonburg Borough  
County **Elk County**  
Type of Facility Public Water Supply  
Consulting Engineer Daniel B. Guss, P. E.  
Uni-Tec Consulting Engineers  
2007 Cato Avenue  
State College, PA 16801

Permit to Construct Issued January 23, 2009

**Permit No. 62795041-MA1**, Public Water Supply.

Applicant **Southwest Warren County Municipal Authority**  
Township or Borough Deerfield Township/Tidioute Borough  
County **Warren County**  
Type of Facility Public Water Supply  
Consulting Engineer Allan R. Vanderpoel, P. E.  
E & M Engineers & Surveyors PC  
24 Derrick Road  
Bradford, PA 16701-3350

Permit to Construct Issued January 23, 2009

**Operations Permit** issued to **Cranberry Venango County General Authority**, PWSID No. 6610031, Cranberry Township, **Venango County**, January 21, 2009. Operations permit issued for interior and exterior renovation and painting of the two 500,000 gallon (each) Allison Road potable water standpipes and the 300,000 gallon Cranberry Mall storage tank, per specifications approved by construction permit 6182501-MA1, issued November 19, 2007.

#### SEWAGE FACILITIES ACT PLAN APPROVAL

#### Plan Approvals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

#### Plan Location:

Borough or Township	Borough or Township Address	County
East Pennsboro Township	98 South Enola Drive Enola, PA 17025	Cumberland

*Plan Description:* Approval of a revision to the Official Sewage Plan of East Pennsboro Township, Cumberland County. The proposed Oyster Mill Road sewer extension consists of the construction of 2,750 feet of sewer line along Oyster Mill Road to serve the existing lots along that road and possibly serve future lots in the Floribunda Heights development. This proposed 8" gravity line will connect at the existing siphon chamber located near the intersection of Oyster Mill Road and Country Club Drive and extend to a point beyond the terminus of the roadbed. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant impacts resulting from this proposal.

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

#### Plan Location:

Borough or Township	Borough or Township Address	County
Washington Township	Washington Township Supervisors Christina Walker, Secretary/Treasurer 258 Pine Run Road Apollo, PA 15613	Westmoreland

*Plan Description:* The project is located in the Pine Run Watershed, in the northern portion of Washington Township, Westmoreland County. The project consists of the extension of sewer lines in the Municipal Authority of Washington Township's service area, to provide service for an additional 408 Equivalent Dwelling Units.

The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts results from this proposal.

Any required WQM Permits must be obtained in the name of the Municipal Authority of Washington Township as appropriate.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 3

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**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).**

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

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the

notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

**Unison Engine Components, Inc. (UEC)-Truform**, 1141 Highway 315, Plains Township, **Luzerne County**. James Sposito, James P. Sposito Associates, 11 Archbald Street, Carbondale, PA 18407 submitted a Final Report (on behalf of his client, Unison Engine Components, Inc., 701 Crestwood Drive, Mountaintop, PA 18707), concerning the remediation of soils found to have been impacted by hydraulic oil as a result of an accidental release. The report documented attainment of the Statewide Health Standard for soil and was approved on January 22, 2009.

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

**O'Sullivan Films, Inc.**, Lebanon City, **Lebanon County**. August Mack, 941 Wheatland Avenue, Suite 202, Lancaster, PA 17603 and O'Sullivan Films, Inc., 1507 Willow Street, Lebanon, PA 17046, submitted a Final Report concerning remediation of site soils contaminated with lubricating oil from two roll mills. The Final Report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department of Environmental Protection on January 20, 2009.

**Walgreen's Drug Store Development**, Altoona City, **Blair County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601 on behalf of Lawruk Builders, 210 West Plank Road, Altoona, PA 16602 and Joseph Grappone, Grappone Law Offices, 411-A Logan Boulevard, Altoona, PA 16602, submitted a combined Remedial Investigation and Final Report concerning site soils and groundwater contaminated with lead, VOCs and SVOCs. The combined report demonstrated attainment of a combination of Residential Statewide Health and Site-Specific Standards and was approved by the Department of Environmental Protection on January 22, 2009.

**Former Penncast Foundry**, Marietta Borough, **Lancaster County**. Marks Environmental, Inc., 140 Bollinger Road, Elverson, PA 19520, on behalf of Marietta Market Street, LLC, 2901 Lititz Pike, Lancaster, PA 17601, submitted a Final Report concerning remediation of site soils contaminated with metals. The Final Report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department of Environmental Protection on January 22, 2009.

**Former Schmidt & Ault/Regis Paper Company**, York City and Spring Garden Township, **York County**. Herbert, Rowland, & Grubic, Inc., 1820 Linglestown Road, Harrisburg, PA 17110, on behalf of Tyler Run, LLC, 11915 Park Heights Avenue, Owings Mills, MD 21117, submitted a Remedial Investigation Report concerning site soils and groundwater contaminated with benzene, chlorinated solvents and PCBs. The applicant is seeking to remediate the site to a combination of Site-Specific and Statewide Health Standards. The Remedial Investigation Report was approved by the Department of Environmental Protection on January 26, 2009.

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

**Former Northumberland Manufactured Gas Plant.** Northumberland Borough, **Northumberland County.** The Mahfood Group, LLC, 260 Millers Run Road, Bridgeville, PA 15017 on behalf of PPL Electric Utilities Corp., 2 North 9th Street, GENTW-17, Allentown, PA 18101, has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with polycyclic aromatic hydrocarbons and benzene, ethylbenzene, toluene and xylene. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department of Environmental Protection on January 23, 2009.

#### MUNICIPAL WASTE GENERAL PERMITS

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

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

**General Permit Application No. WMGM036. Kyler Environmental Services, LTD,** 1269 Piedmont Road, Somerset, PA 15501.

Originally, General Permit Number WMGM036 was issued for the processing of sewage sludge, generated by municipal sewage collection and treatment systems or treatment works, by lime-stabilization for land application for mine reclamation purposes. The general permit was issued by Central Office on September 1, 2006.

The amended WMGM036 is issued to Kyler Environmental Services, LTD, for the processing of exceptional (Class A) quality biosolids, as specified in Appendix A of the general permit and nonexceptional (Class B) quality biosolids, as specified in Appendix B of the general permit. The amended WMGM036 was issued by Central Office on January 23, 2009.

Persons interested in reviewing the general permit should contact Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users should contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Permits Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Permit ID No. 101691. Medical Waste Recovery, Inc.,** 9 Broadway, Suite 30, Denville, NJ 07834. Permit application for the construction and operation of an infectious/chemotherapeutic waste processing facility in Penn Township, **Westmoreland County**, was issued in the Regional Office on January 16, 2009.

## AIR QUALITY

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

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

**35-302-122GP1: Westlake United Corp.** (P. O. Box 5, Lenni, PA 19052) on January 16, 2009, to operate two boilers at their site in Mayfield Borough, **Lackawanna County.**

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

**GP9-06-05007J: Carpenter Technology Corp.** (101 Bern Street, Reading, PA 19601) on January 26, 2009, for Diesel or No. 2 fuel-fired Internal Combustion Engines under GP9 in the City of Reading, **Berks County.**

**GP9-06-05007K: Carpenter Technology Corporation** (101 Bern Street, Reading, PA 19601) on January 26, 2009, for Diesel or No. 2 fuel-fired Internal Combustion Engines under GP9 in the City of Reading, **Berks County.**

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

**GP2-41-00021: Buckeye Energy Services, LLC** (5 TEK Park, 9999 Hamilton Boulevard, Breinigsville, PA 18031) on December 23, 2008, to authorize operation of storage tank (No. 9474) to store ethanol under the General Plan Approval and General Operating Permit for Storage Tanks for VOC Liquids (BAQ-GPA/GP-2) in Armstrong Township, **Lycoming County.**

**GP5-08-02A: Chesapeake Appalachia, LLC** (P. O. Box 6070, Charleston, WV 25362) on January 8, 2009, for construction and operation of a 145 brake horsepower natural gas-fired compressor engine under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at the Evanichick Compressor Station in Asylum Township, **Bradford County.**

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

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

**06-05024C: Reliant Energy Mid-Atlantic Power Holdings, LLC** (121 Champion Way, Canonsburg, PA 15317-5817) on January 16, 2009, for installation of two test control devices on the three main boilers at the Titus Generating Station in Cumru Township, **Berks County.**

**67-03154A: Service Tire Truck Center, Inc.** (2800 Concord Road, York, PA 17402) on January 21, 2009, for installation of a truck retreading process in Springettsbury Township, **York County.**

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

**49-00029A: Clark's Feed Mill, Inc.** (Route 61 North, P. O. Box W, Shamokin, PA 17872) on December 26, 2008, issued plan approval to construct and operate a pellet cooling operation (Source ID P109) consisting of one pellet cooler, one pellet mill and associated material handling equipment at their Feed Mill in Ralpho Township, **Northumberland County**.

**49-00038A: F. B. Leopold Co., Inc.** (P. O. Box 128, Watsonstown, PA 17777) on November 17, 2008, issued plan approval to install a new Seneca Model 336-IMTS-10 fabric collector (ID C101) to replace old C. P. Environmental Model 120TNF256W fabric collector to control PM emissions from the facility's existing coal drying and loading operation (Source ID P101) at the Watsonstown coal preparation plant in Delaware Township, **Northumberland County**.

**14-00003D: The Pennsylvania State University** (Office of Physical Plant Building, Room 101P, University Park, PA 16802-1119) on December 29, 2008, issued plan approval to construct and operate one combined heat and power combustion turbine including heat recovery steam generation unit with duct burner at their University Park Campus in College Township, **Centre County**.

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

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

**49-00060A: Corson Asphalt, Inc.** (26 Beaver Street, Cogan Station, PA 17728) on January 9, 2009, for authorization to operate a batch mix asphalt plant on a temporary basis until July 11, 2009, and to extend the required NO<sub>x</sub>, CO, PM and VOC compound stack testing until July 11, 2009, at their facility in Ralpho Township, **Northumberland County**. The plan approval has been extended.

**47-00003A: Department of Public Welfare—Danville State Hospital** (200 State Hospital Drive, Danville, PA 17821-9198) on January 13, 2009, for authorization to temporarily operate two boilers (Source IDs 037 and 038) an additional 180 days from February 28, 2009, until August 27, 2009, and to revise the required stack testing date until February 27, 2009, for Source IDs 037 and 038 in Mahoning Township, **Montour County**. The plan approval has been extended.

**19-00032A: Benton Area School District** (600 Green Acres Road, Benton, PA 17814) on January 13, 2009, to revise the fuel restriction requirement for Source ID 031 in Benton Borough, **Colombia County**. Consequently, the testing requirements have been revised to require testing of the new fuel. No emissions limitations have been changed or increased as a result of the modification. All applicable requirements including Federal and State regulations have been included. The plan approval has been extended.

**08-00003E: CraftMaster Manufacturing, Inc.** (P. O. Box 311, Shiner Road, Towanda, PA 18848) on January 7, 2009, for authorization to operate a regenerative thermal oxidizer on the Die Form Tempering Kiln on a temporary

basis to July 11, 2009, at their facility in Wysox Township, **Bradford County**. The plan approval has been extended.

**08-00016A: Dalrymple Gravel & Contracting Co., Inc.** (2105 South Broadway, Pine City, NY 14871), on December 24, 2008, for authorization to construct and operate a floating dredge operation consisting of one crusher, two wash screens and associated eight conveyors at their Chemung Plant located in Athens Township, **Bradford County** until May 15, 2009. The plan approval has been extended.

**08-313-038H: Global Tungsten & Powders, Corp.** (Hawes Street, North Towanda, PA 18848) on December 17, 2008, for authorization to temporarily operate an International Furnace Company, Inc. multiple hearth furnace (MHF) and associated material handling equipment and cartridge collector and final filter to control the emissions from the MHF at their Towanda facility in the North Towanda Township, **Bradford County** until June 6, 2009. The plan approval has been extended.

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

**24-083G: Carbone of America—Graphite Materials Division** (1032 Trout Run Road, St. Marys, PA 15857) on January 23, 2009, for construction of a CBH Kiln in Benzinger Township, **Elk County**.

**24-083I: Carbone of America—Graphite Materials Division** (1032 Trout Run Road, St. Marys, PA 15857) on January 31, 2009, for Scrubber A emission limits in Benzinger Township, **Elk County**.

**37-243E: International Metals Reclamation Co.—INMETCO** (One Inmetco Drive, Ellwood City, PA 16117) on January 28, 2009, for modification of in-plant baghouse, Source No. 101, in Ellwood City, **Lawrence County**. This is a Title V facility.

**43-348A: American Cap Co., LLC** (15 Church Street, Wheatland, PA 16161) on January 31, 2009, for a plan approval to construct an activated carbon monolithic adsorbent process for the semiconductors manufacturing sector in Wheatland Borough, **Mercer County**. This is a State-only Facility.

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

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*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, Muhammad Zaman, Facilities Permitting Chief, (570) 327-3637.*

**19-00003: Bloomsburg University** (400 East 2nd Street, Buckingham Maintenance Center, Bloomsburg, PA 17815-1301) on January 12, 2009, to issue a minor modification Title V Operating Permit for their boilers at their facility in Bloomsburg Borough, **Colombia County**. This Title V Operating Permit revision is to extend the PM, SO<sub>2</sub> and NO<sub>x</sub> stack test date for the boilers (Source IDs 031—036). The Title V Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

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

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

**08-00019: Stroehmann Bakeries, LC** (P. O. Box 158, Sayre, PA 18840) on January 16, 2009, to operate a bakery facility in Sayre Borough, **Bradford County**. The State-only (Synthetic Minor) operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**12-00004: GE Co.—Emporium Plant** (55 Pine Street, Emporium, PA 15834) on January 15, 2009, to issue a State-only operating permit for their facility in the Borough of Emporium, **Cameron County**. The facility is a manufacturer of motor coils for locomotive engines. The facility's sources consist of a surface coating operation, coil burnout operation and space heaters. The State-only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**49-00037: Milton Brothers Fabrics, Inc.** (P. O. Box 538, Sunbury, PA 17801) on December 31, 2008, issued a State-only (Synthetic Minor) operating permit for their fabric dyeing and finishing facility in Milton Borough, **Northumberland County**. The facility's main sources include one natural gas/No. 2 fuel oil fired boiler, one natural gas/No. 2 fuel oil fired heat exchanger, one Artos dryer, one Krantz dryer, seven MCS jets, four narrow beams, two wide beams, two jigs. The facility has the potential to emit major quantities of SOx. The State-only (Synthetic Minor) operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**17-00049: Kurtz Brothers, Inc.** (400 Reed Street, Clearfield, PA 17001) on December 19, 2008, issued a State-only (Synthetic Minor) operating permit, for their stationary products manufacturing facility in the Borough of Clearfield, **Clearfield County**. The facility's main sources include two coal fired boilers and five printing presses. The facility has taken restrictions to limit potential SOx emissions below the major emissions threshold. The State-only (Synthetic Minor) operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**49-00053: Shumaker Industries, Inc.** (P. O. Box 206, Northumberland, PA 17857) on December 29, 2008, issued a State-only operating permit for their cement drum refurbishing facility in Northumberland Borough, **Northumberland County**. The facility's main sources include shot blasting and surface coating operations. The State-only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**49-00050: McPherson Greenhouses** (103 Ridge Road, Northumberland, PA 17857) on December 30, 2008, issued a State-only operating permit for their greenhouse facility in Point Township, **Northumberland County**. The facility's main sources include two anthracite coal fired boilers. The State-only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**41-00072: Reynolds Iron Works, Inc.** (157 Palmer Industrial Road, Williamsport, PA 17701) on December 2, 2008, issued a State-only operating permit for their structural and miscellaneous steel fabrication facility in Woodward Township, **Lycoming County**. The facility's main source includes a steel parts surface coating operation consisting of one spray booth. The State-only operat-

ing permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**17-00048: Philipsburg Osceola Area School District** (502 Philips Street, Philipsburg, PA 16866) on December 3, 2008, issued a State-only operating permit for their Osceola Mills elementary school in Osceola Mills Borough, **Clearfield County**. The facility's main sources include one tri-fuel (coal-No. 2 fuel oil) fired boiler, one No. 2 fuel oil fired boiler, one No. 2 fuel oil fired water heater, one No. 2 fuel oil fired emergency generator. The State-only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**17-00030: Clearfield Machine Co.** (P. O. Box 992A, Clearfield, PA 16830) on December 3, 2008, issued a State-only operating permit for their gray and ductile iron foundry in Clearfield Borough, **Clearfield County**. The facility's main sources include two natural gas/No. 2 fuel oil fired melting furnaces, one molding sand reclamation system, mold painting operation, mold pouring, cooling and shakeout operation, cleaning and finishing operation. The State-only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**OP-08-0004: CraftMaster Manufacturing, Inc.** (P. O. Box 311, Shiner Road, Towanda, PA 18848) on December 30, 2008, issued a VOC and NOx Reasonably Available Control Technology (RACT) operating permit for their composite wood hardboard manufacturing facility in Wysox Township, **Bradford County**. The operating permit contains VOC and NOx RACT determinations made by the Department of Environmental Protection for all sources at facility other than the boilers (boiler RACT operating permit issued April 18, 1997).

**14-00020: Hanson Aggregates (PA), Inc.** (7660 Imperial Way, Allentown, PA 18195-1040) on December 30, 2008, issued a State-only operating permit for their facility in College Township, **Centre County**. The facility's main sources include two crushers and associated various material sizing and conveying equipment. These sources have the potential to emit PM (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.*

**56-00154: George E. Mason Funeral Home, Inc.** (P. O. Box 409, 1687 Tire Hill Road, Davidsville, PA 15928) on January 22, 2009, to operate a human crematory in Conemaugh Township, **Somerset County**. This is a renewal of the State-only Operating Permit issued in 2004.

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

**24-00158: Rosebud Mining Co.—Little Toby Coal Preparation Plant** (301 Market Street, Kittanning, PA 16201) on January 26, 2009, the Department of Environmental Protection re-issued the Natural Minor Operating Permit for this coal mining and coal processing operation, in Horton Township, **Elk County**.

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

**N08-003: Delavau, LLC** (10101 Roosevelt Boulevard, Philadelphia, PA 19154-2105) on January 21, 2009, to operate a pharmaceutical products manufacturing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emissions sources include two boilers less than 10 mmBtu/hr firing natural gas, two 1 mmBtu/hr ovens firing natural gas, two 2 mmBtu/hr ovens firing natural gas, 4 dust collectors and three baghouses.

**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.**

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

**49-00043: Shamokin Filler Co., Inc.** (P. O. Box 568, Shamokin, PA 17872) on December 1, 2008, issued a revised State-only operating permit for their coal preparation facility in Coal Township, **Northumberland County**. This revision includes a Corbett manufactured Maxon 15 mmBtu/hr natural gas/ No. 2 fuel oil fired burner (Maxon burner) under Source ID P101. The Maxon burner is replacing the existing Hauck 14 mmBtu/hr No. 2 fuel oil/anthracite coal fired burner of Source ID P101. This State-only 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.*

**56841608 and GP-12-56841608-R7, PBS Coals, Inc.** (P. O. Box 260, Friedens, PA 15541), to revise the permit for the Cambria Fuel Prep Plant in Stonycreek Township, **Somerset County** to add a portable single deck raw coal screen and 40 hp diesel generator and establish an emission inventory for 1,000 hours per year for the generator operation based on annual production of 2.8 million raw tons. Approval is authorized under General Permit BAQ-GP-12 and is required to meet all applicable limitations, terms and conditions of authorization GP-12-56841608-R7. No additional discharges. Application received October 17, 2008. Permit issued January 16, 2009.

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

**17724026 and NPDES No. PA0608904. E. P. Bender Coal Company, Inc.**, P. O. Box 594, Carrolltown, PA 15722, permit renewal for reclamation only of a bituminous surface and auger mine in White and Beccaria Townships, **Cambria County**, affecting 145.5 acres. Receiving streams: UNT to Witmer Run and UNT to Beaverdam Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 17, 2008. Permit issued January 21, 2009.

**32030102 and NPDES No. PA0249386. Alverda Enterprises, Inc.**, P. O. Box 87, Alverda, PA 15710, permit renewal for reclamation only of a bituminous surface mine in West Wheatfield Township, **Indiana County**, affecting 12.2 acres. Receiving streams: UNTs to West Branch of Richards Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 20, 2008. Permit issued January 21, 2009.

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

**02080101 and NPDES Permit No. PA0251461. Quality Aggregates, Inc.** (200 Neville Road, Pittsburgh, PA 15225). Permit issued for commencement, operation and reclamation of a bituminous surface mining site located in Findlay Township, **Allegheny County**, affecting 86.7 acres. Receiving streams: UNT to Potato Garden Run. Application received August 13, 2008. Permit issued January 22, 2009.

*Noncoal Permits Actions*

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

**08970810. L & B Stone** (R. R. 1, Box 221, Wyalusing, PA 18853) transfer of an existing quarry operation (bluestone) from Ernest J. Latini in Tuscarora and Wyalusing Townships, **Bradford County**, affecting 3.0 acres. Receiving stream: UNT to Wyalusing Creek. Application received October 1, 2008. Transfer issued January 5, 2009.

**08082803. John P. Palmer, d/b/a A & P Stone** (88-A Fall Run Road, Wysox, PA 18854). Commencement, operation and restoration of a quarry operation (bluestone and shale) in Wysox Township, **Bradford County**, affecting 5.0 acres. Receiving stream: Unnamed feeder to Johnson Creek, tributary to Wysox Creek. Application received July 10, 2008. Permit issued January 9, 2009.

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

**67870301C7 and NPDES Permit No. PA0010235. York Building Products Co., Inc.**, (P. O. Box 1708, York, PA 17405), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in West Manchester Township, **York County**, receiving stream: Willis Run. Application received November 21, 2008. Renewal issued January 21, 2009.

**8175SM3A1C10 and NPDES Permit No. PA0613797. Warner Company**, (1000 New Ford Mill Road, Morrisville, PA 19067), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in East Whiteland and Tredyffrin Townships, **Chester County**, receiving stream: Valley Creek. Application received December 12, 2008. Renewal issued January 26, 2009.

### ACTIONS ON BLASTING ACTIVITY APPLICATIONS

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

#### *Blasting Permits Actions*

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

**21094103. M & J Explosives**, P. O. Box 608, Carlisle, PA 17013-0608, blasting activity permit issued for utility trenching development in Dickinson Township, **Cumberland County**. Blasting activity permit end date is January 31, 2010. Permit issued January 12, 2009.

**21094102. M & J Explosives**, P. O. Box 608, Carlisle, PA 17013-0608, blasting activity permit issued for single dwelling development in West Pennsboro Township, **Cumberland County**. Blasting activity permit end date is January 31, 2010. Permit issued January 12, 2009.

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

**60094001. DEMTECH, Inc.**, (65 Bald Mountain Road, Dubois, WY 82513), smoke stack demolition at 137 North 10th Street, Lewisburg, PA 17837 located in Lewisburg Borough, Union Township. Permit issued January 22, 2009. Permit expires February 22, 2009.

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

**58094001. John Brainard**, (3978 SR 2023, Kingsley, PA 18826), construction blasting at the John Reiley Airport in Forest Lake Township, **Susquehanna County** with an expiration date of February 20, 2010. Permit issued January 20, 2009.

**36094101. Keystone Blasting Service**, (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Autumn Hills in Ephrata Township, **Lancaster County** with an expiration date of December 30, 2010. Permit issued January 20, 2009.

**36094102. Keystone Blasting Service**, (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Windy Town Properties in Upper Leacock Township, **Lancaster County** with an expiration date of April 30, 2009. Permit issued January 20, 2009.

**46094102. Eastern Blasting Co., Inc.**, (1292 Street Road, New Hope, PA 18938), construction blasting for a drainage ditch in Salford Township, **Montgomery County** with an expiration date of December 30, 2009. Permit issued January 20, 2009.

**46094103. American Rock Mechanics, Inc.**, (7531 Chestnut Street, Zionsville, PA 18092), construction blasting on Foreman Road in Franconia Township, **Montgomery County** with an expiration date of January 1, 2010. Permit issued January 20, 2009.

**35094101. Hayduk Enterprises, Inc.**, (257 Riverside Drive, Factoryville, PA 18419), construction blasting for Green Circle Development in South Abington Township, **Lackawanna County** with an expiration date of January 31, 2010. Permit issued January 22, 2009.

**66094101. Hayduk Enterprises, Inc.**, (257 Riverside Drive, Factoryville, PA 18419), construction blasting for

Shupps Development in Clinton Township, **Wyoming County** with an expiration date of January 31, 2010. Permit issued January 22, 2009.

**66094102. Hayduk Enterprises, Inc.**, (257 Riverside Drive, Factoryville, PA 18419), construction blasting for site development in Lemon Township, **Wyoming County** with an expiration date of January 31, 2010. Permit issued January 22, 2009.

### FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

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

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

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

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

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for 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 P.S. §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

#### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E51-225. Philadelphia Water Department**, 1101 Market Street, 2nd Floor, Aramark Tower, Philadelphia, PA 19107-2994, City of Philadelphia, **County of Philadelphia**, United States Army Corps of Engineers, Philadelphia District.

To perform the following water obstruction and encroachment activities associated with St. Martins Bridge Replacement Project across/along Cresheim Creek (TSF) located in the Fairmount Park:

1. To replace an existing dilapidated single-span stone arch bridge and to construct and maintain, in its place, a 100-foot long single-span pedestrian bridge with approximately 7.5-foot width and 15-foot underclearance. This work also includes construction and maintenance of a stormwater outfall channel and placement of fill in the floodplain associated with the grading for the approach pathways.

2. To construct and maintain three in-stream grade control rock vanes at specific locations along the profile of the stream to facilitate a natural stream regime.

3. To relocate an existing 12-inch sanitary sewer pipe to the proposed bridge superstructure.

4. To relocate an existing exposed encased 20-inch water main in the stream bed.

The site is located approximately 863 feet south of the intersection of Cherokee and Telner Streets (Germantown, PA Quadrangle N: 10.13 inches; W: 10.91 inches).

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

**E23-466. Borough of Upland**, 224 Castle Avenue, Upland, PA 19015, Upland Borough, **Delaware County**, United States Army Corps of Engineers, Philadelphia District.

To modify the Kerlin Street Bridge along the Chester Creek (WWF-MF) by performing the following water obstructions or encroachments:

1. To construct and maintain 100 linear feet of twin 24-foot arch culverts through the causeway approach fill south of the existing bridge,

2. To grade and stabilize the floodplain upstream and downstream of the existing bridge and

3. To construct and maintain a rock weir upstream of the existing bridge and a debris deflector at the center pier of the Kerlin Street Bridge.

The project will require the relocation or modification of a 20-inch diameter water main, a 21-inch diameter sanitary interceptor line and a 30-inch diameter Combined Sewer Overflow pipe, to be authorized under separate cover for the respective utility company.

This project, Chester Creek Flood Abatement Pilot Project, is part of the Delaware County's Renaissance Program in conjunction with the Borough of Upland. The

upstream boundary of the project is the Incinerator Road Bridge (Upland Road) and the downstream boundary is just downstream of the Kerlin Street Bridge. The Kerlin Street Bridge is located 240 feet southeast of the intersection of Upland Avenue and Kerlin Street (Marcus Hook, PA Quadrangle North: 19.2 inches; West: 0.3 inch).

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

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

**E35-418. Lackawanna County**, 200 Adams Avenue, 6th Floor, Scranton, PA 18503. City of Scranton, **Lackawanna County**, United States Army Corps of Engineers, Baltimore District.

To regrade, stabilize and maintain 2,500 linear feet of the left bank of Leggetts Creek (TSF) utilizing erosion and sediment control blankets, seeding and mulch and to construct and maintain two outfall pipes with riprap aprons in the floodway of Leggetts Creek (TSF). The purpose of the project is to stabilize an area of abandoned mine land. The project is located along Leggetts Creek upstream of the Wells Street Bridge (Scranton, PA Quadrangle Latitude: 41° 26' 34"; Longitude: 75° 39' 10").

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

**E01-282: Metropolitan Edison Company**, 2800 Pottsville Pike, Reading, PA 19612-6001, Cumberland Township, **Adams County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain electric power lines in and across Plum Run (WWF) and a UNT in order to preserve the condition of the Gettysburg National Park located along Wheatfield Road and Crawford Avenue (Gettysburg, PA Quadrangle N: 8.47 inches; W: 15.96 inches, Latitude: 39° 47' 48"; Longitude: 77° 14' 19"; N: 7.77 inches; W: 16.19 inches, Latitude: 39° 47' 34"; Longitude: 77° 14' 25") and along Slyder Farm Road (Fairfield, PA Quadrangle N: 7.87 inches; W: 0.35 inch, Latitude: 39° 47' 36"; Longitude: 77° 15' 09") in Cumberland Township, Adams County.

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

**E08-452. South Creek Township**, P. O. Box 60, Gillett, PA 16925. Water Obstruction and Encroachment Joint Permit, in South Creek Township, **Bradford County**, United States Army Corps of Engineers, Baltimore District (Gillett, PA Quadrangle N: 41° 59' 10"; W: 76° 46' 24").

To construct, operate and maintain 27,000 feet of sanitary sewer line within the South Creek watershed (WWF) for the treatment of municipal wastewater. Construction of the sanitary sewer lines will require the following stream and wetland crossings:

No.	Description	Pipe Size	Size of Impact	Stream Name	Latitude	Longitude
1	Outfall No. 1 (WWTP)	6"	—	South Creek	41° 59' 16"	76° 47' 05"
2	Outfall No. 2 (SFTF No. 1)	1 1/2"	—	South Creek	41° 56' 43"	76° 48' 23"
3	Outfall No. 3 (SFTF No. 2)	3"	—	South Creek	41° 56' 50"	76° 48' 30"

No.	Description	Pipe Size	Size of Impact	Stream Name	Latitude	Longitude
4	Outfall No. 4 (SFTF No. 3)	1 1/2"	—	UNT of South Creek	41° 57' 10"	76° 48' 27"
5	WWTP Access Road Drainage Culvert	24"	—	UNT of South Creek	41° 59' 20"	76° 46' 22"
6	Wetland Impact @ WWTP Site	—	0.34 acre	UNT of South Creek	41° 59' 16"	76° 46' 18"
7	Wetland Impact along access road	—	0.30 acre	UNT of South Creek	41° 59' 18"	76° 46' 20"
8	Pipeline crossing of 36" culvert	3"	—	UNT of South Creek	41° 59' 42"	76° 46' 29"
9	Pipeline crossing of 36" culvert	3"	—	UNT of South Creek	41° 59' 35"	76° 46' 26"
10	Directional Drill pipeline under Creek	4"	118'	South Creek	41° 59' 18"	76° 46' 24"
11	Drainage ditch crossing	3"	25'	UNT of South Creek	41° 59' 14"	76° 46' 26"
12	Drainage swale crossing	3"	15'	UNT of South Creek	41° 59' 03"	76° 46' 25"
13	Pipeline crossing of 24" culvert	3"	—	UNT of South Creek	41° 58' 58"	76° 46' 25"
14	Pipeline crossing of 48" culvert	3"	—	UNT of South Creek	41° 58' 52"	76° 46' 24"
15	Pipeline crossing of 18" culvert	2"	—	UNT of South Creek	41° 58' 49"	76° 46' 25"
16	Pipeline crossing of 60" culvert	2"	—	UNT of South Creek	41° 58' 32"	76° 46' 22"

All sewer line crossings shall be constructed with a minimum of 3-feet of cover with concrete encasement beneath the waterways. Trench plugs or clay dikes shall be used at every sewer line crossing a waterway to ensure the hydrology of the streams is not altered. Construction of the treatment plant will require the placement of fill in 0.64 acre of jurisdictional wetlands. The project is located along the eastern and western right-of-way of SR 0014 from the Borough of Gillett to the Borough of Fassett. This permit also includes 401 Water Quality Certification.

**E08-453. Chesapeake Appalachia, LLC**, 900 Pennsylvania Avenue, Charleston, WV 25302. Water Obstruction and Encroachment Joint Permit, in Athens Township, **Bradford County**, United States Army Corps of Engineers, Susquehanna River Basin District (Sayre, PA Quadrangle N: 41° 44' 58"; W: 76° 25' 32").

To construct and maintain a gravel pad 175 feet long by 130 feet wide, an at-grade concrete pad measuring 61 feet wide by 48 feet long (each approximately 6 inches above existing grade) and five steel 21,000 gallon tanks each measuring 46 feet long by 8.5 feet wide by 10 feet high, all of which is located adjacent to the SR 1056 bridge along the North Branch of the Susquehanna River in Athens Township, Bradford County. This project proposes to have a minimal impact on the floodway of the North Branch of the Susquehanna River, which is designated a WWF and does not propose to impact any jurisdictional wetlands. This permit was issued under Section 105.13(e) "Small Projects."

**E60-196. Larry L. Newman**, P. O. Box 785, Sunbury, PA 17801-0785. Newman Wall, Union Township, **Union County**, United States Army Corps of Engineers, Baltimore District (Northumberland, PA Quadrangle Latitude: 40° 54' 3.8"; Longitude: 76° 50' 12.77").

To maintain: 1) a 327-foot long by 1-foot deep by 2-foot high reinforced concrete wall cap on; 2) an existing 327-foot long by 1-foot deep by 4 foot high in the right bank of the West Branch Susquehanna River; 3) seven rebar and concrete anchors buried in the landward yard; and 4) 72 cubic yards of stone and topsoil back fill for the wall, located 1,350 feet East-Northeast from the intersection of Seven Kitchens Road and Silo Lane. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

**E65-922. Blue Mountain Homes LMB, Inc.**, P. O. Box 488, Greensburg, PA 15601. To restore a previously relocated tributary to Jack's Run (WWF) in Hempfield Township, **Westmoreland County**, United States Army Corps of Engineers, Pittsburgh District (Greensburg, PA Quadrangle N: 12.7"; W: 4.60", Latitude 40° 19' 11"; Longitude 79° 31' 59"). To restore in a different location 68 ft. of stream channel, to maintain an additional approximately 100 ft. of previously relocated stream channel, to place and maintain fill in the floodway and to place and maintain fill in 0.011 acre of wetland, all in a previously relocated tributary to Jack's Run (WWF). The project is located approximately 25' north of Caddy Drive and 390' west of Essex Drive.

#### ENVIRONMENTAL ASSESSMENTS

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.*

**D49-019EA. Pennsylvania American Water Company**, 800 West Hersheypark Drive, Hershey, PA 17033. Point Township, **Northumberland County**, United States Army Corps of Engineers, Baltimore District.

Project proposes to breach and remove Geise's Dam across Lithia Spring Creek (CWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 100 feet of stream channel. The dam is located approximately 500 feet north of the intersection of SR1024 (Ridge Road) and SR1037 (Spruce Hollow Road) (Northumberland, PA Quadrangle Latitude: 40° 55' 48"; Longitude: 76° 45' 54").

#### EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control (ESCP) Permits have been issued.

Any person aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth agencies), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717)

787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by

applicable statutes and decisional law.

If individuals want to challenge this action, their appeal must reach the Board within 30 days. Individuals do not need a lawyer to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. If individuals cannot afford a lawyer, individuals may qualify for free pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

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

ESCP 0809804

Fortuna Energy, Inc.  
337 Daniel Zenker Drive  
Horseheads, NY 14845

Bradford County

Troy Township

Fall Brook  
TSF

## SPECIAL NOTICES

### Notice of Prompt Interim Response Under the Hazardous Sites Cleanup Act

#### Yuhas Dump Site Pocono Township, Monroe County

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305) has undertaken a prompt interim response at Yuhas Dump Site ("Site"). This response was initiated under sections 501(a) and 505(b) of HSCA (35 P. S. §§ 6020.501(a) and 6020.505(b)). The Site is located at R. R. 1, Box 119, (Sullivan Trail Road) in Scotrun, Pocono Township.

The Yuhas Dump Site is a residential property that has been used for the disposal of an estimated 75,000 cubic yards of construction and demolition ("C&D") waste, stumps and possibly contaminated soil. The C&D waste pile, which covers a significant portion of the property, is decomposing, eroding and is unstable. Cracks and fissures have formed in the pile and venting of steam and odors has been observed. The C&D waste was filled to the edge of where Dry Sawmill Run, a stream with a protected use designation of HQ-CWF, traverses the property and a large quantity of C&D waste has fallen into the stream. The Department is currently investigating this C&D waste area and will evaluate remedial alternatives to address this waste pile in a separate response action.

In addition to the C&D waste pile, numerous containers with unknown contents were placed or disposed of on the Yuhas property. These abandoned wastes in containers are the subject of the Department's prompt interim response and this public notice. Some of those containers were located in a garage on the first floor of the residence and others were situated at the rear of the property, to the west of Dry Sawmill Run. Those at the rear of the property consisted of approximately 30 fifty-five gallon drums and numerous pails and containers in various sizes. Approximately 25 of the drums were located in a trailer and the others were located on the ground directly under a fallen tree. Most of the pails/containers in various sizes were located on the ground and some were covered by an old military tent. The drums, pails and containers that were not under the tent were rusted, unlabeled and some were leaking. Odors were emanating from some of the drums and containers. The contents of

all containers, both in the garage of the residence and at the rear of the property, were unknown.

The contents were subsequently sampled and the Department has identified the following hazardous substances and/or contaminants at the Site: trichloroethene, tetrachloroethene, benzene, carbon tetrachloride, 2-butanone (MEK), 1,1,1-trichloroethane, 1,1,2-trichloroethane, 4-methyl-2-pentanone (MIBK), methylene chloride, styrene, 1,1-dichloroethane, ethylbenzene, toluene, xylene, aluminum, antimony, barium, cadmium, chromium, cobalt, copper, iron, lead, nickel and vanadium.

Based upon the fact that a release of a hazardous substance as defined by HSCA had occurred and that an ongoing release was likely if no actions were taken, the Department was authorized to undertake a response action at this Site under section 501(a) of HSCA (35 P. S. § 6020.501(a)).

A Prompt Interim Response was justified at this Site for the following reasons: As noted previously, numerous containers of unknown contents were placed on or disposed on the property. Containers were rusted, leaking directly onto the surface of the ground and odors were present. Due to the abandonment and unrestricted access to the residence and surrounding property, the threat of vandalism to containers located both inside and outside the home was present and may have resulted in further releases and impacts to health, safety and the environment. The hazardous substances and/or contaminants in the abandoned containers onsite required characterization and shipment to an approved offsite waste disposal facility. Improper storage of the hazardous substances and/or contaminants posed an ongoing threat to public health, safety and the environment. The surrounding area is primarily rural residential and the residents rely on the groundwater for their drinking water. A release of the hazardous substances may have posed a threat to surface water, groundwater and water supplies. For these reasons, the Department believes that a Prompt Interim Response was needed at the Site and a delay in responding for the time required to develop and close an Administrative Record would have increased risks to public health, safety and the environment.

The Department conducted a prompt interim response at the Site to address the abandoned wastes in containers under its authority under section 501(a) of HSCA. Prompt action was necessary to protect the public health, safety and the environment from the release and threat of release of hazardous substances from the Site. The De-

partment evaluated two alternatives for this proposed interim response which include:

- 1) Alternative 1: No Action
- 2) Alternative 2: Waste and Soil Characterization, Transportation and Disposal: The Department would sample, characterize for offsite disposal, transport and properly dispose of abandoned containerized chemicals, waste and/or contaminated substances and contaminated soil at the Site.

Based upon an evaluation of the Alternatives using criteria including protection of human health and the environment, compliance with applicable and relevant and appropriate requirements (ARARs), feasibility, permanence and cost-effectiveness, the Department selected Alternative 2 as the prompt interim response for the Site.

This notice is being provided under section 506(b) of HSCA (35 P. S. § 6020.506(b)). The administrative record, which contains the information that forms the basis and documents the selection of the response action, is available for public review and comment. The administrative record is located at the Pocono Township Municipal Building, P. O. Box 197 (Route 611), Tannersville, PA 18372 and is available for review Monday through Friday from 8:30 a.m. to 12 p.m. and 1 p.m. to 4 p.m. The Township Building is closed from 12 p.m. until 1 p.m. for lunch. The administrative record will be open for comment from February 7, 2009, through May 8, 2009. Persons may submit written comments into the record during this time only, by sending them to Meg Boyer, Project Officer, at the Department's Bethlehem District Office at 4530 Bath Pike, Bethlehem, PA 18017, or by delivering them to that office in person Monday through Friday from 8 a.m. and 4 p.m.

In addition, persons may present oral comments, for inclusion in the administrative record, at a public hearing. The Department has scheduled the hearing for March 17, 2009, at 10:30 a.m. at the Pocono Township Municipal Building. The testimony at the public hearing will be limited to the prompt interim response, which involved the characterization, staging, offsite transportation and proper disposal of the abandoned containerized wastes and contaminated soil that was completed at the Site. Persons wishing to present testimony at the March 17, 2009, hearing regarding this prompt interim response must register with Meg Boyer before March 11, 2009, by telephone at (610) 861-2070, or in writing to Meg Boyer at the Department's Bethlehem District Office. If no person registers to present oral comments by March 11, 2009, the hearing will not be held.

Persons with a disability who wish to attend the March 17, 2009, hearing and require auxiliary aid, service or other accommodations to participate in the proceedings, should contact Meg Boyer or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

**Request for Comment and Notice of Public Meeting  
Proposed Total Maximum Daily Load (TMDL) for  
the Casselman River in Somerset and Fayette  
Counties**

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931.*

The Department of Environmental Protection (Department) is holding a public meeting on February 24, 2009, beginning at 1:30 p.m. at the Meyersdale Borough Building, 613 Second Street, Meyersdale, PA to discuss and accept comments on a proposed TMDL. The proposed

TMDL was established in accordance with the requirements of the 1996 section 303(d) of The Clean Water Act. One stream segment of the Casselman River has been identified as impaired on the 1996 Pennsylvania 303(d) list due to high concentrations of metals. The listed segment and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
38579	Casselman River	26

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron and manganese) and acidity (measured using pH) and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0 to 9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the 20th century. The effects of this are still present. The TMDL consists of load allocations (LA) made to nonpoint sources of pollution and waste load allocations (WLA) made to permitted point sources.

The TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a dataset based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected from 2007 through 2008.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL, contact Jennifer Orr at (717) 772-5670 between 8 a.m. and 4 p.m., Monday through Friday, at Rachel Carson State Office Building, 10th Floor, 400 Market Street, Harrisburg, PA 17101. E-mail will be received at jeorr@state.pa.us. Directions to the meeting place can also be obtained through this contact.

The TMDL can be viewed and printed by accessing the Department's web site at [www.dep.state.pa.us](http://www.dep.state.pa.us) (PA Keyword: TMDL).

Written comments will be accepted at the previous address and must be postmarked by March 11, 2009. Persons who plan to make a presentation at the public meeting should notify the Department no later than 4 p.m. Friday, February 20, 2009. The Department will consider all comments in developing the final TMDL, which will be submitted to the Environmental Protection Agency for approval.

[Pa.B. Doc. No. 09-200. Filed for public inspection February 6, 2009, 9:00 a.m.]



### Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: "Technical Guidance"). The "Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2009.

#### *Ordering Paper Copies of Department Technical Guidance*

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

#### *Changes to Technical Guidance Documents*

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

#### *Final Technical Guidance*

DEP ID: 291-4200-001. Title: Medical X-ray Procedures Operator Training Guide. Description: The guidance document describes different means by which the regulated community can demonstrate compliance with 25 Pa. Code § 221.11(b) (relating to registrant responsibilities), which requires that operators of healing-arts X-ray equipment be instructed adequately in safe operating procedures and be competent in the safe use of the equipment. The guidance is quantifiable and based on risk to the patient undergoing the X-ray procedure. The guidance is issued under the authority of the Radiation Protection Act (35 P. S. §§ 7110.101—7110.703) and 25 Pa. Code Part I, Subpart D, Article V (relating to radiological health). The guidance was developed with input from the Department's Radiation Protection Advisory Committee (RPAC). Notice of availability of the proposed guidance was published at 36 Pa.B. 232 (January 14, 2006). No comments were received during the initial comment period. In response to the lack of comments received, RPAC requested that the Department issue the draft guidance for an additional comment period. Notice of the availability of the draft document was published for the second time at 37 Pa.B. 473 (January 27, 2007). During the 30-day public comment period, the Department received comments from seven commentators. A Comment and Response document was developed which includes summaries of the comments received and the Department's responses to those comments, including where appropriate, the changes made to the technical guidance document in response to comments. The Comment and Response document was discussed with RPAC on November 6, 2008. Contact: Questions regarding the technical guidance document should be directed to L. Ray Urciuolo, (717) 783-9730, [lurciuolo@state.pa.us](mailto:lurciuolo@state.pa.us). Issuance Date: February 7, 2009. Effective Date: September 1, 2009.

#### *Draft Technical Guidance—Substantive Revision*

DEP ID: 563-2504-001. Title: Conventional Bonding for Land Reclamation—Coal. Description: This guidance document describes the regulatory and statutory requirements for determining bond amounts. It also establishes bond rates and the process for determining the bond for land reclamation. Substantive revisions were recently made to the guidance document to provide further improvements to the conventional bonding program for coal mine sites. The substantive revisions made to the guidance include the following: addition of section II. D., relating to mine sealing/boreholes; modifications to clarify the bond release requirements; changes to the reclamation fees section to reflect recent regulatory amendments; and the deletion of Appendices C and D, which have been replaced by Departmental forms. Written Comments: Interested persons may submit written comments on the substantive revisions to the guidance document by March 9, 2009. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to William Allen, Department of Environmental Protection, Bureau of Mining and Reclamation, P. O. Box 8461, Harrisburg, PA 17105-8461; [wallen@state.pa.us](mailto:wallen@state.pa.us). Contact: Questions regarding the substantive revisions to the technical guidance document should be directed to William Allen at (717) 783-9580; [wallen@state.pa.us](mailto:wallen@state.pa.us). Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

#### *Extension of Public Comment Period—Draft Technical Guidance—Substantive Revision*

DEP ID: 012-0200-001. Title: Policy for Consideration of Local Comprehensive Plans and Zoning Ordinances in DEP Review of Authorizations for Facilities and Infrastructure. Description: The public comment period for technical guidance document number 012-0200-001 is extended to March 2, 2009. Notice soliciting comments on the substantive revisions to the technical guidance document was initially published at 38 Pa.B. 6336 (November 15, 2008). Written Comments: Interested persons may submit written comments on technical guidance document number 012-0200-001 by March 2, 2009. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Denise Brinley, Department of Environmental Protection, Office of Community Revitalization and Local Government Support, Rachel Carson State Office Building, 16th Floor, P. O. Box 2063, Harrisburg, PA 17105-2063, [dbrinley@state.pa.us](mailto:dbrinley@state.pa.us). Contact: Questions regarding the draft technical guidance document should be directed to Denise Brinley at (717) 783-1566, [dbrinley@state.pa.us](mailto:dbrinley@state.pa.us). Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

JOHN HANGER,  
*Acting Secretary*

[Pa.B. Doc. No. 09-201. Filed for public inspection February 6, 2009, 9:00 a.m.]



### Cleanup Standards Scientific Advisory Board; Change of Meeting Date

The March 11, 2009, meeting of the Cleanup Standards Scientific Advisory Board has been rescheduled. The meeting will now take place on April 22, 2009, at 9:30 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning the meeting can be directed to Marilyn Wooding at (717) 783-7509 or mwooding@state.pa.us.

The agenda and meeting materials for the meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at [www.depweb.state.us](http://www.depweb.state.us) (DEP Keywords: "Participate").

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Marilyn Wooding directly at (717) 783-7509 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,  
*Acting Secretary*

[Pa.B. Doc. No. 09-202. Filed for public inspection February 6, 2009, 9:00 a.m.]

### Climate Change Advisory Committee Meeting

The Department of Environmental Protection (Department) announces a meeting of the Climate Change Advisory Committee (Committee) will convene on Friday, February 27, 2009, from 10 a.m. to 3 p.m. in the 2nd Floor Training Room of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105.

An agenda including meeting materials for the February 27, 2009, meeting will be available through the Public Participation Center on the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: "Participate").

The Committee is required by the Pennsylvania Climate Change Act of 2008 (Act 70, effective July 9, 2008) for purposes of advising the Department on implementation of the act. These activities include, but are not limited to, designating a voluntary greenhouse gas registry, delivering a greenhouse gas inventory report, creating an impacts assessment and developing a climate change action plan.

Questions concerning this meeting should be directed to Paula J. Sviben, Office of Energy and Technology Deployment, P. O. Box 8772, Harrisburg, PA 17105-8772, (717) 772-8912 or psviben@state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Paula Sviben at (717) 772-8912 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,  
*Acting Secretary*

[Pa.B. Doc. No. 09-203. Filed for public inspection February 6, 2009, 9:00 a.m.]

### General NPDES Permit for Discharges from Small Flow Treatment Facilities (PAG-04); Public Notice of Availability

The Department of Environmental Protection (Department) by this notice is reissuing its National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges from Small Flow Treatment Facilities (PAG-04) which expires on February 4, 2009, for an additional 5 years. This General Permit is issued under the authority of The Clean Streams Law (35 P.S. §§ 691.1—691.101) and sections 1905-A, 1917-A and 1920-A of The Administrative Code of 1929 (71 P.S. §§ 510-5, 510-17 and 510-20) and will take effect on February 5, 2009, and expire on February 4, 2014. The General Permit will continue to not be applicable to discharges into waters designated as "special protection" under 25 Pa. Code Chapter 93 (relating to water quality standards). The discharges are required to be covered through an individual permit.

Notice requesting comments on the proposed General Permit was published at 38 Pa.B. 5903 (October 25, 2008). During the 30-day public comment period, the Department received comments from the Environmental Protection Agency (EPA). Based on the comments, a change was made to the General Permit relating to discharges into a water body with an approved Total Maximum Daily Loads (TMDL). Specifically, language was added to the General Permit stating that the Department will require an individual permit for the discharge if the Department deems that coverage under this general permit will not be consistent with the TMDL. The Department prepared a Comment and Response document, which summarizes EPA's comments and the changes that were made to the final general permit. The Comment and Response document is available from the Department in addition to the final general permit package.

The General Permit package is available from the Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, Division of Water Management, Rachel Carson State Office Building, P. O. Box 8774, 11th Floor, Harrisburg, PA 17105-8774, (717) 787-8184 and the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: "NPDES Permits"; then select "General Permits").

Persons with a disability may contact the Department by using the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

JOHN HANGER,  
*Acting Secretary*

[Pa.B. Doc. No. 09-204. Filed for public inspection February 6, 2009, 9:00 a.m.]

### Proposed NPDES General Permit for Stormwater Associated with Mining Activities (BMR GP-104)

In accordance with The Clean Streams Law (35 P.S. §§ 691.1—691.1001), the Clean Water Act (33 U.S.C. §§ 1251—1387), and 25 Pa. Code Chapters 92 and 102 (relating to National Pollutant Discharge Elimination System Permitting, Monitoring and Compliance; and erosion and sediment control), the Department of Environmental Protection (Department) by this notice announces

its intent to issue an NPDES General Permit for Stormwater Associated with Mining Activities (BMR GP-104).

Under 25 Pa. Code § 92.2 (incorporating by reference 40 CFR 122.26(a)—(b), (c)(1), (3), (d), (e)(1), (3)—(7) and (f)—(g) (relating to stormwater discharges)), an NPDES permit is required for discharges associated with a mining operation which are composed entirely of stormwater. A mining operation is required to have an individual NPDES permit, or coverage under a general NPDES permit, if the site has expected or potential discharges of stormwater runoff.

For both coal and noncoal mining operations, where the only potential discharge will be composed entirely of stormwater, the discharge is appropriately controlled under a general permit. A general permit is justified for the following reasons: 1) These mining operations are substantially similar in scope and operations including use of common Best Management Practices (BMPs) for erosion and sedimentation control; 2) They would potentially discharge the same type of pollutant (that is, suspended solids); 3) They would require the same effluent limitations or operating conditions in the form of a set of commonly-used BMPs; and 4) These operations, individually and cumulatively, do not have the potential to cause significant adverse environmental impact from stormwater discharges.

#### *Applicability*

This general permit applies to earth disturbance activity associated with mining where, in the absence of BMPs, an area of disturbance 1 acre or greater will result in a point source discharge of stormwater to surface waters of this Commonwealth. This general permit is issued in conjunction with a separate mining permit or exploration where the only expected discharge to surface waters of the Commonwealth will consist entirely of stormwater, in which the main potential pollutant is sediment.

This general permit will apply to mining activities (as defined in 25 Pa. Code §§ 87.1 and 88.1 as "Surface mining activities" and in 25 Pa. Code § 77.1 as "Noncoal surface mining activities") where the only potential pollutant is sediment from stormwater runoff. This general permit will address stormwater in association with mining activities and adjacent areas that may not be part of the mining permit but are integral to it (such as access roads and processing facilities). This general permit will include provisions for stormwater-related discharges only, not process water or pumped groundwater. And, this general permit is not applicable for an operation that will, or has the potential to discharge to, special protection (EV or HQ) waters, including EV wetlands, or to streams identified as "impaired waters" for sediment.

#### *Registration and Information Requirements*

To qualify for coverage under this general permit, a licensed mine operator must submit a complete Notice of Intent (NOI) form. The operator must indicate the applicable mining permit or exploration associated with the general permit for stormwater coverage (only one site per NOI for coverage under the GP), or attach the applicable information to the NOI. The operator must be the same for this general permit as for the associated mining activity authorization.

In the NOI, the operator must identify the BMPs to be used on site. Use of these BMPs must be described in conjunction with an Erosion and Sedimentation (E&S) Plan, which meets the requirements of 25 Pa. Code

Chapter 102, required to be filed with the permit documentation and/or attached to the NOI for this general permit. The E&S Plan submitted with the associated mining application may be used to satisfy part of the information requirements for the NOI.

The completed NOI form must be submitted to the appropriate District Mining Office with the proper signatures.

The process for registration for coverage under the general permit also applies to mining activities already underway that require but have not yet obtained NPDES coverage for stormwater.

The Department will notify mine operators who need coverage under this general permit or an individual NPDES permit by letter, through an inspection, or at permit renewal.

A fee of \$250, payable to the "Commonwealth of Pennsylvania" will be required for this general permit upon submission of the NOI. If approved, the operator will receive notice in writing of coverage under this general permit.

The general permit will be renewed every 5 years by the Department. Coverage under the general permit will also be renewable every 5 years until the reclamation plan is completed.

#### *Conditions of the General Permit*

This NPDES general permit will establish effluent limitations in the form of implemented BMPs to minimize the potential for erosion and sedimentation to protect and maintain water quality and existing and designated uses by restricting the rates and quantities of sediment, stormwater runoff, and associated pollutants. The operator will implement and maintain these BMPs for the extent of the mining activity as described in this E&S plan.

In the case of point source discharges, effluent limits will be:

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Total Suspended Solids	35 mg/l	70 mg/l	90 mg/l
Total Settleable Solids	0.5 ml/l Instantaneous Maximum Only in the event of a 10-yr, 24-hr precipitation event; in lieu of Total Suspended Solids.		
pH	Greater than 6.0; less than 9.0		

Discharge of sewage, mine drainage, groundwater or industrial waste is not permitted.

Periodic visual inspections are required. Grab samples are required in case of a discharge.

#### *Exemptions for coverage*

Any mining permit that has a corresponding individual NPDES permit for point source discharges of any type, does not need additional coverage under this general permit.

If the operator of a mining area less than 5 acres can demonstrate in the permit application that, in the absence of any BMPs, stormwater runoff will be completely contained within the pit or completely infiltrate without runoff from the site, no permit coverage is needed. In that case, the mining permit or exploration will be approved with "no discharge" authorized.

*Denial of Coverage*

Coverage under this general permit is not a replacement for an individual NPDES if there is substantive reason for an individual discharge permit to be issued. For example, the general permit would not apply to discharges to special protection waters, impaired water, or to discharges that may contain hazardous pollutants. In the cases where coverage under this permit is denied, the operator would be required to apply for an individual NPDES permit.

Other reasons for denial of coverage under this general permit are listed in 25 Pa. Code § 92.83(b) (relating to inclusion of individual dischargers in general NPDES permits).

*Public Participation*

A copy of the proposed permit and an additional fact sheet with more information including a guide for different mining permit types is available at the Department's Bureau of Mining and Reclamation web site at [www.dep.state.pa.us/dep/deputate/minres/BMR/MiningNPDES/index.htm](http://www.dep.state.pa.us/dep/deputate/minres/BMR/MiningNPDES/index.htm) or by contacting Sharon Hill at the Bureau of Mining and Reclamation at (717) 787-6842 or [shill@state.pa.us](mailto:shill@state.pa.us).

The draft version of BMR GP-104 includes revisions made to address comments from EPA Region 3. Persons wishing to comment on the proposed general permit may do so by submitting a written statement to: Department of Environmental Protection, Bureau of Mining and Reclamation, Permits Division, P. O. Box 8461, Harrisburg, PA 17105-8461. Questions can be addressed by calling (717) 787-6842 or [shill@state.pa.us](mailto:shill@state.pa.us). The Department must receive comments on BMR GP-104 by March 9, 2009. Comments received within this 30-day period will be considered in the formulation of the final language of the general permit and should include: the name, address and telephone number of the writer, a concise statement to inform the Department of the exact basis of the comment and the relevant facts upon which it is based. Comments will not be accepted by facsimile. The Department will provide for a public hearing with respect to this draft permit if requested and if there is significant public interest as described in 25 Pa. Code § 92.61(d) and (e) (relating to public notice of permit application and public hearing).

Following the close of the public comment period, the Department will make a final determination regarding the proposed general permit. Notice of this determination and the final language of the general permit will be published in the *Pennsylvania Bulletin*.

JOHN HANGER,  
*Acting Secretary*

[Pa.B. Doc. No. 09-205. Filed for public inspection February 6, 2009, 9:00 a.m.]

**Water Resources Advisory Committee; Special Meeting**

The Water Resources Advisory Committee will hold a special meeting on Wednesday, February 25, 2009, from 10 a.m. to 3 p.m. in Susquehanna Rooms A and B, Department of Environmental Protection, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA. The purpose of the meeting is to review and discuss the preliminary proposed NPDES Permit-by-Rule.

Questions concerning this meeting should be directed to Phil Consonery, Bureau of Water Standards and Facility Regulation, P. O. Box 8466, Harrisburg, PA 17105-8466, (717) 787-6744 or [pconsonery@state.pa.us](mailto:pconsonery@state.pa.us). 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](http://www.depweb.state.pa.us) (DEP Keyword: Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (717) 787-6744 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,  
*Acting Secretary*

[Pa.B. Doc. No. 09-206. Filed for public inspection February 6, 2009, 9:00 a.m.]

**DEPARTMENT OF HEALTH****Application of Bethlehem Endoscopy Center for Exception**

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Bethlehem Endoscopy Center has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

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](mailto:paexcept@health.state.pa.us).

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

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who 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 Service at (800) 654-5984.

EVERETTE JAMES,  
*Acting Secretary*

[Pa.B. Doc. No. 09-207. Filed for public inspection February 6, 2009, 9:00 a.m.]

**Application of The Children's Institute for Exception**

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Children's Institute 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.

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

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who 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 Service at (800) 654-5984.

EVERETTE JAMES,  
*Acting Secretary*

[Pa.B. Doc. No. 09-208. Filed for public inspection February 6, 2009, 9:00 a.m.]

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### Application of Easton Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Easton Hospital has requested an exception to the requirements of 28 Pa. Code § 51.23 (relating to positron emission tomography).

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.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who 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 Service at (800) 654-5984.

EVERETTE JAMES,  
*Acting Secretary*

[Pa.B. Doc. No. 09-209. Filed for public inspection February 6, 2009, 9:00 a.m.]

### Application of Evangelical Community Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Evangelical Community Hospital has requested an exception to the requirements of 28 Pa. Code § 101.172 (relating to patient limits).

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.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who 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 Service at (800) 654-5984.

EVERETTE JAMES,  
*Acting Secretary*

[Pa.B. Doc. No. 09-210. Filed for public inspection February 6, 2009, 9:00 a.m.]

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### Application for Exception to 28 Pa. Code § 127.32

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that the following facilities have requested an exception to the requirements of 28 Pa. Code § 127.32 (relating to written orders):

Doylestown Hospital  
Heart of Lancaster Regional Medical Center  
Holy Redeemer Hospital and Medical Center  
Lancaster Regional Medical Center  
Magee Womens Hospital  
Mercy Suburban Hospital

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

These 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 Service at (800) 654-5984.

EVERETTE JAMES,  
*Acting Secretary*

[Pa.B. Doc. No. 09-211. Filed for public inspection February 6, 2009, 9:00 a.m.]

### **Application of Mahoning Valley Ambulatory Surgery Center for Exception**

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Mahoning Valley Ambulatory Surgery Center has requested an exception to the requirements of 28 Pa. Code § 571.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standard contained in this publication: 3.7-A2.3.3 (relating to area and clearances).

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, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division 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).

EVERETTE JAMES,  
*Acting Secretary*

[Pa.B. Doc. No. 09-212. Filed for public inspection February 6, 2009, 9:00 a.m.]

### **Application of Penn State Hershey Rehabilitation Hospital for Exception**

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Penn State Hershey Rehabilitation Hospital has requested an exception to the requirements of 28 Pa. Code § 107.26 (relating to additional committees).

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

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

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who 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 Service at (800) 654-5984.

EVERETTE JAMES,  
*Acting Secretary*

[Pa.B. Doc. No. 09-213. Filed for public inspection February 6, 2009, 9:00 a.m.]

### **Application of SAM Surgery Center, LLC for Exception**

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that SAM Surgery Center, LLC has requested an exception to the requirements of 28 Pa. Code §§ 551.3 and 555.31 (relating to definitions; and principle).

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.

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

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who 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 Service at (800) 654-5984.

EVERETTE JAMES,  
*Acting Secretary*

[Pa.B. Doc. No. 09-214. Filed for public inspection February 6, 2009, 9:00 a.m.]

### **Application of Southwest Regional Medical Center for Exception**

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Southwest Regional Medical Center has requested an exception to the requirements of 28 Pa. Code § 107.26(b)(2) (relating to additional committees).

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

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

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who 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 Service at (800) 654-5984.

EVERETTE JAMES,  
*Acting Secretary*

[Pa.B. Doc. No. 09-215. Filed for public inspection February 6, 2009, 9:00 a.m.]

### Application of Surgery Center at Limerick for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Surgery Center at Limerick has requested an exception to the requirements of 28 Pa. Code § 551.22(3)(ii) (relating to criteria for performance of ambulatory surgery for pediatric patients).

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.

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

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who 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 Service at (800) 654-5984.

EVERETTE JAMES,  
*Acting Secretary*

[Pa.B. Doc. No. 09-216. Filed for public inspection February 6, 2009, 9:00 a.m.]

### Application of Waynesboro Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Waynesboro Hospital has requested an exception to the requirements of 28 Pa. Code §§ 143.4 and 143.7 (relating to medical appraisal of podiatric patient; and medical orders and patient records).

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.

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

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who 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 Service at (800) 654-5984.

EVERETTE JAMES,  
*Acting Secretary*

[Pa.B. Doc. No. 09-217. Filed for public inspection February 6, 2009, 9:00 a.m.]

### Application of Westfield Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Westfield 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 facility is 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 Service at (800) 654-5984.

EVERETTE JAMES,  
*Acting Secretary*

[Pa.B. Doc. No. 09-218. Filed for public inspection February 6, 2009, 9:00 a.m.]

### Organ Donation Advisory Committee Meeting

The Organ Donation Advisory Committee, established under 20 Pa.C.S. § 8622 (relating to The Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund), will hold a public meeting on Friday, March 27, 2009, from 10 a.m. to 3 p.m. The meeting will be held at the Giant Community Center, 2nd Floor, Giant Food Store, 3301 Trindle Road, Camp Hill, PA 17011.

For additional information or persons with a disability who desire to attend the meeting and require an auxiliary aid, service or other accommodation to do so should contact Cyndi Malinen, Public Health Program Administrator, Health Literacy and Education Section, Bureau of Health Promotion and Risk Reduction, Room 1000, Health and Welfare Building, Harrisburg, PA at (717) 787-6214 or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

This meeting is subject to cancellation without notice.

EVERETTE JAMES,  
*Acting Secretary*

[Pa.B. Doc. No. 09-219. Filed for public inspection February 6, 2009, 9:00 a.m.]

### Required Ground and Air Ambulance Equipment and Supplies

Under 28 Pa. Code §§ 1005.10(c) and 1007.7(c) (relating to licensure and general operating standards; and licensure and general operating requirements), the following equipment and supplies shall be carried and readily available in working order for use on basic life support (BLS) and advanced life support (ALS) ambulances, which also includes air (rotorcraft) ambulances.

#### A. Ground Ambulance Requirements

*Ground Ambulances: Basic Life Support/ALS Mobile Care Unit/ALS Squad Unit*

1. The ambulance must meet the requirements of Federal Specifications KKK 1822 and AMD Standards in effect at the time of the vehicles manufacture. (Does not apply to an ALS squad unit.)

2. The ambulance must meet the Pennsylvania Vehicle Code requirements for vehicle registration and liability insurance, and the requirements of all Pennsylvania Department of Transportation regulations relating to flashing and revolving lights, including intersection lights.

3. Emblems and markings must be affixed to the ambulance exterior as follows:

a. The word "AMBULANCE" shall be mirror imaged in letters not less than 4" high, centered above the grill. The placement of the word "AMBULANCE" shall be on the rear of the vehicle and the curved surface of the hood or can be placed on a flat bug screen.

b. "Star of Life" shall appear on the ambulance in the following sizes and numbers:

- Two 3" size "Stars of Life" on each side of the word "AMBULANCE" on the hood of the vehicle or on a bug screen.

- Two 16" size "Stars of Life" on the right and left side panels.

- Two 12" size "Stars of Life" on the rear of the vehicle.
- One 32" size "Star of Life" on the vehicle rooftop.

*Note:* An ALS squad unit must have at least 3" size "Stars of Life", one on each side, and two in front and two on the rear of the vehicle.

c. A reflective Chevron may be used on the rear vertical surface of the exterior of the vehicle. The chevron patten shall slant downward on both sides of the vehicle at an angle of 45°, pointing in the direction of the bottom rear corner of the tailboard. The patten shall resemble an inverted V with the point at the top center of the vehicle. The Chevron shall use an alternating color pattern. The vertical panels shall be: 8" to 12" wide and at least 24" in height, and consist of alternating color retro-reflective stripes at least 4" in width. If the panel height is greater than 36" the stripes shall be 6" wide, shall slope down at 45°, and have a minimum of 270 square inches of retro-reflective area facing traffic.

4. The name of the ambulance service or its registered fictitious name in letters at least 3" in size must appear on both the right and left exterior sides of the ambulance. The name must be the dominant lettering. The word "Ambulance" or words "Emergency Medical Services" must also appear on both exterior sides of the vehicle.

5. The ambulance must be equipped with an electronically operated audible warning device with a 100-watt or higher watt speaker.

6. The ambulance must have overhead interior lighting that illuminates the entire top surface of the patient litter, stair-well lighting and courtesy lights that must illuminate the ambulance's controls. (Does not apply to an ALS squad unit.)

7. The ambulance must have a dual battery system. (Does not apply to an ALS squad unit.)

8. The ambulance must have two fully charged fire extinguishers rated at least 2 A: 10 B:C easily accessible by personnel and mounted securely in an exterior compartment or mounted and easily accessible in the cab of the vehicle. The fire extinguisher must be intact with safety seal and have been inspected within the previous 12 calendar months and have the appropriate completed inspection tag attached.

9. The ambulance must have a power supply to generate sufficient current to operate all accessories without excessive demand on the generating system. All exterior and interior lighting and onboard equipment shall be able to run at least 5 minutes without placing a demand on the engine.

10. The ambulance must have a nonskid floor that is flat, reasonably unencumbered, free of equipment in the walk through areas, and well maintained. (Does not apply to an ALS squad unit.)

11. The ambulance must have minimum interior dimensions of 60" from floor to ceiling. (Does not apply to an ALS squad unit.)

12. The ambulance must have a patient partition to separate the patient area from the driver area. (Does not apply to an ALS squad unit.)

13. The ambulance must have storage cabinets with sliding doors or with latches, or have a cargo-type netting or other means to ensure against opening during vehicle movement. (Does not apply to an ALS squad unit.)

14. Bulky items such as portable radios and AEDs, oxygen equipment and jump bags must be secured at all

times during patient transport to prevent them from falling on patients or crew or becoming projectiles if the vehicle is involved in an accident. Equipment on an ALS squad unit must be in cabinets or otherwise secured at all times.

15. The ambulance must have two IV hangers mounted flush with the ceiling. (Does not apply to an ALS squad unit.)

16. The ambulance must have a litter for transporting a patient and at least three patient restraint straps in good operating condition that are secured to the litter. (Does not apply to an ALS squad unit.)

17. The ambulance must have doors that function properly with door seals that are not cracked, broken or missing pieces, and are otherwise in good condition.

18. The ambulance must have both "No Smoking Oxygen Equipped" and "Fasten Seat Belts" signs (in English) in both the driver and the patient compartment. (GSA KKK-1822F) (3/15.2). An ALS squad unit is required to have these signs in the driver compartment.

19. The ambulance must have operational heating, cooling and ventilation equipment.

20. The ambulance must have current vehicle inspection validation issued by the state where the vehicle is registered.

21. The ambulance must have communication equipment that is in compliance with the regional communication plan. This equipment shall allow for direct communication with a public safety answering point (PSAP) and hospitals in the ambulance service's emergency service areas. A cellular phone may be used as a backup means of communication and not as the primary means of communication.

22. The ambulance must have an installed, onboard oxygen system with the following (Does not apply to an ALS squad unit.):

a. At least 122 cubic feet supply of oxygen in a cylinder that is secured to provide maximum safety for patients and personnel. The oxygen cylinders shall be mounted with restraining devices, as required for the crashworthiness tests of AMD Standard 003, Oxygen Tank Retention System. A liquid oxygen system that provides the same volume of oxygen and meets AMD Standard 003 is also acceptable.

b. The cylinder must have more than 500 liters of oxygen at all times and be secured with at least three metal or nylon brackets while in the compartment.

c. The unit must be equipped with a reducing valve (from 2,000 psi to 50 psi line pressure).

d. The unit must be equipped with one flow meter with a range of 0-25 lpm delivery.

e. The unit must be equipped with a nonbreakable humidifier.

23. The ambulance must have an installed, onboard suctioning system with the following components and/or capabilities (Does not apply to an ALS squad unit.):

a. It is fitted with a large bore, nonkinking tubing.

b. It has power enough to provide within 4 seconds a vacuum of over 300 mm/Hg or 11.8 inches of water when the tube is clamped.

c. It is controllable for use on children and intubated patients. The vacuum gauge, when attached to the tubing, must be adjustable to the amount of vacuum needed

to ensure that the unit can maintain vacuum levels without requiring continuous increase in control.

d. It is equipped with a lateral opening between the suction tube and the suction source.

e. The tubing must be able to reach airways of patients regardless of the patient's position in the ambulance and must be able to reach the head and foot of the litter.

24. The ambulance must have onboard proof of current motor vehicle insurance.

#### **B. Air (Rotorcraft) Ambulance Requirements**

The following will apply to all air ambulances. The air ambulance must have:

1. The name of the air ambulance service or its registered fictitious name prominently displayed on the exterior of the aircraft.

2. Exterior lighting that illuminates the tail rotor and pilot controllable search/spot/landing lights.

3. An "Air Worthiness Certificate" from the Federal Aviation Administration (FAA).

4. A patient litter capable of carrying one adult in the supine position and capable of being secured according to FAA requirements.

5. An FAA Form 337 with items 1 (which identifies the aircraft), 2 (which identifies the aircraft owner) and 7 (which shows that the aircraft is approved to "Return to Service") completed and signed by the appropriate FAA official.

6. Climate controls for maintaining an ambient cabin temperature of between 65-85° during flight.

7. Sufficient interior lighting to allow for close observation of patients.

8. A pilot partition to prevent patient interference with flight controls.

9. A barrier or an FAA approved mechanism for securing a patient's chest, pelvis, legs, wrist and ankles.

10. A 110-volt electrical outlet for each patient transported.

11. Two-way radio communications for the pilot to be able to communicate with hospitals, PSAPs and ground ambulances in areas to which the air ambulance routinely provides service.

12. At least three headsets to allow for voice communication among the crew when the aircraft is operating and noise levels prevent normal conversation.

13. One fully charged fire extinguisher rated at least 5 B: C, securely mounted where it can be reached by the pilot or crewmembers. The fire extinguisher must be intact with safety seal and have been inspected within the previous 12 calendar months and have the appropriate inspection tag attached.

14. Installed, onboard suctioning equipment that meets the same requirements as a transporting ground ambulance. (See requirements under Ground Ambulances.)

15. An onboard oxygen system with the following:

a. Cylinders with a capacity of 1,200 liters.

b. The cylinders must have at least 1,650 psi at the time of inspection.

c. If a liquid oxygen system is used, manufacturer documentation must be provided that the system has at least a 1,200-liter capacity.

d. A flow meter with a range of 0-25 lpm delivery.



### Required Equipment and Supplies

Approved equipment and supplies shall be carried and readily available in working order for use on both ground and air ambulances. Some patients and crewmembers of an ambulance service may have allergies to latex. Latex free supplies are recommended, where possible. The following equipment and supplies must be carried on each ground and air ambulance, as indicated.

EQUIPMENT/ SUPPLIES	AMBULANCE TYPE			
	BLS	ALS MOBILE CARE	ALS SQUAD	AIR
1. Rechargeable Portable Electric Suction Unit with wide-bore tubing. Must achieve 300 mm/Hg or 11.8" in 4 sec.	X	X	X	X
2. Suction catheters, pharyngeal: Rigid (2) Flexible: 6 and 8 (1 ea) 10 or 12 (2) 14 or 16 (2) Total of 6 (Must be sterile) <b>Size is FR for each</b>	X	X	X	X
3. Airways: Nasopharyngeal (5 different sizes) Oropharyngeal (6 different sizes)	X	X	X	X
4. Sphygmomanometer: Child, Adult and Thigh (large) (1 each) Interchangeable gauges are permitted	X	X	X	X
5. Stethoscope Adult and Pediatric (2)	X	X	X	X
6. Stethoscope Doppler (1)				X
7. Penlight (1)	X	X	X	X
8. Portable Oxygen Unit (1): Cylinder capacity of at least 300 Liters, D size, with 500 psi Yoke Cylinder with a minimum total pressure of 500 psi. Nonsparking wrench/tank opening device. Gauge/flow meter not gravity dependent and can deliver 0-25 liter per minute. Full spare cylinder with a 300 liter capacity. <b>Cylinders must be secured in the vehicle at all times.</b>	X	X	X	X
9. Folding Litter/Collapsible Device (1)	X	X		
10. Oxygen Delivery Devices: Nasal Cannulae—adult/pediatric 1 ea. High concentration mask capable of providing 80% or greater concentration adult, pediatric, infant—1 each. Pocket mask with one way valve and oxygen port (1) humidifier bottle.	X	X	X	X
11. Adhesive Tape (4 rolls assorted) 1 roll must be hypoallergenic.	X	X	X	X
12. Dressings: Multi Trauma (10" by 30") (4) Occlusive (3" by 4") (4) Sterile Gauze Pads (3" by 3") (25) Soft self-adhering (6 rolls)	X	X	X	X
13. Bandage Shears (1)	X	X	X	X

<i>EQUIPMENT/ SUPPLIES</i>	<i>AMBULANCE TYPE</i>			
	<i>BLS</i>	<i>ALS MOBILE CARE</i>	<i>ALS SQUAD</i>	<i>AIR</i>
14. Immobilization Devices: Lateral cervical spine device (1) Long spine board (1) Short spine board (1) Rigid/Semirigid neck immobilizer S, M, L, pediatric (1 each) Multi-size are permitted and will suffice for the S, M, L (3)	X	X	X	X  (Short board not required)
15. Bag-Valve-Mask Devices: Hand operated adult (1) Hand operated infant/pediatric (450-700cc) (1) Must be capable of high concentration oxygen delivery with adult and pediatric masks	X	X	X	X
16. Pediatric length-based Drug Dosing/Equipment Sizing Tape	X (Equipment Sizing Tape/Chart)	X	X	X
17. Straps—9' (5) (may substitute spider straps or speed clips for 3 straps)	X	X	X	X
18. Splinting Devices: Lower extremity mechanical traction splint adult and pediatric (1 each or combination) Upper and Lower extremity splints (2 ea)	X	X		
19. Sterile Water/Normal Saline (2 liters)	X	X	X	X
20. Sterile Burn Sheet (4' by 4') (2)	X	X	X	
21. Cold Packs, Chemical (4)	X	X	X	X
22. Heat Packs, Chemical (4)	X	X	X	X
23. Triangular Bandages (8)	X	X	X	
24. Sterile OB Kits (2)	X	X	X	X (Only 1 required)
25. Separate Bulb Syringe (1) Sterile	X	X	X	X
26. Sterile Thermal Blanket (Silver Swaddler) (1), or 1 roll of sterile aluminum foil for use on infants/newborns	X	X	X	X
27. Blankets (2)—cloth	X	X	X	X
28. Sheets (4)	X	X		X
29. Pillowcases (2)	X	X		
30. Pillow (1)	X	X		
31. Towels (4)	X	X		
32. Disposable Tissues (1 box)	X	X		
33. Emesis Container (1)	X	X		
34. Urinal (1)	X	X		
35. Bed Pan (1)	X	X		
36. Disposable Paper Drinking Cups (3 oz) (4)	X	X		
37. Regional Approved Triage Tags (20)	X	X	X	
38. Hand-lights (6 volts) (2)	X	X	X	X
39. Hazard Warning Device (3)	X	X	X	
40. Emergency Jump Kit (1)	X	X	X	X

<i>EQUIPMENT/ SUPPLIES</i>	<i>AMBULANCE TYPE</i>			
	<i>BLS</i>	<i>ALS MOBILE CARE</i>	<i>ALS SQUAD</i>	<i>AIR</i>
41. Survival Bag (1)				X
42. Emergency Response Guidebook (1) (current edition)	X	X	X	
43. Thermometer—electronic, digital, non- tympanic	X	X	X	X
44. Sharps Receptacle—Secured	X	X	X	X
45. Instant Glucose (40% dextrose-d-glucose gel) 45 grams	X	X	X	
46. Optional Access Equipment: Large Screwdriver, Philips and slotted (1 each) Pliers (1 ea) (slip joint, lineman's needle nose, arc joint and locking) Hand-held sledgehammer (3 lbs) (1) Impact metal Cutting tool (1) Short pry-bar (1)—12" Cold Chisel (7" by 3/4") (1) Hacksaw w/2 extra blades (1) Adjustable Wrench—10" (1) Center Punch (1)	X	X	X	
47. Flight Helmet (1 per crewmember)				X
48. Personal Infection Control Kit: Eye protection, clear, disposable (1 per crew member) Face Mask, disposable (1 per crew member) Gown/coat (1 per crew member) Surgical Caps/Foot Coverings disposable (1 set per crew member) Double Barrier gloves (1 set per crew member) Container (1 per vehicle) or disposable red bags (3 per vehicle)	X	X	X	X
49. Sponges, Alcohol, Prep (10)		X	X	X
50. Endotracheal Tubes Sizes/Quantities: 2.5 mm or 3.0 mm (2 uncuffed) 3.5 mm or 4.0 mm (2 uncuffed) 4.5 mm or 5.0 mm (2) 5.5 mm or 6.0 mm (2) 6.5 mm or 7.0 mm (2) 7.5 mm or 8.0 mm (2) 8.5 mm or 9.0 mm (2) Must be sterile and individually wrapped		X	X	X
51. Nonsurgical Alternative/Rescue Airways. Either 2 Combitubes, <sup>TM</sup> small and adult, or 3 King, <sup>LT</sup> 3, 4 and 5.		X	X	X
52. Electronic Wave-Form Capnography		X	X	X
53. Laryngoscope handle with batteries and spare batteries and bulbs and the following blades: Straight            Curved #1 (S)            #3 #2 (M)            #4 #3 (L) (1 each of the blades)		X	X	X
54. Meconium Aspirator (1)		X	X	X
55. Lubrication (2cc or larger tubes) sterile water soluble (2)	X	X	X	X

<i>EQUIPMENT/ SUPPLIES</i>	<i>AMBULANCE TYPE</i>			
	<i>BLS</i>	<i>ALS MOBILE CARE</i>	<i>ALS SQUAD</i>	<i>AIR</i>
56. Forceps, Magill (adult/pediatric 1 ea)		X	X	X
57. Medication and Supplies: Emergency Drugs—(per regional protocols and within state rules and regulations and within exp. date) Nebulizer System (1) Hypodermic needles: 16-18 gauge (4), 20-22 gauge (4), 23-25 gauge, (4) Total of 12 and each Must be individually wrapped and sterile.		X	X	X
58. Defibrillator/Monitor: (FDA approved) (battery powered, monophasic or biphasic, energy dose range capable of treating adult and pediatric patients, paper readout), ECG cables with 3 lead capability and pediatric and adult paddles with pacing capabilities or separate stand-alone pacer.		X	X	X
59. Defibrillator/Monitor Supplies: Paddle pads (4) or electric gel (2 tubes), electrodes, (ECG, adult and pediatric sizes 6 each)		X	X	X
60. Automated External Defibrillator with spare battery (Optional for authorized BLS services)	X			
61. CPAP Ventilation-portable equipment (Optional for authorized BLS services)	X	X	X	X
62. Stylette, Malleable—pediatric (2)/adult (1). Must be sterile.		X	X	X
63. Cricothyrotomy Set (Surgical or Needle) must be sterile.				X
64. Phlebotomy Equipment (per regional protocols)		X	X	
65. Flutter valve (1) Must be sterile.				X
66. Epinephrine Auto-Injector (For authorized BLS Services) 0.3 mg/0.3 ml of 1:1000 solution for adult use (2) 0.15 mg/0.3 ml of 1:2000 solution for pediatric use (2) (Not required for licensure)	X			
67. Pulse Oximetry (for authorized BLS services) (Not required for licensure)	X	X	X	X
68. Electronic Glucose Meter		X	X	X
69. "IV" fluid Therapy Supplies Catheters over the Needle sized (per regional requirements): 14, 16, 18, 20, 22 (4 ea) and 24 (2) Micro drip 50-60 drops/ml (2) Macro drip 10-20 drops/ml (2) I.V. solutions (2,250) ml total Tourniquets (2) Intraosseus Needle 14-18 gauge (2)		X	X	X

All equipment that may be used in direct contact with patients must be reasonably clean and easily cleaned of blood and body fluids. No drug and/or medication may be carried beyond an expiration date assigned to it.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotope, Braille) should contact George J. Aupperlee, Department of Health, Bureau of Emergency Medical Services, Room 606, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-8740. Persons with a speech or hearing impairment may use V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
*Acting Secretary*

[Pa.B. Doc. No. 09-220. Filed for public inspection February 6, 2009, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Changes to an Additional Class of Disproportionate Share Payments

The purpose of this notice is to announce the Department of Public Welfare's (Department) intent to increase the allocation for disproportionate share hospital (DSH) payments to certain qualifying Medical Assistance (MA) enrolled hospitals that advance the Department's goal of enhanced access to multiple types of medical care in economically distressed areas of this Commonwealth. There will be no change in the current qualifying criteria or methodology for determining eligibility for this additional class of DSH payments.

The State General funds allocated for these annual payments will be increased to \$7.848 million. For Fiscal Year (FY) 2008-2009 only, the Department will provide an additional \$4 million in State General funds for these payments.

The Department will continue dividing payments proportionally between qualifying hospitals based on the percentages of a qualifying hospital's MA inpatient days to the total MA inpatient days of all qualifying hospitals. In making these payments, the Department will continue to ensure that no acute care general hospital will receive a DSH payment that is in excess of its hospital-specific DSH upper payment limit and the Commonwealth will not exceed its aggregate annual DSH allotment.

#### *Fiscal Impact*

The FY 2008-2009 fiscal impact related to this increase is \$13.162 million (\$5.986 million in State funds). The \$4.000 million payment of State General Funds will be treated as a one-time payment. The \$1.986 million payment of State General Funds will be on-going.

#### *Public Comment*

Interested persons are invited to submit written comments regarding this notice to the Department at the following address Department of Public Welfare, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received within 30 days will be reviewed and considered for potential revision of the proposed standards and methods for payment.

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

ESTELLE B. RICHMAN,  
*Secretary*

#### **Fiscal Note:** 14-NOT-578. (1) General Fund:

	<i>MA-Inpatient</i>
(2) Implementing Year 2008-09 is	\$1.986M
(3) 1st Succeeding Year 2009-10 is	\$1.986M
2nd Succeeding Year 2010-11 is	\$1.986M
3rd Succeeding Year 2011-12 is	\$1.986M
4th Succeeding Year 2012-13 is	\$1.986M
5th Succeeding Year 2013-14 is	\$1.986M
	<i>Acute Care Hospitals</i>
Implementing Year 2008-09 is	\$4M
1st Succeeding Year 2009-10 is	\$0M
2nd Succeeding Year 2010-11 is	\$0M
3rd Succeeding Year 2011-12 is	\$0M
4th Succeeding Year 2012-13 is	\$0M
5th Succeeding Year 2013-14 is	\$0M
	<i>MA-Inpatient</i>
(4) 2007-08 Program—	\$468.589M
2006-07 Program—	\$513.020M
2005-06 Program—	\$474.693M
	<i>Acute Care Hospitals</i>
2007-08 Program—	\$21.175M
2006-07 Program—	\$14.500M
2005-06 Program—	\$10.800M
(7) Medical Assistance (MA)—Inpatient and Acute Care Hospitals; (8) recommends adoption. Funds have been included in the budget to cover this increase.	

[Pa.B. Doc. No. 09-221. Filed for public inspection February 6, 2009, 9:00 a.m.]

### Nursing Facility Assessment Program

This notice announces the amount of the assessment that the Department of Public Welfare (Department) is implementing for Fiscal Year (FY) 2008-2009, provides an explanation of the assessment methodology that the Department is using in FY 2008-2009, and identifies the estimated aggregate impact on nursing facilities which will be subject to the assessment.

#### *Background*

In 2003, the Pennsylvania General Assembly amended the Public Welfare Code to authorize the Department to implement a monetary assessment on private nursing facilities in this Commonwealth over a 4 year period beginning July 1, 2003, and ending June 30, 2007 (Assessment Program). Act of September 30, 2003 (P. L. 169, No. 25) (Act 25), codified in 62 P. S. §§ 801-A—815-A. Since the implementation of the Assessment Program, the Department used the Assessment Program revenue to maintain and augment payments to Pennsylvania's Medical Assistance (MA) nursing facility provid-

ers. Recognizing the substantial benefits realized through the Assessment Program, the General Assembly enacted Act 16 of 2007 to reauthorize the Assessment Program for an additional 5 years. Act of June 30, 2007 (P. L. 169, No. 16) (Act 16). In addition to reauthorizing the Assessment Program, Act 16 amended the Public Welfare Code to allow the Department to include county nursing facilities in the Assessment Program effective July 1, 2007. *Id.*, 62 P. S. § 802-A. For FY 2007-2008, the Department exercised its discretion to include the county nursing facilities in the Assessment Program.

As directed by Act 16, the Department submitted a request to the Centers for Medicare and Medicaid Services (CMS) on July 16, 2008, seeking a waiver of both the uniform and broad-based requirements. In this submission, the Department requested approval to modify the Assessment Program effective July 1, 2008, that will: (i) decrease the assessment rate from \$2.40 to \$2.30 per non-Medicare day for county nursing facilities and for nonexempt facilities that either have 50 or fewer licensed beds or participate in a Continuing Care Retirement Community (CCRC); and (ii) decrease the assessment rate from \$24.83 to \$23.75 per non-Medicare day for all other nonexempt nursing facilities. By letter dated October 30, 2008, CMS approved the Department's waiver request.

For each fiscal year that the Assessment Program is implemented, the Secretary of the Department (Secretary), in consultation with the Secretary of the Budget, must determine the aggregate amount of the assessment and the annual assessment rate. See section 804-A of Act 25 (62 P. S. § 804-A). The aggregate amount and rate of assessment must be approved by the Governor's Office. The Governor approved the aggregate amount and rate of assessment by letter to the Secretary dated October 14, 2008. The annual assessment rates must be sufficient to generate at least \$50 million in additional revenue, subject to the maximum aggregate assessment amount that qualifies for Federal matching funds. See section 804-A of Act 25.

Before implementing the Assessment Program in a fiscal year, the Secretary must publish a notice in the *Pennsylvania Bulletin* that specifies the amount of the assessment being proposed, provides an explanation of the assessment methodology and assessment amount and identifies the aggregate impact on nursing facilities subject to the assessment. See section 805-A of Act 25 (62 P. S. § 805-A). After consideration of any comments received during the 30-day comment period, the Secretary must publish a second notice announcing the rate of assessment for the fiscal year. *Id.*

The Secretary published a notice in the *Pennsylvania Bulletin* at 38 Pa.B. 5506 (October 4, 2008) announcing the proposed assessment rates, the aggregate amount and the impact for FY 2008-2009. No comments were received by the Department in response to the proposed rates notice.

#### *Assessment Methodology and Rates for FY 2008-2009*

The following nursing facilities will be exempt from the Assessment Program in FY 2008-2009:

1. State owned and operated nursing facilities.
2. Veterans Administration nursing facilities.
3. Nursing facilities that have not been licensed and operated by the current or previous owner for the full calendar quarter prior to the calendar quarter for which an assessment is collected.

4. Nursing facilities that provide nursing facility services free of charge to all residents.

The Department will assess nonexempt nursing facilities at two rates. One rate will apply to county nursing facilities, to facilities that have 50 or fewer licensed beds, and to nursing facilities that participate in a CCRC. The other rate will apply to all other nonexempt facilities. Each nonexempt facility's quarterly assessment amount will continue to be calculated by multiplying its assessment rate by the facility's non-Medicare resident days during the calendar quarter that immediately precedes the assessment quarter. This rate structure is the same structure that was used in previous years.

Although the Department will maintain the same basic rate structure for FY 2008-2009, the Department is decreasing the assessment rates for nonexempt nursing facilities from FY 2007-2008. For FY 2008-2009, the assessment rates for nonexempt nursing facilities will be as follows:

- (1) The assessment rate for county nursing facilities and for nonexempt facilities that either have 50 or fewer licensed beds or participate in a CCRC will be \$2.30 per non-Medicare resident day.

- (2) The assessment rate for all other nonexempt nursing facilities will be \$23.75 per non-Medicare resident day.

For FY 2008-2009, the Department will consider a nursing facility to qualify for the CCRC assessment rate if the nursing facility satisfies the following criteria:

1. The nursing facility is owned or controlled by an entity that is certified as a CCRC by the Insurance Department (for purposes of this guideline, "control" means the power to direct or cause to direct the management and policies of the nursing facility, whether through equitable ownership of voting securities or otherwise).

2. The CCRC provides a continuum of care during the assessment period that includes residential living units that are either occupied or available for immediate occupancy.

3. The nursing facility is: (a) located on the same campus as the CCRC's residential living units; or (b) identified in the CCRC's Disclosure Statement and Resident Agreement under the Continuing-Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225) and located no more than 30 miles from the campus on which the CCRC's residential living units are located.

Under these criteria, a nursing facility that is owned or controlled by a CCRC which is planning to construct residential living units in the future, or is constructing residential units, but which has no residential units occupied or available for immediate occupancy, would not qualify for the CCRC assessment rate. Additionally, the residential living units must be occupied or available for immediate occupancy for the entire assessment period for the nursing facility to qualify for the CCRC rate for that assessment period.

If a nonexempt nursing facility either satisfies the previously listed criteria after the commencement of the Assessment Program or does not satisfy the criteria but believes that it otherwise qualifies for the CCRC rate, then the nursing facility may submit a written request to the Department that it be assessed at the CCRC rate. The written request should include supporting documentation demonstrating that the nursing facility participates

within a licensed CCRC. The Department will not unilaterally classify nursing facilities for the CCRC rate without a written request.

All requests relating to CCRC designation should be submitted to the Department of Public Welfare, Office of Long-Term Living, P. O. Box 2675, Harrisburg, PA 17105, Attention: NH Assessment Unit.

Assessment payments are due the last day of the Assessment quarter or the 30th day from the date of publication of this final notice, whichever is later.

The Assessment Program due dates, along with supplemental payment dates, will be available on the Department's web site at [www.dpw.state.pa.us/omap/provinf/ltc/nsgfacass.asp](http://www.dpw.state.pa.us/omap/provinf/ltc/nsgfacass.asp).

#### *Aggregate Assessment Amount and Fiscal Impact*

As a result of the implementation of the Assessment Program, the Department estimates that the annual aggregate assessment fees for nonexempt nursing facilities will total \$378.315 million for FY 2008-2009. All of the revenue derived from the assessment fees and associated Federal matching funds will be used to make payments to qualified Medical Assistance nursing facility providers in accordance with applicable law and regulations.

#### *Public Comment*

Interested persons are invited to submit written comments regarding the contents of this notice to Gail Weidman, Department of Public Welfare, Office of Long-Term Living, P. O. Box 2675, Harrisburg, PA 17105. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

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

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-579. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 09-222. Filed for public inspection February 6, 2009, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Annual Inflation Adjustment; Pennsylvania Gaming Cash Flow Management

In accordance with 61 Pa. Code § 1001.8 (relating to State Gaming Fund transfers), the Secretary of Revenue announces that, for the year commencing January 1, 2009, the Annual Inflation Adjustment as proscribed in 4 Pa.C.S. § 1403(d) (relating to establishment of State Gaming Fund and net slot machine revenue distribution) is  $-4\%$ .

Section 1403(c) of 4 Pa.C.S. requires the Department of Revenue (Department) to utilize the most recent consumer price index effective immediately prior to the date the adjustment is due to take effect. This adjustment was published by the United States Department of Labor,

Bureau of Labor Statistics on January 16, 2009. Therefore, the Department is publishing notice of the annual inflation adjustment.

STEPHEN H. STETLER,  
*Acting Secretary*

[Pa.B. Doc. No. 09-223. Filed for public inspection February 6, 2009, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Meetings Scheduled for 2009

#### *State Transportation Commission*

The State Transportation Commission (STC) will hold a meeting on Thursday, February 12, 2009, from 10 a.m. to 12 p.m. in Conference Room 8N1 on the 8th Floor of the Commonwealth Keystone Building, Harrisburg, PA. For more information, contact the Executive Secretary of STC, Nolan Ritchie at (717) 787-2913 or [nritch@state.pa.us](mailto:nritch@state.pa.us).

#### *Motor Carrier Safety Advisory Committee*

The Motor Carrier Safety Advisory Committee (MCAC) will hold a meeting on Thursday, February 19, 2009, from 11:30 a.m. to 3 p.m. at the Turnpike Commission Building, Harrisburg, PA. For more information, contact the Executive Secretary of MCAC, Nicole Cristini at (717) 772-2511 or [ncristini@state.pa.us](mailto:ncristini@state.pa.us).

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 09-224. Filed for public inspection February 6, 2009, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

**Allegheny Energy Supply Company, LLC v. DEP;  
EHB Doc. No. 2009-006-R; 12/30/08 Issued  
NPDES Permit; Amendment No. PA0002941-A1**

Allegheny Energy Supply Company, LLC has appealed the issuance by the Department of Environmental Protection of an amended NPDES permit to same for a facility in Monongahela Township, Greene County.

A date for the trial on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the Pennsylvania AT&T Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code

§ 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

THOMAS W. RENWAND,  
*Acting Chairperson*

[Pa.B. Doc. No. 09-225. Filed for public inspection February 6, 2009, 9:00 a.m.]

scheduled meeting of the EQB is scheduled for Tuesday, March 17, 2009, at 9 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105. An agenda and meeting materials for the March 17, 2009, meeting will be available on the Department of Environmental Protection's web site at (DEP Keywords: EQB).

Questions concerning the EQB's next scheduled meeting may be directed to Michele Tate at (717) 783-8727 or mtate@state.pa.us.

JOHN HANGER,  
*Acting Secretary*

[Pa.B. Doc. No. 09-226. Filed for public inspection February 6, 2009, 9:00 a.m.]

## ENVIRONMENTAL QUALITY BOARD

### Meeting Cancellation

The February 17, 2009, meeting of the Environmental Quality Board (EQB) is cancelled. The next regularly

## GOVERNOR'S OFFICE

### Regulatory Agenda

Executive Order 1996-1, requires all agencies under the jurisdiction of the Governor to submit for publication an agenda of regulations under development or consideration. The following is the 26th publication of the Administration's regulatory agenda, grouped by agency. Subsequent agendas will be published on the first Saturdays in February and July.

The agendas are compiled to provide members of the regulated community advanced notice of regulatory activity. It is the intention of the Administration that these agendas will serve to increase public participation in the regulatory process.

Agency contacts should be contacted for more information regarding the regulation and the procedure for submitting comments.

This Agenda represents the Administration's present intentions regarding future regulations. The nature and complexity of an individual regulation obviously will determine whether and when any particular regulation listed as follows (as well as any considered subsequent to publication of this Agenda) is published.

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>ADMINISTRATION</b>			
No regulations being developed or considered at this time.			
<b>AGING</b>			
Pa. Code Title VI Chapter 3 Fair Hearings and Appeals	December 2009, as proposed.	This regulation has been initially reviewed by stakeholders in response to passage of Acts 169-96 and 13-97 amending the Older Adult Protective Services Act (35 P. S. §§ 10225.101—10225.5102) and of Executive Order 1996-1. It is being reviewed internally to improve Departmental procedures and efficiencies.	Denise Getgen (717) 772-0184
Pa. Code Title VI Chapter 11 Older Adult Daily Living Centers	September 2009, as proposed.	A review of these regulations will be conducted in order to assure consistency with ongoing interdepartmental discussions regarding development of long-term care services.	Denise Getgen (717) 772-0184
Pa. Code Title VI Chapter 15 Protective Services for Older Adults	December 2009, as proposed.	The law and regulations are under review in light of the decision of the Pennsylvania Supreme Court in <i>Nixon et al. v. Commonwealth, et al.</i> , which found the current protective services law and regulations to be unconstitutional.	Denise Getgen (717) 772-0184
Pa. Code Title VI Chapter 20 Family Caregiver Support Program	December 2009, as proposed.	A review of these regulations will be conducted in order to assure consistency with ongoing interdepartmental discussion regarding development of the family caregiver support program.	Denise Getgen (717) 772-0184



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Pa. Code Title VI Chapter 21 Domiciliary Care Services for Adults	December 2009, as proposed.	A review of these regulations will be conducted in order to assure consistency with ongoing interdepartmental discussions regarding development of community living alternatives.	Denise Getgen (717) 772-0184
Pa. Code Title VI Chapter 23 Long-Term Care Ombudsman Program	December 2009, as proposed.	The Department wishes to promulgate regulations for the Long-Term Care Ombudsman program in order to bring it into conformity with national standards.	Denise Getgen (717) 772-0184
<b>AGRICULTURE</b>			
Domestic Animal 7 Pa. Code Chapter 2, 3 and 16	June 2009, as proposed.	This long-term project is intended to update the Department's regulatory authority to make it more consistent with the provisions of the Domestic Animal Law (3 Pa.C.S. §§ 2301—2389).	Craig E. Shultz, DVM (717) 772-2852
Cervidae 7 Pa. Code Chapter 18	June 2009, as proposed.	Act 190 of 2002 amended the Domestic Animal Law to require the Department to license and regulate Cervidae livestock operations. Act 51 of 2006 further amended the requirements for Cervidae livestock operations (3 Pa.C.S. §§ 2303—2380.9).	Craig E. Shultz, DVM (717) 772-2852
Animal Exhibition Sanitation 7 Pa. Code Chapter 20a	June 2009, as proposed.	Act 211 of 2002 will require the Department to enforce sanitation requirements at animal exhibitions, and to regulate as necessary to meet this requirement (3 Pa.C.S. §§ 2501—2504).	Dr. Craig Shultz, DVM (717) 772-2852
Amusement Rides 7 Pa. Code Chapter 139	Published as final at 38 Pa.B. 6843 (December 13, 2008)	This regulation will update the current regulation at 7 Pa. Code Chapter 139 to reflect changes to the Amusement Ride Inspection Act (4 P. S. §§ 401—418).	John Dillabaugh (717) 787-6772
Harness Racing Commission 58 Pa. Code Chapters 181, 183, 185 and 186—190	May 2009, as proposed.	This regulation is necessary to update current regulations, make them more user-friendly and address conditions which exist in harness racing that did not exist when the current regulations were originally promulgated. This regulation is a long-term project and would amend 58 Pa. Code Chapters 181, 183, 185 and 186—190, including the general authority of the Commission and provisions relating to associations licensed to conduct pari-mutuel wagering, individual licensing, licensing of officials, rules of the conduct of races, veterinary practices, equine health and medication, wagering, due process and disciplinary action.	Cheryl Cook (717) 787-5196
Horse Racing Commission 58 Pa. Code Chapters 161, 163, 165, 167, 169, 171 and 173	May 2009, as proposed.	This regulation is necessary to update current regulations, make them more user-friendly and address conditions which exist in thoroughbred horse racing that did not exist when the current regulations were originally promulgated. This regulation is a long-term project and would amend 58 Pa. Code Chapters 161, 163, 165, 167, 169, 171 and 173 including the general authority of the Commission and provisions relating to associations licensed to conduct pari-mutuel wagering, individual licensing, licensing of officials, rules of the conduct of races, veterinary practices, equine health and medication, wagering, due process and disciplinary action.	Cheryl Cook (717) 787-1942
Pesticide Regulations 7 Pa. Code Chapter 128	September 2009, as proposed.	This regulation will amend 7 Pa. Code Chapter 128 and is necessary to update current regulations, to make them more user friendly, address pesticide security issues, set minimum certification age requirements, dealer licensing and changes in Federal pesticide registration changes.	David Scott (717) 772-5214
Fertilizer Regulations 7 Pa. Code Chapter 73	February 2010, as proposed.	This regulation will replace 7 Pa. Code Chapter 73 and implement provisions of 3 Pa.C.S.A. §§ 6701—6725 (Fertilizer Act).	John Breitsman (717) 772-5215

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Soil and Plant Amendment Regulations 7 Pa. Code Chapter 130a	February 2010, as proposed.	This regulation will replace 7 Pa. Code Chapter 130a and implement provisions of 3 Pa.C.S.A. §§ 6901—6921 (Soil and Plant Amendment Act).	John Breitsman (717) 772-5215
Clean and Green Regulations 7 Pa. Code Chapter 137b	July 2009, as proposed.	This regulation will address statutory changes made by Act 235 of 2004, and will otherwise update the current regulation.	Douglas Wolfgang (717) 783-3167
Agricultural Conservation Easement Purchase Program Regulations 7 Pa. Code Chapter 138e	July 2009, as proposed.	This regulation will address statutory changes made by Act 61 of 2005 and Act 46 of 2006, and will otherwise update the current regulation.	Douglas Wolfgang (717) 783-3167
Seed Testing Labeling and Standards 7 Pa. Code Chapter 111	April 2009, as final.	This regulation will supplant the current regulation and implement provisions of 3 Pa.C.S.A. §§ 7101—7122 (Seed Act).	Joe Garvey (717) 787-5609
General Provisions for Seed Certification 7 Pa. Code Chapter 113	April 2009, as final.	This regulation will replace 7 Pa. Code Chapter 113 and implement the provisions of 3 Pa.C.S.A. §§ 7101—7122 (Seed Act).	Joe Garvey (717) 787-5609
Standards for Seed Certification 7 Pa. Code Chapter 115	April 2009, as final.	This regulation will replace 7 Pa. Code Chapter 115 and implement the provisions of 3 Pa.C.S.A. §§ 7101—7122 (Seed Act).	Joe Garvey (717) 787-5609
<b><i>BANKING</i></b>			
Annual Assessment Regulation	Early 2010	Required pursuant to 17 Pa.C.S. § 503(a) and 71 P. S. § 733-204.A.	Robert C. Lopez Deputy Chief Counsel (717) 787-9573
Regulation defining proper conduct of the mortgage loan business	Promulgated on December 20, 2008.	7 Pa.C.S. § 6138(a)(4) and 7 P. S. § 6212	Robert C. Lopez Deputy Chief Counsel (717) 787-9573
Regulation governing prelicensing education and testing and continuing education under 7 Pa.C.S. Ch. 61 (relating to mortgage loan industry licensing and consumer protection)	Mid 2009	Required pursuant to 7 Pa.C.S. § 6131(g)(3)	Robert C. Lopez Deputy Chief Counsel (717) 787-9573
<b><i>BOARD OF PARDONS</i></b>			
No regulations being developed or considered at this date.			
<b><i>COMMUNITY &amp; ECONOMIC DEVELOPMENT</i></b>			
Film Production Tax Credit Program (Proposed Regulation)	Spring of 2009	The purpose of the proposed regulation is to implement the provisions of the Tax Reform Code of 1971 relating to Film Production Tax Credits.	Matthew Speicher (717) 783-8452
Industrialized Housing and Components 12 Pa. Code Chapter 145 (Proposed Regulation)	Spring of 2009	The purpose of the proposed regulation is to update the regulations to keep pace with changes in the housing industry.	Mark Conte (717) 787-5327

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>COMMISSION ON CRIME AND DELINQUENCY</b>			
37 Pa. Code Chapter 411 Crime Victims Compensation	June 2009, as final.	This regulation is necessary to increase reimbursement to crime victims according to rising costs, expand eligibility for reimbursement, and simplify claims processing procedures, while reducing the percentage of reimbursement to hospitals and licensed health care providers to conform to the practice of other third party providers.	Lynn Shiner 265-8736
37 Pa. Code Chapter 431 Constables' Education and Training Board	April 2009, as proposed.	The purpose of this regulation is to eliminate any waivers of the firearms portion of the basic training course, preclude any constable under the age of 21 from participating in the firearms portion of the basic training course and to require a constable who fails a first and second examination in the basic training course bear the financial responsibility for a second or third basic training.	John Pfau 265-8546
<b>CONSERVATION &amp; NATURAL RESOURCES</b>			
State Forests (Chapter 21)	Publish proposed rulemaking March 2009	A number of provisions in this chapter need to be clarified and updated. The State Forest Picnic Area Chapter 23 will be incorporated into this chapter to eliminate duplication and for ease of reference. Legal basis: Sections 302, 313, 502 of the Conservation and Natural Resources Act (71 P. S. §§ 1340.302, 1340.313, 1340.502).	Matt Beaver (717) 783-0379  or Susan Wood, Esq. (717) 772-4171
State Forest Picnic Areas (Chapter 23)	Publish proposed rulemaking March 2009	The provisions of this chapter will be incorporated into Chapter 21 (State Forests) for purposes of simplification and ease of reference. Legal basis: Sections 302, 313, 502 of the Conservation and Natural Resources Act (71 P. S. §§ 1340.302, 1340.313, 1340.502).	Matt Beaver (717) 783-0379  or Susan Wood, Esq. (717) 772-4171
Conservation of Pennsylvania Native Wild Plants (Chapter 45)	Publish proposed rulemaking June 2009	Major purpose of rulemaking is to establish a more workable procedure for updating the classifications of native wild plants by removing the classifications from the regulatory process. The classifications would be established by publication in the <i>Pennsylvania Bulletin</i> . Legal basis: Section 7 of the Wild Resource Conservation Act (32 P. S. § 5307); and Section 313 of the Conservation and Natural Resources Act (71 P. S. § 1340.313).	Chris Firestone (570) 724-8149  or Susan Wood, Esq. (717) 772-4171
<b>CORRECTIONS</b>			
Promulgation of County Transportation Guidelines	January, 2009	The guidelines are required by Act 81 of 2008, P. L. 1026, No. 81.	Randall N. Sears (717) 731-0444
Revisions to 37 Pa. Code Chapter 93	March 2009, as proposed.	The Motivational Boot Camp regulations are being revised to eliminate unnecessary staffing provisions.	Timothy Holmes (717) 731-0444
Promulgation Recidivism Risk Reduction Incentive Guidelines	January, 2009	The guidelines are required by Act 81 of 2008 P. L. 1026, No. 81.	Randall N. Sears (717) 731-0444
Amendments to 37 Pa. Code § 94.4	March, 2009, as proposed.	The amendment will restrict the ability of individuals to purchase items from outside the institution for inmates.	Theron Perez (717) 731-0444

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>EDUCATION</b>			
Higher Education— Institutional Approval 22 Pa. Code Chapter 40	May 2009, as final.	These regulations establish procedures for the approval and operation of independent two-year college, college seminary or university or for status as a State System, State-related or State-aided institution for the purposes of awarding college credits and granting degrees.	Jim Buckheit or Deborah Wynn (717) 787-3787
Standards for Approved Private Schools 22 Pa. Code Chapter 171 Subchapters A and C	Fall 2009, as final.	These standards define the elements of Approved Private Schools and the Chartered Schools (schools for the deaf and blind). These standards contain general provisions and allowable expenses and costs. The standards are promulgated under the Authority of the Public School Code of 1949, as amended, P. L. 30, No. 14, March 16, 1949, P. S. Section 1—101, et. seq.	John Tommasini (717) 783-6134
Academic Standards and Assessment 22 Pa. Code Chapter 4	November 2009, as final.	These regulations outline state academic standards that public schools must provide instruction to bring students up to proficiency and also provides for the Pennsylvania System of School Assessment, high school graduation requirements and requirements for credentials other than the high school diploma.	Jim Buckheit (717) 787-3787 or Diane Castelbuono (717) 787-2127
Higher Education—Program Approval 22 Pa. Code Chapter 42	March 2009, as final.	These regulations establish procedures for approval of specialized associate degree programs, upper division programs at two-year and community colleges, graduate programs and vocational education programs.	Jim Buckheit or Deborah Wynn (717) 787-3787
Regulations of the State Board of Private Academic Schools 22 Pa. Code Chapters 51, 53, 55, 57, 61 and 63	Spring 2009, as proposed.	These regulations define the requirements for obtaining licensure as a Private Academic School. The Board plans to update the regulations, which were promulgated in 1988. The regulations are promulgated under the Authority of the Private Academic Schools Act (24 P. S. section 6701 et. seq.)	Linda Rhen (717) 705-5014 or Parker Martin (717) 783-9280
Academic Standards and Assessment— 22 Pa. Code Chapter 4—Appendix A—Academic standards for reading, writing, speaking and listening and mathematics	February 2009, as proposed.	Chapters 4 sets forth requirements for instruction, graduation, strategic planning and assessment based on state academic standards. The standards for reading, writing, speaking and listening and mathematics were issued in January 1999. The Board, in accordance with Section 4.12(i) seeks to review the standards for the purpose of clarifying, consolidating and correcting the standards.	Jim Buckheit or Deborah Wynn (717) 787-3787
Regulations for Pennsylvania Pre-K Counts, Section 1511D, of Act 45, Amending the School Code	January/February 2009, as proposed, Final-Omitted Regulations	These regulations implement the guidelines, standards and procedures relevant to the Pennsylvania Pre-K Counts program providing early childhood educational opportunities to 3 and 4 year-olds by local educational agencies, child care centers and group child care homes, Head Start grantees and licensed nursery schools as final-omitted regulations.	Harriet Dichter (717) 346-9320 or Linda Brown Warren (717) 346-4036
Higher Education—College and University Security 22 Pa. Code Chapter 33	March 2009, as proposed.	This chapter governs the responsibility of institutions of higher education to comply with the College and University Security Information Act. The chapter applies to independent institutions of higher education, community colleges, member institutions of the State System and State-related institutions.	Jim Buckheit or Deborah Wynn (717) 787-3787

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Higher Education—Branch Campuses for State Supported Institutions 22 Pa. Code Chapter 34	March 2009, as proposed.	This chapter provides requirements and procedures for the establishment, discontinuance and transfer of a branch or campus of state supported institution of higher education in this Commonwealth.	Jim Buckheit or Deborah Wynn (717) 787-3787
<b>EMERGENCY MANAGEMENT AGENCY</b>			
No regulations being developed or considered at this time.			
<b>ENVIRONMENTAL HEARING BOARD</b>			
Pa. Code Title 25 Chapter 1021 Practice and Procedure	The Environmental Hearing Board published proposed rulemaking on November 8, 2008.	The rulemaking proposes to add new rules on the following topics: 1) default judgment; 2) withdrawal of appeals without prejudice; 3) prepayment of penalties; and 4) expedited litigation. The rulemaking also proposes revisions to existing rules, including summary judgment, discovery, participation in litigation by parties of interest, and filings and service. The Board is engaged in a pilot project before adopting a new rule on electronic discovery.	Maryanne Wesdock (412) 565-5245
<b>ENVIRONMENTAL PROTECTION</b>			
Noncoal Program Noncoal Surface Mining Conservation and Reclamation Act 25 Pa. Code Chapter 77	FY 08-09	Revisions to Chapter 77 (Noncoal Mining) that govern the licensing of mine operators and permitting of mines for minerals other than coal. Specific areas for revision include clarification of permit application requirements including hydrologic data requirements and updates to permit application fees to support program activities.	Bill Allen (717) 783-9580 wallen@state.pa.us
Remining Financial Guarantees and Federal OSM Consistency Rule Surface Mining Conservation & Reclamation Act 25 Pa. Code Chapters 86, 87 and 88	FY 08-09	Revisions to Chapter 86—88 to include remining financial guarantees proposal, and revisions to address program conditions that are currently inconsistent with Federal OSM rules, including self-bonding, decisions on incidental coal extraction, coal exploration on areas unsuitable for mining, impoundment design criteria, and disposal of noncoal waste and NPDES permit-by-rule for abandoned mine discharges.	Bill Allen (717) 783-9580 wallen@state.pa.us
Water Supply Replacement Surface Mining Conservation & Reclamation Act 25 Pa. Code Chapters 87, 88	FY 08-09	Revisions to Chapters 87 and 88, which will clarify what is necessary to meet the coal mine operator's obligation to permanently pay the operation and maintenance costs for replacement water supplies.	Keith Brady (717) 787-4814 kbrady@state.pa.us
Mine Subsidence Insurance Fund General Provisions The Act of August 23, 1961 (P. L. 1068, No. 484), as amended, (52 P. S. §§ 3201—3225) (Act). 25 Pa. Code Chapter 401 *See note in Summary	FY 08-09	Revisions to Chapter 401 to expand Mine Subsidence Insurance (MSI) coverage to apply to appurtenances to structures as well as to structures, the removal of provisions that change periodically, such as premium rates and policy limits, so that they can be provided in the insurance policy, the explicit authority to provide grants, the option to compensate for the cost to repair or the diminution in market value (this option will allow an otherwise uninsurable to continue to carry coverage after a loss), and other editorial changes.  * Note: Section 19 of the Act provides that the MSI Board has the authority to promulgate rules and regulations and to establish other provisions of the insurance policy as it deems prudent.	Larry Ruane (717) 783-9590 lruane@state.pa.us

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Mining Fees Surface Mining Conservation and Reclamation Act, 25 Pa. Code Chapters 77, 86, 210 and 211	FY 08-09	Increase permit application fees to support program activities.	Bill Allen (717) 783-9580 wallen@state.pa.us
Areas Unsuitable for Surface Mining Surface Mining Conservation and Reclamation Act 25 Pa. Code Chapter 86	FY 08-09	Amendments to 25 Pa. Code Section 86.130 to add subsection (b)(18) to designate the Lower Kittanning, Clarion, Brookville and Mercer coals within the upper portion of the Muddy Run watershed, Reade Township, Cambria County, as unsuitable for surface mining operations. The regulation is the result of a comprehensive technical evaluation conducted in response to a petition submitted to the EQB by the Reade Township Municipal Authority, which requested that an area within the Muddy Run drainage be designated as unsuitable for surface mining operations.	Geoff Lincoln (717) 783-9582 glincoln@state.pa.us
Oil & Gas Well Program Oil and Gas Act 25 Pa. Code Chapter 78	FY 08-09	Revisions to Chapter 78 (Oil and Gas Wells) that governs the drilling, operation and plugging of oil and gas wells. Includes changes to bond amount and plugging procedures to attain a more effective seal; quantity and quality for replacement water supplies as well as adequate operation and maintenance; and alternate requirements for casing, cementing and plugging wells through mineable coal seams to facilitate future mining through the wells or recovery of coal bed methane prior to mining.	Ron Gilius (717) 772-2199 rgilius@state.pa.us
Oil & Gas Well Permit Fees Oil and Gas Act 25 Pa. Code Chapter 78	FY 08-09	Amendments to Chapter 78 (Oil and Gas Wells) to increase the fees imposed for oil and gas well permits. The fee increases are based on the depth and length of the well bore.	Ron Gilius (717) 772-2199 rgilius@state.pa.us
Marcellus Shale Well Permit Fees Oil and Gas Act 25 Pa. Code Chapter 78	FY 08-09	Amendments to Chapter 78 (Oil and Gas) to increase permit fees relative to the development of Marcellus Shale gas wells in Pennsylvania. The rulemaking adds Section 78.19 to include a Marcellus Shale base permit fee of \$900 with an additional \$100 per 500 feet of well bore drilled passed 1,500 feet.	Ron Gilius (717) 772-2199 rgilius@state.pa.us
Bluff Recession and Setback Amendments Bluff Recession and Setback Act 25 Pa. Code Chapter 85	FY 08-09	This proposal will update Chapter 85 based on the bluff study that resulted from a petition submitted by the Millcreek Township Board of Supervisors, Erie County.	Andrew Zemba (717) 772-5633 azemba@state.pa.us
Administration of Sewage Facilities Planning Program Pennsylvania Sewage Facilities Act 25 Pa. Code Chapter 71	FY 08-09	Comprehensive reorganization and revision to replace Chapter 71 with Chapter 71a. Major revisions include: 1) the inclusion of a requirement for municipalities to review and determine adequacy of their Act 537 Official Plan at least every 10 years; 2) change in DEP process relating to plan review time frames; and 3) new planning requirements in special protection watersheds.	John Diehl (717) 787-8184 jdiehl@state.pa.us
Administration of Sewage Facilities Permitting Program Pennsylvania Sewage Facilities Act 25 Pa. Code Chapter 72	FY 08-09	Comprehensive reorganization and revision to replace Chapter 72 with Chapter 72a. Major revisions include a change to the permitting structure to include classifications of Major, Minor and Emergency Permits; and a new requirement for municipalities to certify that they have the ability to assure Operation & Maintenance oversight for onlot systems.	John Diehl (717) 787-8184 jdiehl@state.pa.us

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Standards for Sewage Disposal Facilities Pennsylvania Sewage Facilities Act 25 Pa. Code Chapter 73	FY 08-09	Comprehensive reorganization and revision to replace Chapter 73 with Chapter 73a. Major revisions include outlining new site suitability standards for system approval; and recognizing various levels of treatment characterized as primary, secondary, advanced, and nutrient removal. Additionally, design standards are being restructured from system based to component based which will allow increased system design flexibility to meet limiting site factors.	John Diehl (717) 787-8184 jdiehl@state.pa.us
General Provisions Amendments Clean Streams Law 25 Pa. Code Chapter 91, General Provisions	FY 08-09	This proposal will include amendments to Chapter 91 to require a management plan as part of the permit application, and clarify issuance of innovative technology permits for wastewater treatment facilities. The proposal will also include revisions to account for changes to CAFO regulations.	Kevin McLeary (717) 787-8184 kmcleary@state.pa.us
National Pollution Discharge Elimination System Permitting, Monitoring and Compliance—NPDES Clean Water Act Clean Streams Law 25 Pa. Code Chapter 92	FY 08-09	Comprehensive reorganization and revision to replace Chapter 92 with Chapter 92a, organized similarly to 40 CFR 122. Major revisions include provisions for a new fee structure and permit-by-rule for Single Residence STPs.	Tom Starosta (717) 787-4317 tstarosta@state.pa.us
Clark Creek, et al Stream Redesignations Package Clean Streams Law 25 Pa. Code Chapter 93	FY 08-09	This proposal identifies six streams UNT Lackawanna River (Clark Creek) (Wayne County), Pine Creek (Schuylkill County), UNT Conestoga Creek (Lancaster County), Hammer Creek, (Lebanon and Lancaster Counties), Spring Mill Creek (Montgomery County), and Cacoosing (Berks County) that should be redesignated to provide the correct aquatic life use designation in the water quality standards for these Commonwealth streams.	Rodney McAllister (717) 787-9637 romcallist@state.pa.us
Blue Eye Run, et al. Stream Redesignations Package Clean Streams Law 25 Pa. Code Chapter 93	FY 08-09	This proposal identifies seven stream segments Blue Eye Run (Warren County), E. Br. Dyberry Creek (Wayne County), East Hickory Creek (Warren County), Muncy Creek (Sullivan County), Spruce Run (Union County), UNT Tunkhannock Creek (Susquehanna County) and Young Womans Creek (Clinton County) that should be redesignated to provide the correct aquatic life use designation in the water quality standards for these Commonwealth streams.	Rodney McAllister (717) 787-9637 romcallist@state.pa.us
Triennial Review of Water Quality Standards Clean Streams Law 25 Pa. Code Chapter 93 Water Quality Standards and Chapter 16 Water Quality Toxics Management Strategy—Statement of Policy	FY 08-09	This review identifies amendments to the Water Quality Standards and the Water Quality Toxics Management Strategy—Statement of Policy. Water Quality Criteria and Standards in Chapters 93 and 16 are revised to reflect the latest scientific information and Federal guidelines for criteria development, as required by the triennial review requirements in the Federal Clean Water Act. These amendments will also merge portions of Chapter 16 into the regulations in Chapter 93.	Tom Barron (717) 787-9637 tbarron@state.pa.us

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Municipal Wasteload Management Amendments Clean Streams Law 25 Pa. Code Chapter 94 Municipal Wasteload Management	FY 08-09	Comprehensive review and revisions to Chapter 94. Major changes under consideration include eliminating the “maximum monthly average daily flow” parameter.	Kevin McLeary (717) 783-1820 kmcleary@state.pa.us
Water Quality Standards Implementation Clean Streams Law 25 Pa. Code Chapter 96	FY 08-09	Redress known sources of impairment. Plan for TMDL and Watershed—Based Permitting. Provide for regulatory coverage of existing policies and practices.	Tom Starosta (717) 787-4317 tstarosta@state.pa.us
Public Notification Revisions Safe Drinking Water Act 25 Pa. Code Chapter 109	FY 08-09	Amendments to several sections in Chapter 109 to strengthen the public notification (PN) requirements for imminent threat situations. Will include enhancements to the pre-planning requirements in the Operation and Maintenance Plan and Emergency Response Plan sections, and revisions to the Tier 1 PN delivery requirements.	Lisa Daniels (717) 772-4018 ldaniels@state.pa.us
Stage 2 Disinfectants and Disinfection Byproducts Rule Safe Drinking Water Act 25 Pa. Code Chapter 109	FY 08-09	This rule will implement the requirements of the Federal Stage 2 DDBR that was effective March 6, 2006. The rule will require community water systems and noncommunity water systems, which treat drinking water with a primary disinfectant other than UV to conduct additional compliance monitoring for trihalomethanes and haloacetic acids.	Kevin McLeary (717) 783-1820 kmcleary@state.pa.us
Long-Term 2 Enhanced Surface Water Treatment Rule Safe Drinking Water Act 25 Pa. Code Chapter 109	FY 08-09	This rulemaking will amend the Department’s Safe Drinking Water regulations to further protect public health against Cryptosporidium and other microbial pathogens in drinking water. The proposed amendments will apply to public water systems supplied by a surface water source and public water systems supplied by a ground water source under the direct influence of surface water.	Ed Chescattie (717) 772-4046 echescatti@state.pa.us
Chapter 109 General Update Safe Drinking Water Act 25 Pa. Code Chapter 109	FY 08-09	This general update will revise several sections in Chapter 109 to retain or obtain primacy, including monitoring and reporting requirements for lead, copper, arsenic, radionuclides inorganic chemicals, volatile synthetic organic chemicals and synthetic organic chemicals. Other sections will be clarified, such as QA/QC requirements for on-line instrumentation; reporting requirements for failure to monitor; and compliance determinations for the chemical contaminants. The update also will include mandatory electronic data reporting requirements.	Lisa Daniels (717) 772-2189 ldaniels@state.pa.us
Operator Certification Program Water and Wastewater Systems Operators’ Certification Act 25 Pa. Code Chapter 302	FY 08-09	These regulations formalize requirements for certification of drinking water and wastewater system operators.	Veronica Kasi (717) 772-4053 vbkasi@state.pa.us
Lead and Copper Short-Term Revisions Safe Drinking Water Act 25 Pa. Code Chapter 109	FY 08-09	Amendments to incorporate the Federal lead and copper short term revisions into Chapter 109. This Rule will strengthen the implementation of the LCR in the following areas: monitoring, treatment processes, public education, customer awareness, and lead service line replacement.	Lisa Daniels (717) 772-2189 ldaniels@state.pa.us



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Drinking Water Fees Safe Drinking Water Act 25 Pa. Code Chapter 109	FY 08-09	Amendments to update drinking water program fees.	Kevin McLeary (717) 783-1820 kmcleary@state.pa.us
Microbial Pathogens in Groundwater Rule and Variance and Exemptions Minor Revisions Safe Drinking Water Act 25 Pa. Code Chapter 109	FY 08-09	This rulemaking will incorporate the Environmental Protection Agency's Final Ground Water Rule, which was promulgated on November 8, 2006, to provide for increased protection against microbial pathogens in public water systems that use ground water sources. It will also incorporate some minor variance and exemptions revisions to be consistent with Federal regulations.	Kevin McLeary (717) 783-1820 kmcleary@state.pa.us
Erosion and Sediment Control and Stormwater Management Clean Streams Law 25 Pa. Code Chapter 102	FY 08-09	Several major modifications /revisions include: addition of provisions from Chapter 92 that relate to NPDES permitting requirements for discharges associated with construction activity; incorporate post construction stormwater management; incorporate buffer provisions; and revise permit requirements by adding a Permit-by-Rule option.	Barbara Beshore (717) 772-5961 bbeshore@state.pa.us
Dam Safety and Waterways Management Dam Safety and Encroachments Act and Clean Streams Law 25 Pa. Code Chapter 105	FY 08-09	Several major modifications/revisions include: changes to permit requirements; permit application requirements; environmental assessment and wetland replacement criteria.	Sidney Freyermuth (717) 772-5977 sfreyermuth@state.pa.us
Control of Nitrogen Oxide (NOx) Emissions from Glass Furnaces Air Pollution Control Act 25 Pa. Code Chapters 121 and 129	FY 08-09	The final-form rulemaking would establish nitrogen oxide (NOx) emission control requirements, emission standards and emission limitations for glass melting furnaces during the ozone season (May 1 through September 30) and related administrative requirements for glass melting furnaces. Adoption of NOx emission limits for glass melting furnaces is part of the Commonwealth's strategy, in concert with other jurisdictions in the Ozone Transport Region, to reduce transport of ozone to achieve and maintain the health-based 8-hour ozone National Ambient Air Quality Standard. In addition, the strategy will also provide NOx emission reductions necessary to reduce the formation of fine particulates and regional haze.	Jane Mahinske (717) 783-8949 jmahinske@state.pa.us

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Control of Nitrogen Oxide (NO <sub>x</sub> ) Emissions from Cement Kilns Air Pollution Control Act 25 Pa. Code Chapters 121, 129 and 145	FY 08-09	The final-form rulemaking would revise existing NO <sub>x</sub> emission limits for cement kilns by establishing allowable NO <sub>x</sub> emission limits for certain types of cement kilns. The proposed rulemaking amendments to Chapter 129 have been deleted and in the final-form rulemaking are incorporated into Chapter 145, Subchapter C to amend the existing cement kilns regulation. The final-form rulemaking includes several compliance demonstration options including compliance on a kiln-by-kiln, facility-wide or system-wide basis among Portland cement kilns under the common control of the same owner or operator in this Commonwealth. Adoption of NO <sub>x</sub> emission limits for cement kilns is part of the Commonwealth's strategy, in concert with other jurisdictions in the Ozone Transport Region (OTR), to reduce the transport of ozone to achieve and maintain the health-based 8-hour ozone National Ambient Air Quality Standard (NAAQS). The Department will also make progress in achieving and maintaining the fine particulates NAAQS.	Jane Mahinske (717) 783-8949 jmahinske@state.pa.us
Adhesives and Sealants Air Pollution Control Act 25 Pa. Code Chapters 129 and 130	FY 08-09	The proposed rulemaking would adopt volatile organic compound content limits for 37 categories of adhesives, adhesive primers, sealants, sealant primers and adhesives applied to certain substrates. The proposed rulemaking would also add requirements for the control of emissions from the use or application of adhesives, sealants and primers by the owners or operators of stationary sources. This proposed rulemaking would be consistent with regulatory initiatives recommended by the Ozone Transport Commission to address regional transport of ozone precursor emissions.	Martin Felion (717) 772-3939 mafelion@state.pa.us
Air Quality Plan Approval and Operating Permit Fees Air Pollution Control Act 25 Pa. Code Chapters 127 and 139	FY 08-09	The proposed rulemaking will amend existing requirements and fees codified in 25 Pa. Code Chapter 127, Subchapter I (relating to plan approval and operating permit fees), and add new categories of fees to Chapter 127, Subchapter I, to address modifications of existing plan approvals and requests for determination of whether a plan approval is required. The proposed rulemaking also adds a new section to address fees for risk assessment applications. The proposed rulemaking will amend the existing emission fee paid by the owner or operator of a Title V facility. The proposed rulemaking will also establish a fee schedule in new Subchapter D of Chapter 139 (relating to testing, auditing and monitoring fees), to add new categories of fees to address Department-performed source testing and auditing and monitoring activities for continuous emission monitoring systems (CEMS).	Dean Van Orden (717) 783-9264 dvanorden@state.pa.us

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Nonattainment New Source Review Particulate Matter 2.5 (NNSR PM2.5) Air Pollution Control Act 25 Pa. Code Chapters 121 and 127	FY 08-09	The proposed rulemaking would amend the existing nonattainment new source review (NSR) requirements in 25 Pa. Code Chapter 127, Subchapter E (relating to new source review), §§ 127.201—127.218, to incorporate recently promulgated Federal requirements for particulate matter equal to and less than 2.5 micrometers in diameter (PM2.5) and PM2.5 precursors. The proposed amendments would limit the emissions of PM2.5 and PM2.5 precursors for new major sources or major sources being modified in certain counties and portions of counties of this Commonwealth that are designated as nonattainment for the PM2.5 National Ambient Air Quality Standard. The Federal regulation requires a state with PM2.5 nonattainment areas to submit revised nonattainment NSR PM2.5 requirements to the U.S. Environmental Protection Agency (EPA) for State Implementation Plan (SIP) approval within three years of publication of the final rule. Therefore, the Commonwealth needs to amend its NSR regulations and submit a SIP revision to the EPA by May 16, 2011.	Virendra Trivedi (717) 772-3979 vtrivedi@state.pa.us
Underground Storage Tank Operator Training Requirements Storage Tank and Spill Prevention Act 25 Pa. Code Chapter 245	FY 08-09	Revisions to Chapter 245 to provide for training requirements for three distinct classes of underground storage tank system operators. The proposal will include a description of the classes of operators, required training for each class of operator, deadlines when operator training is required, and acceptable forms of training. The Federal Energy Policy Act of 2005 required EPA to publish operator training guidelines by August 8, 2007. States receiving Federal funding under Subtitle I of RCRA must develop state-specific operator training requirements consistent with the EPA guidelines by August 8, 2009.	Ray Powers (717) 772-5809 rapowers@state.pa.us
Municipal and Residual Waste Amendments Solid Waste Management Act and Waste Transportation Safety Act 25 Pa. Code Chapters 271—285 and 287—299	FY 08-09	These proposed revisions are comprehensive modifications to the Municipal and Residual Waste Regulations, including: consolidating similar chapters and standardizing provisions, where applicable, between the two volumes; revising and clarifying definitions, including the definition of “waste”; developing additional permits-by-rule; incorporating commodity disposal bans; revising the local and municipal involvement process for waste disposal and processing facility applications; and revising the environmental assessment and harms/benefits test. The package will also include regulations to implement the Waste Transportation Safety Program as authorized by Act 90 of 2002.	Kim Hoover (717) 783-7514 khoover@state.pa.us
Administration of the Land Recycling Program (Act 2) Land Recycling and Environmental Remediation Standards Act 25 Pa. Code Chapter 250	FY 08-09	Revisions to Chapter 250 (Administration of the Land Recycling Program). This proposal includes a number of miscellaneous revisions to the regulations and an update of the Statewide Health Standards Tables based on new toxicological information.	Dave Crownover (717) 783-7502 dcrownover@state.pa.us

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Administration of the Uniform Environmental Covenant Act Uniform Environmental Covenant Act 25 Pa. Code Chapter ____ (TBD)	FY 08-09	This rulemaking will establish regulations for the implementation of the Uniform Environmental Covenant Act.	Troy Conrad (717) 783-9480 tconrad@state.pa.us
Environmental Laboratory Accreditation Environmental Laboratory Accreditation Act (Act 90 of 2002) (27 Pa.C.S. §§ 4101 et seq.) 25 Pa. Code Chapter 252	FY 08-09	This rulemaking will include a number of amendments to clarify several provisions of the existing regulations in Chapter 252, including the fee structure, definitions, accreditation by rule parameters, and NELAP equivalency.	Aaren Shaffer Alger (717) 346-8212 aalger@state.pa.us
<b>GENERAL SERVICES</b>			
Surplus State Property 4 Pa. Code Chapters 41, 43, 45 and 47	Summer 2009, as proposed.	These regulations will be updated to reflect current agency practice and procedure.	Mary Benefield Seiverling (717) 772-2749
Responsibility 4 Pa. Code Chapter 60	Summer 2009, as proposed.	This chapter will be amended to be consistent with the Procurement Code and to provide for uniform debarment and suspension procedures.	Mary Benefield Seiverling (717) 772-2749
Committee on Construction Contract Documents 4 Pa. Code Chapter 62	Winter 2009, as final omitted.	The Procurement Code repealed the legislation creating this committee, which no longer exists.	Mary Benefield Seiverling (717) 772-2749
Selections Committee 4 Pa. Code Chapter 64	Spring 2009, as final omitted.	These regulations should be rescinded since they have been superseded by the Commonwealth Procurement Code.	Mary Benefield Seiverling (717) 772-2749
Emergency Construction Repairs 4 Pa. Code Chapter 67	Spring 2009, as final omitted.	These regulations should be rescinded since they have been superseded by the Commonwealth Procurement Code.	Mary Benefield Seiverling (717) 772-2749
Contract Compliance 4 Pa. Code Chapter 68, Subchapter A, Prequalification of Vendors and Non-construction Contractors	Winter 2009, as final omitted.	These regulations should be rescinded since the subject matter of these rules is now covered by the directives management system.	Mary Benefield Seiverling (717) 772-2749
Methods of Awarding Contracts 4 Pa. Code Chapter 69	Winter 2009, as final omitted.	These regulations should be rescinded since they have been superseded by the Commonwealth Procurement Code.	Mary Benefield Seiverling (717) 772-2749
Commonwealth Parking Facilities 4 Pa. Code Chapter 71	Withdrawn Fall 2008, Resubmit Spring 2009, as final omitted.	The regulations do not reflect changes to agency procedure and practice and the continuing changes to the Capitol Complex.	Mary Benefield Seiverling (717) 772-2749
Commonwealth Automotive Fleet 4 Pa. Code Chapters 39 and 73	Summer 2009, as final omitted.	These regulations need to be reviewed and updated to reflect current practice.	Mary Benefield Seiverling (717) 772-2749

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Exercise of First Amendment Rights on Commonwealth Property 4 Pa. Code Chapter 85	Spring 2009, as final omitted.	The regulation will be rewritten to reflect the current organizational structure and to conform to changes which will be made to the Statement of Policy in Chapter 86.	Mary Benefield Seiverling (717) 772-2749
Use of the Forum 4 Pa. Code Chapter 87	Winter 2009, as final omitted.	The regulations will be amended to reflect the Department's current use of a rental agreement instead of a permit and to reflect the current organizational structure.	Mary Benefield Seiverling (717) 772-2749
State Metrology Laboratory Fee Schedule 70 Pa. Code 110.2	Spring 2009, as proposed.	The fee schedule will be updated.	Mary Benefield Seiverling (717) 772-2749
<b>HEALTH</b>			
Health Facility Licensure—General Administrative Chapter and General and Special Hospitals 28 Pa. Code § 51.1 et seq. 28 Pa. Code § 101.1 et seq.	March 2009, as proposed.	The amendments to existing regulations will update the licensure requirements for hospitals and other health care facilities. Pursuant to the Health Care Facilities Act, 35 P. S. §§ 448.101—448.904b.	Barbara Holland (717) 346-9692  or  James T. Steele (717) 783-2500
Communicable Diseases 28 Pa. Code § 27.1 et seq.	January 2009, as proposed.	The amendments to existing regulations will clarify the Department's authority to perform disease surveillance and investigation and revise language pertaining to reportable diseases. Pursuant to the Disease Prevention and Control Law of 1955, 35 P. S. §§ 521.1—521.21. Regulations are currently being distributed internally for review.	Jalene Kolb (717) 783-2500
Supplemental Nutrition Program for Women, Infant's and Children (WIC) 28 Pa. Code § 1101.1 et seq.	May 2009, as final.	The amendments to existing regulations will bring the Commonwealth into compliance with the requirements of the Federal Child Nutrition and WIC Reauthorization Act of 2004. Pursuant to the Child Nutrition and WIC Reauthorization Act of 2004, Pub. L. No. 108-265, § 203, 118 Stat. 729, 771—780. <i>See</i> , 42 U.S.C. § 1786.	Douglas Snyder (717) 783-2500
School Immunization Requirements 28 Pa. Code §§ 23.83 and 23.86	January 2009, as final.	The amendments to existing regulations will revise immunization requirements for school entry and attendance, add a grace period for the provision of vaccinations in order for them to be considered valid, and change school reporting requirements to require reporting of doses of vaccine given. Pursuant to the Disease Prevention and Control Law of 1955 35 P. S. § 521.1 et seq.; the Administrative Code of 1921 (71 P. S. § 541(c.1)) and the Public School Code of 1949 (24 P. S. § 13-1303a).	Yvette M. Kostelac (717) 783-2500
Drug and Alcohol confidentiality, disclosure of client-oriented information 4 Pa. Code § 255.5(a) (in part) and (b).	January 2009, as final.	The amendment of existing regulations will rescind and amend parts of 4 Pa. Code § 255.5(a) and 4 Pa. Code § 255.5(b), relating to disclosure of information and restrictions on the type of information which can be disclosed to various individuals and entities. Pursuant to 71 P. S. §§ 751—25 and 1690-101 et seq.	Keith B. Fickel (717) 783-2500

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Health Facility Licensure Home Care Agencies and Home Care Registries 28 Pa. Code Chapter 611	July 2008, as final.	These new regulations are being promulgated pursuant to Section 803 (10) of the Health Care Facilities Act, Act of July 19, 1979 (P. L. 130, No. 48), <i>as amended</i> , 35 P. S. § 448.803(1), and Act 2006-69 at § 809.1. Act 69 of 2006 expressly authorized the Department to set licensure standards for home care agencies and home care registries. Home care agencies employ direct care workers and home care registries refer direct care workers who are independent contractors to provide home care services to individual in their home or other independent living environment. Home care services include assistance with activities of daily living and instrumental activities of daily living, companionship, respite care and other non-medical services. The regulations were published as proposed on August 11, 2007. Final regulations have been prepared and are with the Governor's Budget, Policy and Legal Office for review and approval.	Karin Simpson (717) 783-2500
Outpatient Integrated Treatment for Persons with Co-Occurring Psychiatric and Substance Use Disorders 28 Pa. Code Chapter 719	March 2009, as proposed.	These new regulations would be promulgated, simultaneously with identical regulations from the Department of Public Welfare, to permit providers of drug & alcohol treatment services and mental health treatment services to obtain licenses from the Departments of Health and Public Welfare authorizing them to deliver integrated treatment on an outpatient basis to persons suffering from co-occurring psychiatric and substance use disorders. The proposed regulations would establish minimum requirements for licensure, including staffing, training, records and other aspects required for appropriate treatment delivery. There are currently no regulations which provide for licensure of providers of integrated treatment for co-occurring disorders. Instead, facilities that wish to provide integrated treatment currently must meet all the requirements to obtain separate licenses for drug and alcohol and mental health treatment. The proposed regulations would simplify the survey and licensure process for providers. These regulations would be published pursuant to the Department's authority under Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922, 1001—1031, and 1051—1059), as transferred to the Department under Reorganization Plan No. 2 of 1977 (71 P. S. § 751-25) and Reorganization Plan No. 4 (71 P. S. § 751-31), and the Drug and Alcohol Abuse Control Act (71 P. S. §§ 1690.101—1690.114).	Robert T. Datorre (717) 783-2500
<b>HOUSING FINANCE AGENCY</b>			
No regulations being developed or considered at this date.			

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>INFRASTRUCTURE INVESTMENT AUTHORITY</b>			
25 Pa. Code §§ 963.12(a)(6) and (7), 963.13(b) 2, 963.13(c), 963.14(a), 963.15(a), 963(15) (c), 25 Pa. Code § 965.4(9), and 25 Pa. Code § 965.7.	Winter 2008	<p>PENNVEST recommends the following revisions:</p> <p>(1) Delete 25 Pa. Code § 963.12(a)(6) in its entirety and the second sentence of 25 Pa. Code § 963.13(b)(2) thereby allowing PENNVEST to provide financial assistance (loan or grant) for costs associated with the development of an approvable official sewage plan under the Sewage Facilities Act, 35 P. S. § 750.1 et seq.</p> <p>(2) Delete 25 Pa. Code § 963.12(a)(7) thereby allowing PENNVEST to provide financial assistance (loan and grant) for costs associated with the extraction for profit of minerals or other resources from wastewater or sludge whether the project is sponsored by a public or private actor.</p> <p>(3) Amend 25 Pa. Code § 963.13(c) by revising the section to provide for an amortization of advance funding loans with a term of 59 months of interest only and repayment on principal and interest on the 60th month.</p> <p>(4) Amend 25 Pa. Code § 963.14(a) by revising the section to clarify when the use of an affordability analysis for the award of grants is necessary.</p> <p>(5) Amend 25 Pa. Code § 963.15(a) by revising the first sentence to provide for a change in the normal loan term to allow 3 years of interest only prior to principal amortization.</p> <p>(6) Amend 25 Pa. Code § 963.15(c)(5) to provide that maximum interest rates on loans shall be determined based upon the unemployment rate for the applicable county in the most recent calendar year for which data has been finalized as of the application cutoff date.</p> <p>(7) Amend 25 Pa. Code § 965.4(9) to allow for eligible land costs under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.</p> <p>(8) Amend 25 Pa. Code § 965.7 to eliminate the requirement for a second opinion project review if the applicant is able to prove to the satisfaction of PENNVEST that no alternative methodologies are available to reduce project costs for projects with construction costs plus contingency in excess of \$10 million.</p>	Shawn W. Weis (717) 783-6776
<b>INSURANCE</b>			
Continuing Education for Insurance Agents and Brokers 39, §§ 39.1—39.12	Spring 2009, as proposed.	Act 147 of 2002 sets new standards for Producers in the Commonwealth. This chapter will be repealed and replaced with new regulation consistent with the statute. This regulation will be updated to reflect education and training of producers.	Peter J. Salvatore, Regulatory Coordinator (717) 787-4429
Property and Casualty Actuarial Opinion 31 Pa. Code, §§ 118a.1—118a.7 (NEW)	Spring/Summer 2009, as proposed.	New regulation to require property & casualty insurers to annually submit an Actuarial Opinion Summary of the Actuarial Report on loss and loss adjustment expense reserves, including information on the opining actuary's best estimate and/or range of reasonable estimates.	Peter J. Salvatore, Regulatory Coordinator (717) 787-4429
Annual Audited Insurers' Financial Report Regulation 31 Pa. Code Chapter 147, §§ 147.1—147.15	Winter/Spring 2009, as proposed.	To amend Chapter 147, commonly referred to as the "CPA Audit Rule" in accordance with the revised NAIC model was developed as a result of the NAIC's review of the Sarbanes-Oxley Act of 2002, also known as the Public Company Accounting Reform and Investor Protection Act of 2002, or "SOX."	Peter J. Salvatore, Regulatory Coordinator (717) 787-4429

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Military Sales Model Regulation, Regulation 11-241.	Spring 2009, as final.	To adopt the NAIC model in response to Congress' direction in Section 9 of the Military Personnel Financial Services Protection Act	Peter J. Salvatore Regulatory Coordinator (717) 787-4429
Medicare Supplement Model Regulation Amendments 31 Pa. Code Chapter 89, §§ 89.772—89.791	Winter/Spring 2009, as final.	Amend regulation in accordance with revised NAIC model regulation, which includes major changes to Medigap plans and benefits approved by the NAIC in March 2007 and authorized by the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA); also contains changes required by the Genetic Information Nondiscrimination Act of 2008 (GINA).	Peter J. Salvatore Regulatory Coordinator (717) 787-4429
Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities 31 Pa. Code, NEW Chapter	Spring 2009, as proposed.	Adopt new NAIC model regulation re: the use of senior-specific certifications and professional designations in connection with an offer, sale or purchase of life insurance or an annuity to seniors or the provision of advice to seniors in connection with an offer, sale or purchase of life insurance or annuities.	Peter J. Salvatore Regulatory Coordinator (717) 787-4429
Autism Review Process 31 Pa. Code Chapter 168, New Chapter	Spring/Summer 2009, as proposed.	Act 62 of 2008 provides for regulations to implement and administer a review process for denials under the autism mandate, which takes effect July 1, 2009.	Peter J. Salvatore Regulatory Coordinator (717) 787-4429
<b>LABOR AND INDUSTRY</b>			
Uniform Construction Code, Title 34, Part XIV, Bureau of Occupational and Industrial Safety.	Submit proposed rulemaking in Fall 2009.	Adopt the triennial edition of the ICC codes with exclusions directed by the UCC Advisory Council and update existing regulations.	Edward Leister (717) 787-3323
Liquefied Petroleum Gas, Title 34. Bureau of Occupational and Industrial Safety.	Submit proposed rulemaking in Winter 2009.	Will enact the Propane and Liquefied Petroleum Gas Act passed in June 2002. Will govern the design, installation and construction of containers and equipment for storage and handling of liquefied petroleum gas, specify the odorization of the gases and establish guidelines for the processing and technologies that are not covered by industry standards.	Edward Leister (717) 787-3323
Storage and Use of Flammable and Combustible Liquids, Title 37, Part I Chap. 13, Bureau of Occupational and Industrial Safety	Submit proposed rulemaking in Fall 2009.	Update existing regulations promulgated by the State Police.	Jack Davenport (717) 772-2443
Business Enterprise Program, Title 34. Bureau of Blindness and Visual Services	Submit proposed rulemaking in Winter 2009.	Concerns operation of snack bars and similar operations in Commonwealth facilities under the Federal Randolph-Sheppard Act and related Pennsylvania laws.	David DeNotaris (717) 783-3784
Unemployment Compensation, Title 34, Bureau of Unemployment Compensation Tax Services	Submit proposed rulemaking in Winter 2009.	Update Unemployment Compensation tax and select benefit regulations.	Scott Miedrich (717) 787-2097
Unemployment Compensation, Title 34, Bureau of Unemployment Compensation Benefits	Submit proposed rulemaking in Winter 2009.	Update requirements and procedures for filing benefit claims and applications.	Jeri Morris (717) 787-3667



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Bureau of Workers' Compensation Title 34, Chapter 127, Medical Cost Containment	Submit revised proposed rulemaking Summer 2009.	Update processes governing medical care and costs under the Workers' Compensation Act.	John T. Kupchinsky (717) 783-5421
Bureau of Workers' Compensation Title 34, Chapter 125A, Self-Insurance	Submit proposed rulemaking in Spring 2009.	Clarify standards and security requirements for individual self-insured employees.	George Knehr (717) 783-4476
Bureau of Workers' Compensation Title 34, Chapter 131	Submit final rulemaking in Summer 2009.	Update procedures for proceedings before workers' compensation judges and incorporating Act 147 of 2006.	Elizabeth A. Crum (717) 787-5082
Workers' Compensation Appeal Board, Title 34, Chapter 111	Submit proposed rulemaking in Summer 2009.	Update procedures for Workers' Compensation Appeal Board.	Susan McDermott (215) 560-4583
Bureau of Mediation, Title 34	Submit proposed rulemaking in Fall 2009.	Specify procedures and process for Bureau mediators.	William D. Gross (717) 787-2803
Bureau of Labor Law Compliance, Title 34, Chapter 231, Minimum Wage	Submit proposed rulemaking in Fall 2009.	Update provisions and rescind expired Food-Service Employee Incentive Program.	James A. Holzman (717) 787-4186
Bureau of Labor Law Compliance, Title 34 Prohibition of Excessive Overtime in Health Care Act	Submit proposed rulemaking in Fall 2009.	Regulations to implement this law.	James A. Holzman (717) 787-4186
<b>MILITARY AND VETERANS AFFAIRS</b>			
State Veterans' Homes 43 Pa. Code Section 7.1 et. seq.	October 2008 as proposed.	This regulation is necessary to update current regulations, make them more user-friendly. This regulation is a long-term project and would amend 43 Pa. Code Chapter 7.	Dennis T. Guise (717) 861-8503
<b>MUNICIPAL POLICE OFFICERS' EDUCATION AND TRAINING COMMISSION</b>			
Municipal Police Officers' Education and Training Commission. 37 Pa. Code Chapter 204	Final regulations, June 2009.	Act 79 of 2005 requires the Commission to promulgate regulations to implement the Retired Law Enforcement Identification Act.	Syndi L. Guido (717) 772-0905
<b>PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM</b>			
No regulations being developed or considered at this time.			
<b>PROBATION AND PAROLE</b>			
The County Probation and Parole Officers Firearms Education and Training Law 61 P. S. § 332.5(13) requires the Commission to "make rules and regulations and to perform other duties as may be reasonably necessary or appropriate to implement the training program for county probation and parole officers."	The regulation was submitted to IRRC in the fall of 2008; however, the standing committees did not have time to complete their review prior to sine die. They must be resubmitted to the committees and the IRRC.	Final regulations are ready to be resubmitted once notified by IRRC that the standing committees have been reconstituted.	Todd Burns (717) 787-5699 Ext. 389

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
The Parole Act 61 P. S. § 331.21(b) requires the Board to establish rules and regulations for the payment of fees for screening tests for controlled substances.	The draft regulation is expected published in late Fall 2009.	The Board is working on the draft regulation to be submitted for review in Summer 2009 by OGC.	Daniel Hazelett (717) 787-5699 Ext. 427
Revision to 37 Pa. Code § 63.1 "Granting of Parole"	Being developed internally in Q1 and Q2 of CY 2009.	The Board is working on the draft regulation to be submitted for review in Summer 2009 by OGC.	Cynthia Daub (717) 787-5684
Revision to 37 Pa. Code § 71.4 "Conviction of a New Criminal Offense"	Being developed internally in Q1 and Q2 of CY 2009.	The Board is working on the draft regulation to be submitted for review in Summer 2009 by OGC.	Victoria Madden (717) 787-8126
<b><i>PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM</i></b>			
No regulations being developed or considered at this time.			
<b><i>PUBLIC WELFARE</i></b>			
Administration of County Children and Youth Programs 55 Pa. Code Chapter 3130	December 2009, as proposed.	This regulation incorporates the amendments to the Juvenile Act as a result of Act 126 of 1998 and the Federal regulations (effective March 27, 2000) for Title IV-B and Title IV-E funding for child welfare services for children in their own homes and for children receiving placement services. Major changes include permanency hearings and the matters to be determined, requirements related to reasonable efforts including aggravated circumstances contrary to the welfare and best interests and redefining permanency goals for children.	Ruth O'Brien (717) 783-2800
Administration and Operation of a Children and Youth Social Services Agency 55 Pa. Code Chapter 3680	April 2010, as proposed.	This regulation incorporates the changes identified in the Child and Family Services Review, including requirements for visitation with fathers and non-custodial parents and between siblings; concurrent planning; improving permanency outcomes for children and preserving connections with family and community for children placed out of the home.	Ruth O'Brien (717) 783-2800
Food Stamp Disqualification Penalties 55 Pa. Code Chapter 501	February 2009, as proposed.	This regulation incorporates a revision to the Food Stamp disqualification penalties as required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). The revision increases the Food Stamp intentional program violation disqualification penalties from six months to one year for the first violation and from one year to two years for the second violation. This regulation will be reviewed by representatives of community legal service agencies, the welfare rights organization and other client advocacy groups.	Ruth O'Brien (717) 783-2800
Family Violence Option 55 Pa. Code Chapter 108	August 2009, as final-form.	This regulation codifies the provision in the TANF State Plan to screen and identify victims of domestic violence, refer those individuals to counseling and supportive services, establish service plans, provide universal notification and make appropriate referrals to social service agencies. This regulation will be reviewed by representatives of community legal service agencies, the welfare rights organization and other client advocacy groups.	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Medical Assistance Changes (MAC) 55 Pa. Code Chapters 133, 140, 141, 178 and 181	May 2009, as proposed.	This regulation incorporates eligibility requirements for Temporary Assistance for Needy Families (TANF)-related, Supplemental Security Income (SSI)-related and General Assistance (GA)-related Medicaid. Some of the major changes include revisions to: 1) the application and redetermination process; 2) the qualification requirements and eligibility rules for Healthy Beginnings; 3) the income eligibility methodologies for TANF-related categories of Medicaid; 4) the income and resource requirements for the Medicaid Program; 5) Extended Medical Coverage to include provisions as set forth in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA); 6) the GA-related Nonmoney Payment (NMP) and Medically Needy Only (MNO) eligibility criteria as set forth in Act 35; 7) the qualifying criteria for TANF-related categories to include a new eligibility group as set forth in § 1931 of the Social Security Act.	Ruth O'Brien (717) 783-2800
Payment for Burial and Cremation 55 Pa. Code Chapters 283, 285	April 2009 as final-form as proposed.	The proposed rulemaking increases the maximum payment to funeral directors for burial or cremation services to a standard \$750 for all eligible individuals. This rulemaking also increases maximum level of contributions that may be made by another agency or individual towards burial expenses without reducing the Department payment. This amount is increased from \$180 to \$750. Additionally, this proposed rulemaking eliminates several restrictive requirements for burial, thus allowing families and funeral directors more flexibility and choice in planning and selecting burial goods and services.	Ruth O'Brien (717) 783-2800
Revisions to Special Allowances for Supportive Services 55 Pa. Code Chapter 165	March 2009 as proposed.	The purpose of this proposed regulation is to ensure adequate and consistent availability and distribution of special allowances. These special allowances are for supportive services to recipients of cash assistance who are engaged or intend to engage in employment and training activities approved by the Department.	Ruth O'Brien (717) 783-2800
Deficit Reduction Act of 2005 (TANF Reauthorization) 55 Pa. Code Chapter 165	April 2009 as proposed.	The purpose of this proposed regulation is to incorporate revised policies for work participation according to Federal statutes and regulations.	Ruth O'Brien (717) 783-2800
Deficit Reduction Act of 2005 (Long-Term Care Eligibility Requirements) 55 Pa. Code Chapter 178	April 2009 as proposed.	This regulation incorporates changes to the eligibility requirements for payment of Long-Term Care (LTC) services identified in the Deficit Reduction Act of 2005. Major changes include revisions to the determination of periods of ineligibility for payment of LTC services due to transfers of assets for less than fair market value (FMV), a new eligibility criterion regarding an individual's equity value in his/her home, revision to the spousal impoverishment procedures regarding resource eligibility of a married individual, and implementation of a formal undue hardship process for those individuals denied eligibility for payment of LTC services due to a transfer of assets for less than FMV or because of substantial home equity.	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Deficit Reduction Act of 2005 (Citizenship and Identity requirements for Medicaid) 55 Pa. Code Chapters 125, 141, 150 and 201	May 2009, as proposed.	The purpose of this regulation is to incorporate revised policies relating to citizenship and identity mandated by the Federal Deficit Reduction Act of 2005 for individuals who are applying and being reviewed for continuing Medicaid.	Ruth O'Brien (717) 783-2800
Medical Assistance for Workers with Disabilities (MAWD) 55 Pa. Code Chapter 140	March 2009 as proposed.	The purpose of this proposed rulemaking is to make categorically needy Medical Assistance available to individuals with disabilities who are at least 16 years of age or older but under 65 years of age, and who meet established income, resource and work related requirements. Title II of the Ticket to Work and Work Incentives Act of 1999 amended § 1902(a)(10)(A)(ii)(XV) and (XVI) of the Social Security Act and expanded the options for states to provide health care coverage to the individuals working with a disability.	Ruth O'Brien (717) 783-2800
Early and Periodic Screening Diagnosis Treatment (EPSDT) 55 Pa. Code Chapters 1101, 1121, 1123, 1147 and 1241	July 2009, as proposed.	This regulation relating to services provided as a follow-up to an EPSDT visit or encounter that are not currently recognized under the approved Medical Assistance State Plan. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Medical Assistance Case Management Services 55 Pa. Code Chapter 1239	July 2009, as proposed.	This regulation codifies payment for medically necessary case management services as mandated by Omnibus Budget Reconciliation Act 89 to Medical Assistance recipients under the age of 21. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
OMNIBUS Pharmacy 55 Pa. Code Chapters 1121, 1126, 1129, 1141, 1163, 1221, 1225 and 1243	July 2009, as final-omitted.	This final regulation codifies Act 1994-49 provisions that discontinue payment for all drugs, devices, products, services and procedures that are used or related to treating infertility, including surrogacy services, effective September 1, 1994. This regulation also provides that the medical assistance program provides drug coverage to medically needy only recipients receiving nursing facility services. This includes medically needy only recipients who reside in nursing facilities and intermediate care facilities/mental retardation (ICF/MR). This regulation was reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Physician Assistant/Midwife 55 Pa. Code Chapter 1141	April 2009, as final-omitted.	This final regulation codifies revised supervision requirements for physician assistants and midwives. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Discontinuance of the Mandatory Second Opinion Program 55 Pa. Code Chapter 1150	June 2009, as final-omitted.	This final regulation removes the mandatory second opinion program requirement for certain surgical procedures. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Capital Component Payment for Replacement Beds 55 Pa. Code Chapter 1187	July 2009, as proposed.	This regulation codifies the policy as set forth in the Statement of Policy published at 27 Pa.B. 6238 (November 29, 1997). This regulation will specify the conditions under which the Department will recognize nursing facility beds as replacement beds for purposes of making capital component payments for those beds. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
New Definition of "Emergency Medical Condition" 55 Pa. Code Chapters 1101, 1141, 1150 and 1221	June 2009, as proposed.	This regulation codifies the revised definition of "emergency medical condition" contained in the Balanced Budget Act of 1997, effective July 1, 1998. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Definition of Medically Necessary 55 Pa. Code Chapter 1101	June 2009, as proposed.	This proposed regulation replaces the current definition of "medically necessary" with the definition found in the HealthChoices Request for Proposal. This regulation was reviewed on 9/21/01 by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Tobacco Cessation and Nutritional Supplements 55 Pa. Code Chapter 1121	June 2009, as final-omitted.	This final regulation will provide coverage under the Medical Assistance Program for tobacco cessation products and counseling services and will extend coverage for nutritional supplements to eligible Medical Assistance recipients 21 years of age and older. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Dental Services 55 Pa. Code Chapter 1149	June 2009, as final-omitted.	This final regulation will provide coverage for crown core build-up and will revise the Medical Assistance Orthodontia Program. This regulation will be reviewed by the Medical Assistance Advisory Committee.	Ruth O'Brien (717) 783-2800
Civil Rights Requirements for Nursing Facilities 55 Pa. Code Chapter 1187	August 2009, as proposed.	This regulation will require nursing facilities to request and maintain a file of civil rights compliance information on each applicant. Through review of the civil rights information, the Department may better ensure that the MA program is operated in conformity with applicable laws that prohibit discrimination on race, color, national origin and disability.	Ruth O'Brien (717) 783-2800
Assisted Living Residence 55 Pa. Code Chapter 2800	August 2009 as final-form.	This rulemaking will provide a system of licensure and regulation of assisted living residences to ensure accountability and a balance of availability between institutional and home- and community-based long-term care. This will help Pennsylvanians to age in place, maintain their independence and exercise decision making and personal choice.	Ruth O'Brien (717) 783-2800
Phase-Out of County Costs in Rate Setting and Phase-In of Minimum Occupancy Requirements for Bed Hold Payments 55 Pa. Code Chapters 1187 and 1189	June 2009, as proposed.	Act 44 of 2008 requires the Department to promulgate regulations that create minimum occupancy requirements for nursing facility bed hold payments and phases out the use of county nursing facility costs in the establishment of peer group prices for nonpublic nursing facility rates.	Ruth O'Brien (717) 783-2800
Participation Review Process 55 Pa. Code Chapter 1187	June 2009, as proposed.	Act 16 of 2007 requires the Department to promulgate regulations that establish the process and criteria to be used to review and respond to requests for increases in Medical Assistance certified nursing facility beds.	Ruth O'Brien (717) 783-2800
Medical Assistance Copayment Changes 55 Pa. Code Chapter 1101	March 2009, as final-omitted.	This regulation will codify new MA copayment exclusions mandated by the Federal Deficit Reduction Act (DRA) of 2005, and reduce the copayment for brand name drugs identified as preferred on the Department's Preferred Drug List (PDL) as authorized under the DRA. This regulation will be reviewed by the Medical Assistance Advisory Committee (MAAC).	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Third Party Liability Programs 55 Pa. Code Chapter 259	October 2009, as proposed.	Section 1902(a)(25) of the Social Security Act (42 U.S.C. § 1396a(a)(25)) requires the Department to develop and implement a TPL program to ensure that Medicaid is the payor of last resort. Section 1906 of the Social Security Act (42 U.S.C. § 1396(e)) authorizes the Department to have a special program to enroll certain MA recipients into group health insurance. Both the general TPL program and the special group health insurance program have been in operation in Pennsylvania for a number of years. During this period of operation, questions have arisen as to interpretation and procedures under the Federal and state's statutes. This proposed regulation is needed to supply guidance with respect to issues not directly addressed by the Federal and state statutes, to resolve ambiguities and to fill gaps in the state statutory language.	Ruth O'Brien (717) 783-2800
Medical Assistance Estate Recovery Changes 55 Pa. Code Chapter 258	April 2009, as proposed.	This regulation will incorporate additions and changes to the estate recovery program regulation that was codified in February 2003. The changes reflect modification and additions identified since implementation. These include additional and clarified definitions; inclusion of language regarding the Long-Term Care Partnership; modification of the Department's priority of claim based on a change to 20 Pa.C.S. § 3392 relating to classification and order of payment; and clarifications regarding undue hardship waivers, postponement of collection and computation of claim.	Ruth O'Brien (717) 783-2800
Family-Based Mental Health Service Providers 55 Pa. Code Chapter 5260	June 2009, as proposed.	This proposed regulation would establish requirements for the delivery of services, and payment of family-based mental health services for children and adolescents.	Ruth O'Brien (717) 783-2800
Residential Treatment Facilities (RTF) for Mental Health Services 55 Pa. Code Chapters 31, 1157 and 1165	March 2009, as proposed.	This regulation codifies coverage for mental health services to children under 21 years of age that are provided in a residential treatment facility. This regulation was reviewed by the Medical Assistance Advisory Committee (MAAC) on 3/28/02 and again to the MAAC as well as other interested stakeholders on 4/20/06. The comments and revised regulations are under review by the Department.	Ruth O'Brien (717) 783-2800
Outpatient Drug and Alcohol Clinic Services 55 Pa. Code Chapter 1223	July 2009, as proposed.	This proposed regulation is needed to maintain consistency with the Department of Health licensing definitions and align these regulations with current Federal and State licensing requirements, as well as, current treatment trends.	Ruth O'Brien (717) 783-2800

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Integrated Treatment for Outpatient Clinics (formerly referred to as "Psychiatric Outpatient Clinics") 55 Pa. Code Chapter 5200	July 2009, as proposed.	These regulations would be promulgated, simultaneously with identical regulations from the Department of Health, to permit providers of drug and alcohol treatment services and mental health treatment services to obtain licenses from the Departments of Health and Public Welfare authorizing them to deliver integrated treatment on an outpatient basis to persons suffering from co-occurring psychiatric and substance use disorders. The proposed regulations would establish minimum requirements for licensure, including staffing, training, records and other aspects required for appropriate treatment delivery. There are currently no regulations which provide for licensure of providers of integrated treatment for co-occurring disorders. Instead, facilities that wish to provide integrated treatment currently must meet all the requirements to obtain separate licenses for drug and alcohol and mental health treatment. The proposed regulations would simplify the survey and licensure process for providers. These regulations would be published pursuant to the Department's authority under Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922, 1001—1031, and 1051—1059).	Ruth O'Brien (717) 783-2800
Intermediate Care Facilities for the Mentally Retarded 55 Pa. Code Chapter 6650	November 2009, as proposed.	This regulation applies to private and public residential facilities receiving moneys for intermediate care facilities for the mentally retarded (ICFs/MR) or intermediate care facilities for persons with other related conditions (ICFs/ORC). This regulation will include facility capacity, facility expansion, new ICF/MR development, restraints, incident management, conversion of existing ICF/MR to the Medicaid Consolidated Waiver program, medication administration, medication administration training, self-administration of medications and medication log.	Ruth O'Brien (717) 783-2800
Regulatory Revisions: Adult Training Facilities; Vocational Facilities; Community Homes for Individuals with Mental Retardation; Family Living Homes 55 Pa. Code Chapters 2380, 2390, 6400 and 6500	November 2010 as proposed.	The regulatory revisions will establish consistent new business practices for providers to ensure they meet the necessary health and safety needs of the individuals they serve. The regulatory revisions will also increase consistency across services and providers per Federal requirements.	Ruth O'Brien (717) 783-2800
Individual Support Plans 55 Pa. Code Chapters 2380, 2390, 6400 and, 6500	May 2009, as final-form.	This proposed rulemaking will amend the current Individual Program Plan/Individual Written Program Plan regulations to reflect current practices and requirements related to Individual Support Plans.	Ruth O'Brien (717) 783-2800
<b>REVENUE</b>			
Support Offset and Other Personal Income Tax Provisions	July, 2009, as proposed.	This regulatory change will amend certain regulatory provisions to provide for the intercept of income tax refunds from individuals who are delinquent in support payments and redirect the funds accordingly. Other amendments are proposed to update and/or clarify personal income tax provisions.	Douglas Berguson (717) 346-4633

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
Amendments to Chapter 117. Return and Payment of Tax	July, 2009, as proposed.	The proposed regulation will amend § 117.9 and add § 117.9b to reflect the Department's policy regarding the form of Pennsylvania Personal Income Tax returns. In addition, the regulation will provide clear instructions for taxpayers regarding reporting requirements.	Douglas Berguson (717) 346-4633
Pennsylvania Subchapter S Corporations—Election Language 61 Pa. Code Chapter 107a	December, 2009, as proposed.	The Department is promulgating a new rulemaking as a result of Act 2006-67, which made significant changes to how S corporations are taxed under Pennsylvania Personal Income Tax.	Douglas Berguson (717) 346-4633
Corporate Net Income Tax 61 Pa. Code, §§ 151.14, 153.54, and 153.66—Amended Report	February, 2009, as proposed.	The proposed regulation provides a procedure for the filing of amended corporate tax reports for tax reports governed by the assessment process enacted in Act 119 of 2006. Obsolete language will be replaced.	Douglas Berguson (717) 346-4633
Amendments to 61 Pa. Code Chapters 73 and 74 Malt Beverage Tax	May, 2009, as final.	The amendments to Chapters 73 and 74 codify legislative changes relating to the Malt Beverage Tax that were set forth in Act 46 of 2003.	Douglas Berguson (717) 346-4633
Pennsylvania Sales and Use Tax Amendments to 61 Pa. Code § 53.1 Clothing	February, 2009, as proposed.	The proposed regulation will amend § 53.1 to conform with the statute, as well as amend definitions and clarify examples.	Douglas Berguson (717) 346-4633

**SECURITIES COMMISSION**

No regulations being developed or considered at this time.

**STATE**

Bureau of Commissions, Elections and Legislation			
—Alteration of Local Election Districts— 4 Pa. Code § 184 (16-36)	Spring 2009, as Final.	The regulation would address the statutory requirements relating to local redistricting in Article V of the Election Code, 25 P. S. §§ 2701—2750. Statutory Authority: Section 2750 of the Election Code, 25 P. S. § 2570, which authorizes the Secretary of the Commonwealth to promulgate regulations relating to Election District Alteration and Data Reporting.	Shauna Graves (717) 265-7632
—Lobbying Disclosure— 51 Pa. Code (16-40)	Spring 2009, as Final.	This final rulemaking is required to implement the Lobbying Disclosure Act, Act 134 of 2006. Statutory Authority: Section 1310-A of the Lobbying Disclosure Act, Act 134 of 2006.	L. Lawrence Boyle (717) 783-1657
—Electronic Notarization Standards— 4 Pa. Code, Subpart F (number not yet assigned)	Spring 2009, as Proposed.	The proposed regulation would establish standards for notaries to use electronic notarization. Statutory Authority: Section 22.3 of the Notary Public Law of 1953, 57 P. S. § 168.3.	Martha Brown (717) 783-2804



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>Bureau of Professional and Occupational Affairs</p> <p>—Schedule of Civil Penalties for violations of the Clean Indoor Air Act, 49 Pa. Code Chapter 43b. (16-46)</p> <p>—Recording Devices— 49 Pa. Code, §§ 43b.101 and 43b.102 (number not yet assigned)</p>	<p>Spring 2009, as Proposed.</p> <p>Fall 2009, as Proposed.</p>	<p>This regulation would create a schedule of civil penalties for violations of the Act of June 13, 2008 (P. L. ____ , No. 27), known as the Clean Indoor Air Act. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner to set forth schedules of civil penalties. Section 5(b)(1)(ii) of the Clean Indoor Air Act authorizes the Bureau to enforce the act.</p> <p>The regulation would provide rules for the use of electronic (audio and visual) recording devices during meetings of the boards and commissions within the Department of State for which the Bureau of Professional and Occupational Affairs provides administrative support. Statutory Authority: Sections 710 and 711 of the Sunshine Act, Act of October 15, 1998 (P. L. 179, No. 93) authorizes the adoption of rules and regulations governing the use of recording devices in public meetings.</p>	<p>Cynthia K. Montgomery (717) 783-7200</p> <p>Thomas A. Blackburn (717) 783-7200</p>
<p>State Board of Accountancy</p> <p>—Continuing Education— 49 Pa. Code §§ 11.61—11.69a (16A-5511)</p> <p>—Biennial Renewal Fees— 49 Pa. Code § 11.4 (16A-5512)</p> <p>—General Revisions— 49 Pa. Code Chapter 11 (number not yet assigned)</p> <p>—Civil Penalty Schedule— Accountants— 49 Pa. Code § 43b.10a. (number not yet assigned)</p>	<p>Spring 2009, as Proposed.</p> <p>Spring 2009, as Proposed.</p> <p>Summer 2009, as Proposed.</p> <p>Spring 2009, as Proposed.</p>	<p>The regulation would amend continuing professional education requirements for licensed certified public accountants and public accountants. Statutory Authority: Section 3 of the C.P.A. Law, 63 P. S. § 9.3.</p> <p>This proposed rulemaking would increase the biennial renewal fees for certified public accountants, public accountants, public accounting firms and continuing education program sponsors. Statutory Authority: Section 6 of the C.P.A. Law, 63 P. S. § 9.6.</p> <p>This proposed rulemaking would implement the amendments to the CPA Law made by the Act of July 9, 2008 (P. L. 954, No. 73). Statutory Authority: Section 3 of the C.P.A. Law, 63 P. S. § 9.3.</p> <p>This proposed regulation would adopt a schedule of civil penalties for violation of the continuing education regulations of the Board. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner of Professional and Occupational Affairs to set forth schedules of civil penalties, with the approval of the Board.</p>	<p>Sara Fox (717) 783-1404</p>
<p>State Architects Licensure Board</p> <p>—General Revisions— 49 Pa. Code Chapter 9 (number not yet assigned)</p>	<p>Fall 2009, as Proposed.</p>	<p>This regulation would provide a general update of the regulations of the State Architects Licensure Board. Statutory Authority: Section 6(a) and (d) of the Architects Licensing Law, 63 P. S. § 34.6(a) and (d).</p>	<p>Penny Walker (717) 783-3397</p>

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Board of Barber Examiners</p> <p>—Student Records and Curriculum— 49 Pa. Code Chapter 3 (16A-427)</p>	Spring 2009, as Final.	This regulation would amend the current regulations to allow for part-time attendance at barber schools; to allow for transfer of hours between a barber shop and a barber school or between barber shops regardless of whether the shop or school is in-state or out-of-state; to require shop owners and schools to submit a quarterly report of student hours to the Board; to require a shop owner, or a shop owner's designee, to notify the Board of each student to be trained in the shop. Statutory Authority: Section 15-A.4(b) of the Barbers' License Law, 63 P. S. § 566.4(b).	Hillarene Staller (717) 783-3402
<p>State Board of Chiropractic</p> <p>—Chiropractic Specialties— 49 Pa. Code Ch. 5 (16A-4312)</p> <p>Review of Chiropractic Treatment— 49 Pa. Code Chapter 5 (16A-4315)</p> <p>—Assistance of Unlicensed Supportive Personnel— 49 Pa. Code Chapter 5 (16A-4316)</p> <p>—Needle Acupuncture— 49 Pa. Code § 5.81 (16A-4317)</p> <p>—Continuing Education Violations— 49 Pa. Code § 5.77 (16A-4318)</p> <p>—Patient Records— 49 Pa. Code § 5.51 (16A-4319)</p> <p>—Schedule of Civil Penalties— Chiropractors 49 Pa. Code Chapter 43b. (16-44)</p>	<p>Spring 2009, as Proposed.</p> <p>Summer 2009, as Proposed.</p> <p>Summer 2009, as Proposed.</p> <p>Spring 2009, as Proposed.</p> <p>Spring 2009, as Proposed.</p> <p>Spring 2009, as Statement of Policy.</p> <p>Spring 2009, as Proposed.</p>	<p>The Chiropractic Practice Act prohibits licensees from holding themselves out as specialists unless they possess a post-graduate certification in that specialty. The regulation would identify the certifications acceptable to the Board. Statutory Authority: Section 302(3) of the Chiropractic Practice Act, 63 P. S. § 625.302(3).</p> <p>This proposed rulemaking would establish standards for chiropractors that engage in chiropractic peer review. Statutory Authority: Section 302(3) of the Chiropractic Practice Act, 63 P. S. § 625.302(3).</p> <p>This proposed rulemaking would establish standards for the delegation of tasks to unlicensed supportive personnel. Statutory Authority: Sections 302(3) and 601 of the Chiropractic Practice Act, 63 P. S. §§ 624.302(3) and 625.601.</p> <p>This rulemaking would permit chiropractors who are registered acupuncturists or practitioners of oriental medicine to practice or advertise needle acupuncture. Statutory Authority: Sections 302(3), 506(a)(4) and 506(a)(11) of the Chiropractic Practice Act.</p> <p>This regulation would adopt a requirement that continuing education deficiencies be made up within 6 months and provides for disciplinary action under the Act 48 citation process. Statutory Authority: Sections 302(3), 506(a)(9) and 507(a) of the Chiropractic Practice Act, 63 P. S. §§ 625.302(3), 625.506(a)(9) and 625.507(a).</p> <p>The statement of policy would assist licensees in determining how to maintain patient records. Statutory Authority: Section 302(3) of the Chiropractic Practice Act, 63 P. S. § 625.302(3).</p> <p>This proposed regulation would adopt a schedule of civil penalties for violation of the continuing education regulations of the Board. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner of Professional and Occupational Affairs to set forth schedules of civil penalties with the approval of the Board.</p>	<p>Deborah Smith (717) 783-7155</p>

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Board of Chiropractic (cont'd)</p> <p>—Volunteer License— 49 Pa. Code § 5.20 (number not yet assigned)</p>	Spring 2009, as Final (Proposed-omitted).	This regulation would conform the volunteer license regulations to the amendments to the Volunteer Health Services Act under Act 58 of 2002. Statutory Authority: Section 302 of the Chiropractic Practice Act, 63 P. S. § 625.302.	Deborah Smith (717) 783-7155
<p>Corporation Bureau</p> <p>—UCC Revised Article 9— (16-35)</p>	Summer 2009, as Proposed.	This regulation would adopt (with some revisions) the Model rules promulgated by the International Association of Corporate Administrators, which call for the delivery of filings by electronic means and acceptance of credit card payments. Statutory Authority: Section 9526 of the Uniform Commercial Code Modernization Act of 2001, 13 Pa.C.S. § 9526.	Martha Brown (717) 787-6802
<p>State Board of Cosmetology</p> <p>—Sanitation— 49 Pa. Code Chapter 7 (16A-4515)</p> <p>—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b, § 43b.5. (number not yet assigned)</p>	<p>Fall 2009, as Proposed.</p> <p>Spring 2009, as Proposed.</p>	<p>This regulation would update the Board's regulations on sanitation to conform to modern standards within the profession. Statutory Authority: Sections 11 and 14 of the Act of May 3, 1933 (P. L. 242, No. 86), commonly referred to as the Beauty Culture Law, 63 P. S. §§ 517 and 520.</p> <p>This regulation would amend the schedule of civil penalties for the State Board of Cosmetology to implement Act 48 civil penalties for failure of a school to submit quarterly reports. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).</p>	Hillarene Staller (717) 783-7130
<p>State Board of Crane Operators</p> <p>—Implementation of the Crane Operator Licensure Act— 49 Pa. Code Chapter 36 (number not yet assigned)</p>	Fall 2009, as Proposed.	This proposed regulation would implement the Crane Operator Licensure Act, Act 100 of 2008. Statutory Authority: Section 2102 of the act of October 9, 2008, (P. L. ____ , No. 100).	Cynthia K. Montgomery (717) 783-7200

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Board of Dentistry			
—EFDA Program Approval— 49 Pa. Code Chapter 33 (16A-4616)	Spring 2009, as Proposed.	This regulation would establish criteria for Board approval of education programs for expanded function dental assistants. Statutory Authority: Section 3(a) of the Dental Law, 63 P. S. § 122(a).	Lisa Burns (717) 783-7162
—Dental Hygienists Scope of Practice/Local Anesthesia— 49 Pa. Code Chapter 33 (16A-4617)	Spring 2009, as Final.	This regulation updates and amends the scope of practice of dental hygienists to conform to modern dental practices; establishes the requirements under which a dental hygienist may be permitted to administer local anesthesia under the direct supervision of a dentist; and implements the provisions of Act 51 of 2007 relating to public health dental hygiene practitioners. Statutory Authority: Section 3(d) of the Dental Law, 63 P. S. § 122(d).	
—General Revisions— 49 Pa. Code Chapter 33 (number not yet assigned)	Summer 2009 as Proposed.	This regulation would generally update the Board's regulations to reflect current procedures and practices. Statutory Authority: Section 3(o) of the Dental Law, 63 P. S. § 122(o).	
—Licensure by Examination— 49 Pa. Code § 33.103 (16A-4620)	Spring 2009, as Proposed.	This regulation would expand the range of regional clinical examinations that may be accepted by the Board for the purposes of licensure by examination and licensure by criteria approval. Statutory authority: Section 3(c), (d) and (o) of the Dental Law, 63 P. S. § 122(c), (d) and (o).	
—Volunteer License— 49 Pa. Code § 33.110 (Number not yet assigned)	Spring 2009, as Final (proposed-omitted)	This regulation would amend the current volunteer license regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 3(o) of the Dental Law, 63 P. S. § 122(o).	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Registration Board for Professional Engineers, Land Surveyors and Geologists</p> <p>—General Revisions— 49 Pa. Code Chapter 37 (number not yet assigned)</p>	Spring 2009, as Proposed.	The regulation would clarify education and experience requirements for regular and “grandfathered” candidates for examination and licensure; revise categories of acceptable professional references for candidates; update the branches of engineering for which license examinations are offered; prescribe standards relating to the use of an electronic seal and signature; clarify criteria for approval of fictitious and corporate names that use variations of professional titles; eliminate unnecessary administrative requirements; and make editorial changes. Statutory Authority: Section 4 of the Engineer, Land Surveyor and Geologist Registration Law, 63 P. S. § 151.	Terrie Kocher (717) 783-7049
<p>—Continuing Education— 49 Pa. Code Chapter 37 (16A-4710)</p>	Spring 2009, as Proposed.	The proposed rulemaking would set forth continuing education requirements for professional engineers, geologists and land surveyors. Statutory Authority: Sections 4(1) and 4.5(a) of the Engineer, Land Surveyor and Geologist Registration Law, 63 P. S. §§ 151.4(1) and 151.4.5(a).	
<p>—Schedule of Civil Penalties— Engineers, Geologists and Land Surveyors 49 Pa. Code Chapter 43b. (16-43)</p>	Spring 2009, as Proposed.	This proposed regulation would adopt a schedule of civil penalties for violations of the continuing education regulations being promulgated by the State Board of Engineers, Land Surveyors and Geologists (16A-4710). Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner of Professional and Occupational Affairs to set forth schedules of civil penalties, with the approval of the Board.	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Board of Funeral Directors</p> <p>—Preneed Funeral Arrangements— 49 Pa. Code Chapter 13 (16A-4815)</p> <p>—Preneed Activities of Unlicensed Employee— 49 Pa. Code Chapter 13 (16A-4816)</p> <p>—Continuing Education Enforcement— 49 Pa. Code Chapter 13, §§ 13.231 and 13.401 (16A-4818)</p> <p>—Schedule of Civil Penalties— Continuing Education Violations— 49 Pa. Code Chapter 43, § 43b.6. (16-47)</p>	<p>Spring 2009, as Final.</p> <p>Spring 2009, as Final.</p> <p>Spring 2009, as Proposed.</p> <p>Spring 2009, as Proposed.</p>	<p>This regulation would clarify and add additional requirements for funeral directors who enter into preneed funeral arrangement agreements. Statutory Authority: Sections 13(c) and 16(a) of the Funeral Director Law, 63 P. S. §§ 479.13(c) and 479.16(a).</p> <p>The regulation would clarify what conduct by an unlicensed individual is permitted, as strongly urged by the court in <i>Walker v. Flitton</i>, 364 F.Supp.2d 503 (U.S.D.C. M.D. Pa. 2005). Statutory Authority: Sections 13(c) and 16(a) of the Funeral Director Law, 63 P. S. §§ 479.13(c) and 479.16(a).</p> <p>This proposed rulemaking would provide for the enforcement of continuing education violations through the Act 48 citation process. Statutory authority: Sections 10(b) and 16(a) of the Funeral Director Law, 63 P. S. §§ 479.10(b) and 479.16(a).</p> <p>This proposed rulemaking would establish the civil penalty schedule for violations of the Funeral Board's continuing education violations. Statutory Authority: Section 5(a) of the act of July 2, 1993 (P. L. 345, No. 48), 63 P. S. § 2205(a); and sections 11(a)(6) and 17(b) of the Funeral Director Law, 63 P. S. §§ 479.11(a)(6) and 479.17(b).</p>	<p>Heidy Weirich (717) 783-3397</p>
<p>State Board of Landscape Architects</p> <p>—Schedule of Civil Penalties— Landscape Architects 49 Pa. Code Chapter 43b (number not yet assigned)</p>	<p>Spring 2009, as Proposed.</p>	<p>This proposed regulation would adopt a schedule of civil penalties for unlicensed practice and other violations of the Landscape Architects Registration Law. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner of Professional and Occupational Affairs to set forth schedules of civil penalties, with the approval of the Board.</p>	<p>Terrie Kocher (717) 783-7049</p>
<p>State Board of Massage Therapy</p> <p>—Implementation of the Massage Therapy Law— 49 Pa. Code Chapter 20 (number not yet assigned)</p>	<p>Fall 2009, as Proposed.</p>	<p>This regulation is required to implement the Massage Therapy Law, act of October 9, 2008 (P. L. ____, No.118). Statutory Authority: Section 50 of the Massage Therapy Law requires the Board to promulgate regulations within 18 months.</p>	<p>Teresa Lazo (717) 783-7200</p>

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Board of Medicine  —Acupuncture— 49 Pa. Code § 18.15 (16A-4924)	Spring 2009, as Final.	This proposed rulemaking would amend the Board's existing acupuncture regulations so they comport with Act 186 of 2006, which amended the Acupuncture Registration Act (63 P. S. §§ 1801—1806) by authorizing acupuncturists to treat patients for up to 60 calendar days without first obtaining a referral from a physician. Statutory Authority: Sections 3 and 3.1 of the Acupuncture Registration Act, 63 P. S. §§ 1803 and 1803.1.	Tammy Radel (717) 783-1400
—General Revisions— 49 Pa. Code Chapters 16, 17 and 18 (16A-4925)	Spring 2009, as Proposed.	This proposed rulemaking would implement Acts 29, 46 and 48 of 2007, and would generally update the regulations of the Board relating to physicians, physician assistants, certified registered nurse practitioners, respiratory care practitioners, and volunteer licensees. Statutory Authority: Acts 29, 46 and 49 of 2007 direct the Board to adopt, promulgate and enforce regulations to effectuate the amendments adopted in the respective Acts. In addition, Section 8 of the Medical Practice Act of 1985, 63 P. S. § 422.8, authorizes the Board to promulgate regulations that are reasonably necessary to carry out the purposes of the Act.	
—Nurse Midwife Prescriptive Authority— 49 Pa. Code Chapter 18 (16A-4926)	Spring 2009, as Final.	This rulemaking implements Act 50 of 2007 relating to prescriptive authority for nurse midwives. Statutory Authority: Sections 8 and 35(a) of the Medical Practice Act of 1985, 63 P. S. §§ 422.8 and 422.35(a).	
—Clarification of Medicine and Surgery— 49 Pa. Code Chapters 16 and 17 (16A-4927)	Spring 2009, as Proposed.	This rulemaking would amend basic definitions and establish minimum standards of practice relating to examinations preceding treatment and relating to certain medical procedures. Statutory Authority: Section 8 of the Medical Practice Act of 1985, 63 P. S. § 422.8.	
—Perfusionists— 49 Pa. Code Chapter 18, Subchapter J. (number not yet assigned)	Summer 2009, as Proposed.	The proposed rulemaking would set forth the requirements for licensure of perfusionists. Statutory Authority: Section 4 of the Act of June 11, 2008 (P. L. ____, No. 19) requires the Board to promulgate regulations to implement licensure of perfusionists within 18 months of the effective date. The act was effective on August 10, 2008.	
—Licensure of Respiratory Therapists and Physician Assistants— 49 Pa. Code Chapter 18 (number not yet assigned)	Summer 2009, as Proposed	The proposed rulemaking would implement the amendments made to the Medical Practice Act by the Act of July 4, 2008 (P. L. ____, No. 45) relating to licensure of respiratory therapists and physician assistants. Statutory authority: Section 8 of the Act of July 4, 2008 (P. L. ____, No. 45) requires the Board and the State Board of Osteopathic Medicine to jointly promulgate regulations to implement the amendments within 18 months.	
—Licensure or Certification of Behavior Specialists— 49 Pa. Code Chapter 18 (number not yet assigned)	Summer 2009, as Proposed.	The proposed rulemaking implements the licensure or certification of behavior specialists as required by the Act of July 9, 2008 (P. L. ____, No. 62). Statutory Authority: Section 3(g) of the Act of July 9, 2008 (P. L. ____, No. 62) requires the Board, in consultation with the Department of Public Welfare, to promulgate regulations providing for the licensure or certification of behavior specialists.	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Board of Medicine (cont'd)			
—Volunteer License— 49 Pa. Code § 16.18 (number not yet assigned)	Spring 2009, as Final (Proposed-omitted).	This regulation would amend the current volunteer license regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 8 of the Medical Practice Act of 1985, 63 P. S. § 422.8.	Tammy Radel (717) 783-1400
—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b, § 43b.20 (number not yet assigned)	Spring 2009, as Proposed.	This regulation would amend the schedule of civil penalties for the State Board of Medicine to implement Act 48 civil penalties for practicing on a lapsed license and for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Board of Nursing  —LPN / IV Therapy— 49 Pa. Code § 21.145 (16A-5122)	Summer 2009, as Proposed.	This regulation addresses the LPN's role in working with peripherally inserted central catheters (PICC lines). Statutory Authority: Section 17.6 of the Practical Nurse Law, 63 P. S. § 667.6.	Ann Steffanic (717) 783-7142
—RN and LPN Program Examination Pass Rates— 49 Pa. Code Chapter 21 (16A-5123)	Spring 2009 as Final.	This regulation clarifies the procedure for removing a nursing education program from the approved list and further establish standards for placing a nursing education program on provisional approval or removing the program from the approved list based on the failure rate for first-time examinees on the licensure examination. Statutory Authority: Section 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k), and section 17.6 of the Practical Nurse Law, 63 P. S. § 667.6.	
—CRNP General Revisions— 49 Pa. Code Chapter 21, Subchapter C (16A-5124)	Spring 2009, as Final.	This regulation implements Act 206 of 2002, which gave exclusive jurisdiction over CRNPs to the State Board of Nursing and to revise the existing regulations to allow the effective use of CRNPs to the full extent of their education and training. Statutory Authority: Section 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k), and section 7(c) of Act 306 of 2002, P. L. 1567, No. 206, December 9, 2002.	
—Clinical Nurse Specialists— 49 Pa. Code Subchapter H, §§ 21.801—21.831 (16A-5133)	Fall 2009, as Final.	This proposed regulation would implement Act 49 of 2007, which amended the professional Nursing Law to provide for the certification of clinical nurse specialists. Statutory Authority: Section 5 of Act 49 requires the Board to promulgate regulations within 18 months. Section 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k) authorizes the Board to establish rules and regulations for the practice of professional nursing and the administration of the Act.	
—LPN Application for Examination— 49 Pa. Code § 21.151 (number not yet assigned)	Summer 2009, as Proposed.	The proposed rulemaking would provide for admission to the practical nurse exam for applicants who have graduated from a foreign practical nursing program that is equivalent to an LPN education program of study required in this Commonwealth at the time the program was completed as determined by the Commission on Graduate of Foreign Nursing Schools (CGFNS). Statutory Authority: Sections 5 and 17.6 of the Practical Nurse Law, 63 P. S. §§ 655 and 667.6.	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Board of Nursing (cont'd)			
—Reactivation/ Re-licensure after Lapse— 49 Pa. Code Chapter 21 (16A-5135)	Summer 2009, as Proposed.	This regulation would set standards for the reactivation/re-licensure of nurses whose licenses have lapsed for a significant period of time. Statutory Authority: Sections 2.1 and 11 of the Professional Nursing Law, 63 P. S. §§ 212.1 and 221; and sections 13.1 and 17.6 of the Practical Nursing Law, 63 P. S. §§ 663.1 and 667.6, authorize the Board to regulate the renewal of expired or inactive licenses and to promulgate regulations generally.	Ann Steffanic (717) 783-7142
—Biennial Renewal Fees— 49 Pa. Code Chapter 21 (16A-5136)	Spring 2009, as Proposed.	This regulation is needed to increase the biennial renewal fees for nurses. Statutory authority: Section 11.2 of the Professional Nursing Law, 63 P. S. § 221.2, and Section 17.5 of the Practical Nursing Law, 63 P. S. § 667.5, set forth the authority to set fees by regulation.	
—Fees for Nursing Education Programs— 49 Pa. Code Chapter 21 (number not yet assigned)	Summer 2009, as Proposed.	This regulation is necessary to set fees for the approval of nursing education programs. Statutory Authority: Section 11.2 of the Professional Nursing Law, 63 P. S. § 221.2, and Section 17.5 of the Practical Nursing Law, 63 P. S. § 667.5, set forth the authority to the setting of fees by regulation. Section 6.2 of the Professional Nursing Law, 63 P. S. § 216.2, provides the Board's authority to approve nursing education programs. Sections 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k) and 17.6 of the Practical Nursing Law, 63 P. S. § 667.6, provide the general rulemaking authority of the Board.	
—Volunteer License— 49 Pa. Code Chapter 21, Subchapter F, §§ 21.601—21.607 (number not yet assigned)	Spring 2009, as Final (Proposed-omitted).	This regulation would amend the volunteer license regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 2.1(k) of the Professional Nursing Law, 63 P. S. § 212.1(k).	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Board of Examiners of Nursing Home Administrators</p> <p>—Temporary Permits— 49 Pa. Code § 39.1, 39.4 and 39.17 (16A-629)</p> <p>—Sexual Misconduct— 49 Pa. Code §§ 39.1 and 39.9 (16A-6211)</p> <p>—Continuing Education— 49 Pa. Code § 39.61 (16A-6212)</p> <p>—Continued Competence— 49 Pa. Code Chapter 39 (16A-6213)</p> <p>Schedule of Civil Penalties— 49 Pa. Code Chapter 43b, § 43b.17 (number not yet assigned)</p>	<p>Spring 2009, as Final.</p> <p>Summer 2009, as Proposed.</p> <p>Spring 2009, as Proposed.</p> <p>Spring 2009, as Proposed</p> <p>Spring 2009, as Proposed.</p>	<p>The proposed rulemaking would clarify, update and expand on the temporary permit requirements under section 14 of the Nursing Home Administrators License Act, 63 P. S. § 1114. Statutory Authority: Section 4(c) and 14 of the Nursing Home Administrators License Act, 63 P. S. §§ 1104 (c) and 1114.</p> <p>This regulation would add sexual abuse, sexual misconduct and sexual harassment as offenses for which a nursing home administrator's license may be disciplined. Statutory Authority: Sections 4(c) and 6(g) of the Nursing Home Administrators Licensure Act, 63 P. S. §§ 1104(c) and 1106(g).</p> <p>This rulemaking would amend the Board's existing regulations relating to continuing education clock hours. Statutory Authority: Section 9(b) of the Nursing Home Administrators Licensure Act, 63 P. S. § 1109(b).</p> <p>This regulation would provide the requirements for demonstrating continued competence when reactivating a license that has been inactive for more than 5 years. Statutory Authority: Section 4(a)(4), (9) and (c) of the Nursing Home Administrators Licensure Act, 63 P. S. § 1104(a)(4), (9) and (c).</p> <p>This regulation would amend the schedule of civil penalties for the State Board of Examiners of Nursing Home Administrators to implement Act 48 civil penalties for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).</p>	<p>Chris Stuckey (717) 783-7155</p>
<p>State Board of Occupational Therapy Education and Licensure</p> <p>—Continued Competency— 49 Pa. Code §§ 42.50—42.58 (16A-677)</p>	<p>Spring 2009, as Proposed.</p>	<p>The proposed rulemaking will implement section 15(a) of the Occupational Therapy Practice Act, 63 P. S. § 1515(a), which authorizes the board to establish additional requirements for the license renewal designed to assure continued competency. Statutory Authority: Section 5(b) of the Occupational Therapy Practice Act, 63 P. S. § 1505(b).</p>	<p>Chris Stuckey (717) 783-1389</p>

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Board of Optometry</p> <p>—Continuing Education— 49 Pa. Code §§ 23.81 and 23.82. (16A-5212)</p> <p>—Schedule of Civil Penalties— Optometrists 49 Pa. Code Chapter 43b (number not yet assigned)</p> <p>—Volunteer License— 49 Pa. Code § 23.26 (number not yet assigned)</p>	<p>Spring 2009, as Final (Proposed-omitted).</p> <p>Spring 2009, as Proposed.</p> <p>Spring 2009, as Final (Proposed-omitted).</p>	<p>This regulation would amend the continuing education requirements to clarify the need for a licensee to complete the licensee's continuing education as a prerequisite to renew a lapsed or inactive license within the two years immediately preceding renewal or reactivation. Statutory Authority: Sections 3(b)(14) and 5 of the Optometric Practice and Licensure Act (63 P. S. §§ 244.3(b)(14) and 244.5).</p> <p>This proposed regulation would adopt a schedule of civil penalties for continuing education violations. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner to set forth schedules of civil penalties.</p> <p>This regulation would amend the Board's volunteer license regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 3(b)(14) of the Optometric Practice and Licensure Act, 63 P. S. § 244.3(b)(14).</p>	<p>Deborah Smith (717) 783-7155</p>

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Board of Osteopathic Medicine			
—Physician Assistant Prescriptive Authority— 49 Pa. Code Chapter 25 (16A-5318)	Spring 2009, as Final.	This rulemaking (developed with the assistance, advice and consent of the Pharmacy Board) sets forth the requirements for physician assistants with regard to prescriptive authority under the direction of a licensed physician. Statutory Authority: Section 10(h) and (p) of the Osteopathic Medical Practice Act, 63 P. S. § 271.10(h) and (p).	Gina Bittner (717) 783-4858
—Miscellaneous Provisions— 49 Pa. Code Chapter 25 (16A-5319)	Spring 2009, as Proposed.	This regulation would implement Acts 29 and 46 of 2007 pertaining to supervision of physician assistants and continuing medical education for volunteer license holders. Statutory Authority: Section 10(h) of the Osteopathic Medical Practice Act (Act), 63 P. S. § 271.10(h), authorizes the Board to establish rules and regulations relating to physician assistants; and section 16 of the Act, 63 P. S. § 271.16, authorizes the Board to adopt regulations as are reasonably necessary to carry out the purposes of the Act.	
—Perfusionists— 49 Pa. Code Chapter 25 (number not yet assigned)	Summer 2009, as Proposed.	The proposed rulemaking would set forth the requirements for licensure of perfusionists. Statutory Authority: Section 4 of the Act of June 11, 2008 (P. L. _____, No. 20) requires the Board to promulgate regulations to implement licensure of perfusionists within 18 months of the effective date. The act was effective on August 10, 2008.	
—Licensure of Respiratory Therapists and Physician Assistants— 49 Pa. Code Chapter 25 (number not yet assigned)	Summer 2009, as Proposed.	The proposed rulemaking implements the amendments made to the Medical Practice Act by the Act of July 4, 2008 (P. L. _____, No. 46) relating to licensure of respiratory therapists and physician assistants. Statutory authority: Section 8 of the Act of July 4, 2008 (P. L. _____, No. 46) requires the Board and the State Board of Medicine to jointly promulgate regulations to implement the amendments within 18 months.	
—Volunteer License— 49 Pa. Code Chapter 25, Subchapter L, §§ 25.601—25.607 (number not yet assigned)	Spring 2009, as Final (Proposed-omitted).	This regulation would amend the Board's volunteer license regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 16 of the Osteopathic Medicine Act, 63 P. S. § 271.16.	
—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b (number not yet assigned)	Spring 2009, as Proposed.	This regulation would establish a schedule of civil penalties for the State Board of Osteopathic Medicine to implement Act 48 civil penalties for failure to report complaints filed against an osteopathic physician in a medical professional liability action. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Board of Pharmacy  —General Revisions— 49 Pa. Code Chapter 27 (16A-5416)	Spring 2009, as Final.	The regulation would update the regulations of the Board to delete outdated portions and amend sections to recognize current pharmacy practice. Statutory Authority: Sections 4(j) and 6(k)(1) and (9) of the Pharmacy Act, 63 P. S. §§ 390-4(j), 390-6(k)(1) and (9).	Melanie Zimmerman (717) 783-7156
—Continuing Education— 49 Pa. Code § 27.32 (16A-5417)	Spring 2009, as Final.	This regulation would clarify the Board's continuing education requirements. Statutory Authority: Section 3.1 of the Pharmacy Act, 63 P. S. § 390-3.1.	
—Sale of Hypodermic Needles and Syringes— 49 Pa. Code Chapter 27 (16A-5418)	Spring 2009, as Final.	This regulation would amend existing regulations to eliminate the requirement for a prescription prior to dispensing needles and syringes by a pharmacist. Authority: Sections 4(j) and 6(k)(1) and (9) of the Pharmacy Act, 63 P. S. §§ 390-4(j) and 390-6(k)(1) and (9).	
—Compounding Practices— 49 Pa. Code Chapter 27 (16A-5419)	Summer 2009, as Proposed.	This rulemaking would establish standards for the compounding of drugs by pharmacists. Statutory Authority: Section 6(k)(9) of the Pharmacy Act, 63 P. S. § 390-6(k)(9) grants the authority to promulgate rules and regulations to effectuate the purposes of the act. Section 2 of the Pharmacy Act, 63 P. S. § 390-2(11) defines the practice of pharmacy to include the compounding of drugs.	
—Pharmacist Breaks— 49 Pa. Code Chapter 27 (16A-5420)	Spring 2009, as Final.	This regulation would permit a sole pharmacist on duty to take up to a thirty-minute break while the pharmacy remains open. Statutory Authority: Sections 4(j) and 6(k)(1) and (9) of the Pharmacy Act, 63 P. S. §§ 390-4(j), 390-6(k)(1) and (9).	
—Fees— 49 Pa. Code § 27.91 (16A-5422)	Spring 2009, as Final.	This proposed rulemaking would amend the schedule of fees of the State Board of Pharmacy to increase fees. Statutory authority: Section 8.2(a) of the Pharmacy Act, 63 P. S. § 390-8.2(a).	
—Cancer Drug Repository Program— 49 Pa. Code Chapter 27 (number not yet assigned)	Spring 2009, as Proposed.	The proposed rulemaking would establish the eligibility criteria, standards and procedures for the administration of a cancer drug repository program. Statutory authority: Section 7 of the Act of May 13, 2008 (P. L. ____, No. 14), known as the Cancer Drug Repository Program Act, requires the Board to promulgate regulations to carry out the purposes of the act within 90 days of the effective date. The effective date was July 12, 2008.	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
—Pharmacy Internship— 49 Pa. Code Chapter 27 (number not yet assigned)	Summer 2009, as Proposed.	This rulemaking would update the Board's regulations relating to the pharmacy internship required under section 3 of the Pharmacy Act. Statutory Authority: Section 3 of the Pharmacy Act, 63 P. S. § 390-3(c) requires the Board to establish by regulation the internship requirements which must be satisfactorily completed prior to issuance of a pharmacist license.	Melanie Zimmerman (717) 783-7156
—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b, § 43b.7 (number not yet assigned)	Spring 2009, as Proposed.	This regulation would amend the schedule of civil penalties for the State Board of Pharmacy to implement Act 48 civil penalties for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	
State Board of Physical Therapy			
—Act 38 Revisions— 49 Pa. Code Chapter 40 (number not yet assigned)	Summer 2009, as Proposed.	The proposed rulemaking would implement the amendments to the Physical Therapy Practice Act made by the Act of July 4, 2008 (P. L. ____, No. 38). Statutory authority: Section 16 of the Act of July 4, 2008 (P. L. ____, No. 38) requires the Board to promulgate regulations to implement the amendments and additions of that act within 18 months of the effective date. The act is effective on October 2, 2008.	Michelle Roberts (717) 783-7134
—Continuing Education Providers— 49 Pa. Code § 40.63 (16A-6513)	Summer 2009, as Proposed.	This proposed rulemaking would clarify and update the continuing education requirements relating to approved providers of continuing education. Statutory authority: Sections 3(a) and 9(c)(2) of the Physical Therapy Practice Act, 63 P. S. §§ 1303(a) and 1303(c)(2).	
—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b (number not yet assigned)	Spring 2009, as Proposed.	This regulation would establish a schedule of civil penalties for the State Board of Physical Therapy to implement Act 48 civil penalties for practicing on a lapsed license. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Board of Podiatry			
—Certificate of Authority to Perform Acupuncture— 49 Pa. Code Chapter 29 (16A-449)	Spring 2009, as Proposed.	This regulation would establish the fees and regulate the practice of acupuncture by podiatrists under the Acupuncture Registration Act. Statutory Authority: Section 3 of the Acupuncture Registration Act, 63 P. S. § 1803.	Gina Bittner (717) 783-4858
—Continuing Education— 49 Pa. Code §§ 29.61 and 29.63 (16A-4410)	Spring 2009, as Proposed.	This regulation would increase the biennial continuing education requirement from 30 hours to 50 hours and expand the categories of approved continuing education providers. Statutory Authority: Section 9.1 of the Podiatry Practice Act, 63 P. S. 42.9a.	
—Schedule of Civil Penalties—Podiatrists 49 Pa. Code Chapter 43b (Number not yet assigned)	Spring 2009, as Proposed.	This proposed regulation would adopt a schedule of civil penalties for continuing education violations. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner to set forth schedules of civil penalties.	
—Volunteer License— 49 Pa. Code § 29.55 (number not yet assigned)	Spring 2009, as Final (Proposed-omitted).	This regulation would amend the Board's volunteer license regulations to conform to amendments to the Volunteer Health Services Act made by Act 58 of 2002. Statutory Authority: Section 15 of the Podiatry Practice Act, 63 P. S. § 42.15.	



<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Board of Psychology</p> <p>—Qualifications— 49 Pa. Code Chapter 41 (16A-6315)</p> <p>—Continuing Education— 49 Pa. Code § 41.59 (16A-6317)</p> <p>—Code of Conduct— 49 Pa. Code § 41.61 (16A-6318)</p> <p>—Graduate training in Psychology— 49 Pa. Code, §§ 41.1 and 41.58 (16A-6319)</p> <p>—Substance Abuse and Pathological Gambling— 49 Pa. Code § 41.8 (16A-6321)</p> <p>—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b (number not yet assigned)</p>	<p>Spring 2009, as Proposed.</p> <p>Spring 2009, as Proposed.</p> <p>Spring 2009, as Proposed.</p> <p>Summer 2009, as Proposed.</p> <p>Summer 2009, as Statement of Policy.</p> <p>Spring 2009, as Proposed.</p>	<p>This regulation would amend education, experience and examination requirements as well as creates new and amends existing supervisor requirements. Statutory Authority: Sections 3.2(1) and (2) of the Professional Psychologists Practice Act, 63 P. S. §§ 1203.2(1) and (2).</p> <p>This regulation would amend the Board's continuing education requirements regarding home study, instruction and carry over. Statutory Authority: Section 15 of the Professional Psychologists Practice Act, 63 P. S. § 1215.</p> <p>This regulation would update the Board's Code of Conduct so that it would be in line with changes to the American Psychological Association and the Association of State and Provincial Psychology Boards. Statutory Authority: Section 3.2(2) of the Professional Psychologists Practice Act, 63 P. S. § 1203.2(2).</p> <p>This regulation would reinsert three educational subcategories still needed in the definition of "degree in psychology" which were inadvertently deleted by a prior rulemaking. Statutory Authority: Section 3.2(2) of the Professional Psychologists Practice Act, 63 P. S. § 1203.2(2).</p> <p>This proposal would amend the Board's current statement of policy regarding the Department of Health's licensing of substance abuse services provided by psychology practices to include the certification of pathological gambling services provided by psychologists. Statutory Authority: Section 3.2(2) of the Professional Psychologists Practice Act, 63 P. S. § 1203.2(2).</p> <p>This regulation would establish a schedule of civil penalties for the State Board of Psychology to implement Act 48 civil penalties for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).</p>	<p>Chris Stuckey (717) 783-7155</p>
<p>State Board of Certified Real Estate Appraisers</p> <p>—Certification of Appraisers and Licensure of Appraiser Trainees— 49 Pa. Code Chapter 36 (number not yet assigned)</p>	<p>Summer 2009, as Proposed</p>	<p>The proposed rulemaking would implement the amendments to the Real Estate Appraisers Certification Act made by the Act of July 8, 2008 (P. L. 833, No. 59), and makes other amendments required to comply with a recent audit of the Appraisal Subcommittee, which identified areas of the Board's regulations that did not conform with AQB criteria. Statutory Authority: Section 5(2) of the Real Estate Appraisers Certification Act, 63 P. S. § 457.5(2).</p>	<p>Heidy Weirich (717) 783-3397</p>

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
State Real Estate Commission			
—Education— 49 Pa. Code § 35.384, 35.385 (16A-5613)	Spring 2009, as Proposed.	This proposed regulation would require new licensees to complete a mandatory 14-hour post-licensure course in lieu of their continuing education. Statutory Authority: Sections 404 and 404.1 of the Real Estate Licensing and Registration Act, 63 P. S. §§ 455.404 and 455.404a.	Patricia Ridley (717) 783-3658
—Fees— 49 Pa. Code § 35.203 (16A-5615)	Spring 2009, as Proposed.	The proposed regulation would amend current fees by consolidating the initial licensure fee charged to new applicants from a two-tiered structure to a single fee in order to allow the Commission to establish an online application in that the current system cannot accommodate a two-tiered fee structure. Statutory Authority: Sections 404 and 407 of the Real Estate Licensing and Registration Act, 63 P. S. §§ 455.404 and 455.407.	
—Seller's Property Disclosure Statement— 49 Pa. Code § 33.335a (16A-5618)	Spring 2009, as Proposed.	This regulation would adopt a form "seller's property disclosure statement" as required by Act 114 of 2000. Statutory Authority: Section 7304(a) of the Residential Real Estate Transfers Law, 63 P. S. § 7304(a).	
—Property Management— 49 Pa. Code Chapter 35 (16A-5619)	Summer 2009, as Proposed.	The proposed regulation would establish standards for licensees who engage in property management. Statutory Authority: Section 404 of the Real Estate Licensing and Registration Act, 63 P. S. § 455.404.	
—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b, § 43b.8 (number not yet assigned)	Spring 2009, as Proposed.	This regulation would amend the schedule of civil penalties for the State Real Estate Commission to implement Act 48 civil penalties for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).	

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Board of Social Workers, Marriage and Family Therapists and Professional Counselors</p> <p>—Standards of Professional Conduct— 49 Pa. Code Chapters 47, 48 and 49 (16A-6911)</p> <p>—Hours of Supervised Clinical Experience— 49 Pa. Code §§ 47.12c and 47.12d (16A-6916)</p> <p>—Endorsement— 49 Pa. Code Chapters 47, 48 and 49 (16A-6917)</p> <p>—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b (number not yet assigned)</p>	<p>Spring 2009, as Final.</p> <p>Spring 2009, as Final (Proposed-omitted)</p> <p>Spring 2009, as Proposed.</p> <p>Spring 2009, as Proposed.</p>	<p>The regulation would establish a code of ethics and standards of professional conduct for social workers, clinical social workers, marriage and family therapists and professional counselors licensed by the board. Statutory Authority: Section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act, 63 P. S. § 1906(2).</p> <p>This final-omitted rulemaking would implement the reduction in the number of required hours of supervised clinical experience from 3,600 to 3,000 as required by the Act of July 9, 2008 (P. L. ____, No. 68). Statutory Authority: Section 4 of the Act of July 9, 2008 (P. L. ____, No. 68) provides that the Board shall promulgate regulations to implement the amendments within three years of the effective date of the act. Act 68 is effective on September 7, 2008.</p> <p>This proposed rulemaking would implement the endorsement provisions required by the Act of July 9, 2008 (P. L. ____, No. 68). Statutory Authority: Section 4 of the Act of July 9, 2008 (P. L. ____, No. 68) provides that the Board shall promulgate regulations to implement the amendments within three years of the effective date of the act. Act 68 is effective on September 7, 2008.</p> <p>This regulation would establish a schedule of civil penalties for the State Board of Social Workers, Marriage and Family Therapists and Professional Counselors to implement Act 48 civil penalties for practicing without a license or practicing on a lapsed license. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).</p>	<p>Sandra Matter (717) 783-1389</p>
<p>State Board of Examiners in Speech—Language and Hearing</p> <p>—General Revisions— 49 Pa. Code Chapter 45 (number not yet assigned)</p> <p>—Schedule of Civil Penalties— 49 Pa. Code Chapter 43b (number not yet assigned)</p>	<p>Spring 2009, as Proposed.</p> <p>Spring 2009, as Proposed.</p>	<p>This regulation would update of the regulations of the Board to delete or amend outdated regulations. Statutory Authority: Section 5(2) of the Speech-Language and Hearing Licensure Act, 63 P. S. § 1705(2).</p> <p>This regulation would amend the schedule of civil penalties for the State Board of Speech-Language and Hearing to implement Act 48 civil penalties for continuing education violations. Statutory authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a).</p>	<p>Sandra Matter (717) 783-1389</p>

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<p>State Board of Vehicle Manufacturers, Dealers and Salespersons</p> <p>—Salesperson License— 49 Pa. Code Chapter 19 (16A-609)</p>	Spring 2009, as Proposed.	This regulation would clarify and update the requirements for salespersons in order to permit salespersons to sell at other locations of the same dealer. Statutory Authority: Section 4(9) of the Board of Vehicles Act, 63 P. S. § 818.4(9).	Janice Cline (717) 783-1697
<p>State Board of Veterinary Medicine</p> <p>—Veterinary Dentistry— 49 Pa. Code Chapter 31 (16A-5718)</p> <p>—Facilities— 49 Pa. Code Chapter 31 (16A-5720)</p> <p>—Professional Conduct— 49 Pa. Code Chapter 31 (16A-5721)</p> <p>—Responsibility to Clients and Patients— 49 Pa. Code § 31.21 (16A-5722)</p> <p>—Biennial Renewal Fees— 49 Pa. Code § 31.41 (16A-5723)</p> <p>—Schedule of Civil Penalties— Veterinarians and Veterinary Technicians— 49 Pa. Code § 43b.21a (number not yet assigned)</p>	<p>Summer 2009, as Proposed.</p> <p>Summer 2009, as Proposed.</p> <p>Spring 2009, as Final.</p> <p>Summer 2009, as Proposed.</p> <p>Spring 2009, as Proposed.</p> <p>Spring 2009, as Proposed.</p>	<p>This regulation would address issues relating to veterinary dentistry. Statutory Authority: Section 5 of the Veterinary Medicine Practice Act, 63 P. S. § 485.5.</p> <p>This regulation would establish standards for and require registration of veterinary facilities. Statutory Authority: Sections 5 and 27 of the Veterinary Medicine Practice Act, 63 P. S. §§ 485.5 and 485.27.</p> <p>This regulation would clarify the types of conduct that constitutes unprofessional conduct which may lead to disciplinary action under section 21(1) of the Veterinary Medicine Practice Act. Statutory Authority: Sections 5 and 21 of the Veterinary Medicine Practice Act, 63 P. S. §§ 485.5 and 485.21.</p> <p>This regulation would amend, update and clarify Principle 7 of the Rules of Professional Conduct for Veterinarians. Statutory Authority: Section 5 of the Veterinary Medicine Practice Act, 63 P. S. § 485.5.</p> <p>This regulation would provide for graduated increases in the biennial renewal fees for veterinarians and veterinary technicians. Statutory Authority: Section 13 of the Veterinary Medicine Practice Act, 63 P. S. § 485.13.</p> <p>This proposed regulation would adopt a schedule of civil penalties for continuing education violations. Statutory Authority: Section 5(a) of Act 48 of 1993, 63 P. S. § 2205(a), authorizes the Commissioner to set forth schedules of civil penalties.</p>	Michelle Roberts (717) 783-7134

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
<b>STATE EMPLOYEES' RETIREMENT SYSTEM</b>			
4 Pa. Code § 250.2. Time to appeal. (This proposed regulation will supersede that portion of 1 Pa. Code § 35.35 pertaining to the 10-day period of time to appeal from delegated actions of subordinate officers and substitute a 30-day period of time to file an appeal.)	On November 25, 2008, SERS submitted a final-form rulemaking package to the Governor's Policy Office (GPO), the Office of General Counsel (OGC) and the Budget Office for review.	Current hearing regulations are inconsistent with operational practice supporting member-friendly service.	Paul Stahlnecker, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code §§ 250.1 and 250.15. Applicability of general rules. (These current regulations will be modified to permit the application of proposed 4 Pa. Code § 250.2.)	On November 25, 2008, SERS submitted a final-form rulemaking package to the GPO, OGC and the Budget Office for review.	Specific provisions in SERS' regulations should be exceptions to the general rules of administrative practice and procedure.	Paul Stahlnecker, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code § 247.11 Priority of taxation, attachments and assignments of funds. (This proposed regulation will clarify the priority of payments to be made from the members' accounts by SERS pursuant to 71 Pa.C.S. § 5953.)	SERS' Board authorized going forward and it is in process as Regulation 31-7. SERS is reviewing the Independent Regulatory Review Commission (IRRC) staff comments of 7/2/08.	The statute does not set priorities among conflicting demands on members' accounts. A recent court decision has offered partial guidance in this area. A regulation would enable consistent application of the statute and would reduce litigation of priority issues. This is also being considered as a statutory amendment.	Brian McDonough, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code § 247.7(a). Priority of death benefit payment. (This proposed regulation will clarify the priority of death benefit payments to be made by SERS pursuant to the second sentence of 71 Pa.C.S. § 5905(g).)	On November 25, 2008, SERS submitted a final-form rulemaking package to the GPO, OGC and the Budget Office for review.	The statute does not set priorities among conflicting demands on members' death benefits. A regulation would enable consistent application of the statute and would reduce litigation of priority issues.	Salvatore Darigo, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code § 249.53. Exemption from execution; assignment of rights. (This proposed regulation amendment would delete State Employees' Credit Union payment language.)	SERS Board authorized going forward and it is in process as Regulation 31-13. SERS received OGC approval on 7/31/08 and is awaiting GPO and Budget review.	The language is obsolete. No credit union currently meets the statutory requirements and it is unlikely that any new ones will. A corresponding statutory amendment is also being considered.	Brian McDonough, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
4 Pa. Code § 247.6(a) Termination of Annuities. (This proposed regulation would delete the 30-day requirement to elect multiple service.)	SERS' Board authorized going forward and it is in process as Regulation 31-10. SERS received OGC approval on 6/27/08, Budget approval on 8/5/08 and is awaiting review by the GOP.	The 30 day requirement in the regulation has been rendered obsolete by changes to SERS' enabling legislation.	Jill Vecchio, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code § 247.4 (c) Disability Annuities. (This proposed regulation will clarify: 1) the methodology used to determine the employer-funded offset credit; 2) the service-connected disability supplement; and 3) the rights of terminated members to apply for a disability.)	2009	The statute does not expressly determine the methodology, the effects of these formulas and when terminated members can apply. Recent court and administrative decisions have offered partial guidance in this area. A regulation would enable consistent application of the statute and would reduce litigation of disability and supplement issues. This is also being considered as a statutory amendment.	M. Catherine Nolan, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code § 245.4. Member contributions for the purchase of credit for previous State service or to become a full coverage member. (The regulation would be amended to specify the effects of a service purchase or reinstatement.)	2009	This regulation would be amended to clarify the effects of the reinstatement or purchase of previous State service. A recent administrative decision has offered partial guidance in this area. A regulation would enable consistent application of the statute and would reduce litigation of purchase of service issues. This is also being considered as a statutory amendment.	Brian McDonough, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code §§ 241.1; 247.7. Definitions. (The definition of "Beneficiary" would be amended to specify that the beneficiaries must be named rather than merely described.) Gender neutral terms would be substituted and an operational provision that is found elsewhere would be removed from this definitional section.	SERS' Board authorized going forward and they are in process as Regulations 31-8 and 31-11. SERS received OGC approval on 6/27/08, Budget approval on 8/5/08 and is awaiting review by the GPO.	The amendment would clarify and settle whether a proper name ("John Doe") or a general description ("my children," "my issue," "per stirpes") suffices. A lack of named beneficiaries can cause significant legal and administrative ambiguities that this amendment would avoid. This is also being considered as a statutory amendment.	Jill Vecchio, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
4 Pa. Code § 241.2. Electronic submission of member documents and electronic benefit transactions.	SERS' Board authorized going forward and it is in process as Regulation 31-9. Due to comments by IRRRC staff the matter has been pending.	This new regulation would provide for adoption of a policy by SERS to specify procedures for electronic member transactions consistent with Commonwealth practice and policy and include a hold harmless provision.	Jill Vecchio, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
4 Pa. Code § 243.8. Membership rules for educational employees.	2009	This new regulation would clarify the requirements for membership and final average salary calculations for educational employees.	Brian McDonough, Esq. (717) 787-7317  Robert Gentzel (717) 787-9657  David Durbin (717) 783-7210
<b><i>STATE POLICE</i></b>			
DNA Detection of Sexual and Violent Offenders 37 Pa. Code Chapter 58	June 2009, as proposed.	Act 185 of 2004 repealed Chapter 47 of Title 42 of the Pennsylvania Consolidated Statutes and amended Title 44 to add Chapter 23, DNA Data and Testing. The act requires the State Police to promulgate rules and regulations to carry out its provisions.	Syndi L. Guido Policy Director (717) 772-0905
Administration of Megan's Law—Neighbor Notification 37 Pa. Code Chapter 55	June 2009, as proposed.	Act 18 of 2000, known as Megan's Law, provides for the registration of sexual offenders and community notification for sexually violent predators. The act requires the Department to promulgate guidelines for the general administration of the act in consultation with the Department of Corrections, the Office of Attorney General, the Pennsylvania Board of Probation and Parole, and the chairmen and minority chairmen of the Senate and House Judiciary Committees. The act also requires the Department to write regulations regarding neighbor notification of sexually violent predators' residence, school, or employer. See 42 Pa.C.S. § 9799.1. Although the requisite guidelines and regulations have been promulgated, the Department is in the process of updating them in light of subsequent and anticipated amendments Megan's Law.	Syndi L. Guido Policy Director (717) 772-0905
<b><i>STATE SYSTEM OF HIGHER EDUCATION</i></b>			
No regulations being developed or considered at this date.			
<b><i>TRANSPORTATION</i></b>			
71—School Bus Drivers  67 Pa. Code Chapter 71	March 2009	The regulations will be updated and published for the second and final time which will clarify the requirements for diabetic drivers by in part making terminology consistent with the American Diabetic Association. The regulations are being updated to clarify the requirements for drivers that have cardiovascular conditions.	Scott Shenk (717) 783-5958
83—Physical & Mental Criteria—Including Vision Standards Relating to the Licensing of Drivers  67 Pa. Code Chapter 83	March 2009	The regulation will be updated and published for the second and final time which will clarify the requirements for diabetic drivers. This change will also incorporate the change required by HB1912, Act 756, passed July 15, 2004, that allows chiropractors to conduct exams for learner's permits. The regulations are being updated to clarify the requirements for drivers that have cardiovascular conditions.	Scott Shenk (717) 783-5958

<i>Regulation Being Considered</i>	<i>Proposed Date of Promulgation</i>	<i>Need and Legal Basis for Action</i>	<i>Agency Contact</i>
471—Airport Rating & Licensing; 473—Aviation Development Grants; 477—Local Real Estate Tax Reimbursement Grants; 479—Obstructions to Aircraft  67 Pa. Code Chapters 471, 473, 477 and 479	May 2009	The various chapters of the regulation need to be updated as described below.  The purpose of the amendments to Chapter 471 is to provide clarification of requirements and provide greater flexibility in the licensing of various categories and types of landing facilities. The amendments provide the flexibility to accommodate various levels of airport operations and advances in technology that were not envisioned or available at the time the regulation was originally adopted.  The purpose of the amendments to Chapter 473 is to allow for increased flexibility for the Department in providing a higher state share for granted projects and allow for a more efficient use of the Aviation Development grant funds available.  The purpose of the amendments to Chapters 477 and 479 is to simplify and better organize these Chapters in relation to the Chapters 471 and 473. There were no substantive changes to these chapters.	Brian Gearhart (717) 705-1250
Completely New Regulation  67 Pa. Code Chapter (To Be Determined)	December 2008 as proposed rulemaking	Section 3116 of the Pennsylvania Vehicle Code provides the legal authority for the establishment of a pilot automated red light enforcement (ARLE) program within the City of Philadelphia. Section 3116(l)(2) says that the revenues remaining from ARLE fines, after deducting the system administrator's operation and maintenance costs, shall be deposited into the Motor License Fund and shall be used by the Department to develop, by regulation, a Transportation Enhancements Grant Program. Therefore, a completely new regulation is needed to establish the provisions of this new Transportation Enhancements Grant Program.	William Laubach (717) 787-9787
Chapter 427—Public Transportation (Act 44 of 2008)	May 2009	Act 44 of 2008, Chapter 15, Sustainable Mobility Options, authorizes almost all public transportation funding programs for the Commonwealth. The legislation requires the Department to develop regulations for several sections of the legislation. Act 44 offered the Department a two-year window to promulgate temporary regulations. The temporary regulations should be drafted by December 2008.	LaVerne Collins (717) 787-1214
Chapter xxx Automated Red Light Enforcement	April 2009	Required to establish a regulation for revenues generated by Automated red light enforcement. The revenues are now \$3.2M	Glenn Rowe 787-3620
Chapter 459 Occupancy of Highways by Utilities	June 2009	Fees need updated	Glenn Rowe 787-3620

[Pa.B. Doc. No. 09-227. Filed for public inspection February 6, 2009, 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. § 645.5b).



The Commission has issued comments on the following proposed regulation. 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>
125-95	Pennsylvania Gaming Control Board Suppliers' Principal Place of Business; Temporary Credentials and Recordkeeping 38 Pa.B. 6496 (November 29, 2008)	12/29/08	1/28/09
7-425	Environmental Quality Board Safe Drinking Water (Groundwater Rule) 38 Pa.B. 6483 (November 29, 2008)	12/29/08	1/28/09

**Pennsylvania Gaming Control Board  
Regulation #125-95 (IRRC #2733)  
Suppliers' Principal Place of Business;  
Temporary Credentials and Recordkeeping  
January 28, 2009**

We submit for your consideration the following comments on the proposed rulemaking published in the November 29, 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.

**Section 431a.4. Responsibilities of a supplier.—Clarity.**

Subsection (a) mirrors the statutory requirement that a supplier licensee maintain a principal place of business in Pennsylvania. See 4 Pa.C.S. § 1317(b)(1.1). Subsection (a)(2) requires that supplier licensees keep "all agreements, contracts and records, or copies thereof, pertaining to the supplier's business conducted in this Commonwealth" at their principal place of business in Pennsylvania.

In contrast, Section 451a.1(c) allows licensees, including suppliers, to submit requests for Board approval of a waiver to store records outside the state.

Given Section 431a.4(a)(2), it appears that the waiver addressed in Section 451a.1(c) conflicts with the requirements set forth in Chapter 431a for the supplier's principal place of business in Pennsylvania. It is our understanding that the Board intends to let supplier licensees apply for waivers and will add a clause to Subsection (a)(2) explicitly allowing suppliers to request a waiver under Section 451a.1(c). This clause should be included in the final-form regulation.

**Environmental Quality Board  
Regulation #7-425 (IRRC #2734)  
Safe Drinking Water  
(Groundwater Rule)  
January 28, 2009**

We submit for your consideration the following comments on the proposed rulemaking published in the November 29, 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.

**1. General.—Fiscal impact; Feasibility; Reasonableness; Clarity.**

*Compliance costs*

We recognize the public benefit and the mandate to meet the Federal Groundwater Rule explained in the Regulatory Analysis Form (RAF) responses to questions 10 and 11. RAF question 13 states that approximately seven million Pennsylvanians served by 9,100 public water supplies will be affected by this regulation. Directly related to the implementation of these benefits are the costs to comply with the requirements. The Board's responses to RAF question 17 state that the Environmental Protection Agency "estimates corrective actions systems must take in response to any significant deficiencies . . . may be the most costly expenses a system can incur." The Preamble briefly explains a Compliance Assistance Plan involving PENNVEST. The Board should further explain how the affected systems can meet the costs of the new requirements, whether the resources of PENNVEST are sufficient to meet the financial needs for all systems affected by the regulation and whether any other financial assistance is available for systems that do not qualify for financial assistance from the PENNVEST Program.

*Significant deficiency*

Many sections of this proposed regulation contain the phrase "significant deficiencies" or some derivative of that phrase. The regulation should specifically state, reference or define what constitutes a "significant deficiency."

**2. Section 109.705. Sanitary surveys.—Clarity.**

In Paragraph (b)(1), a system can qualify for surveys every five years by accomplishing an "outstanding performance record." The regulation should specify what a system must do to accomplish an "outstanding performance record."

**3. Section 109.908. Compliance schedules.—Clarity.**

Under Subsection (e), in what format will the Department document its findings?

**4. Section 109.1302. Treatment technique requirements.—Reasonableness; Clarity.**

Paragraph (a)(2) provides a specific treatment standard of at least 0.4mg/L, but also allows "its equivalent as approved by the Department, or other minimum residual specified by the Department." As written, the regulation does not provide a clear standard. The regulation allows

the Department the discretion to specify some other standard that could be higher or lower, and would be done without public or legislative review under the regulatory review process. It could also allow unequal treatment of the regulated community. The regulation should provide a clear standard, and if flexibility is needed, an open, public process to determine an alternative minimum standard.

**5. Section 109.1303. Triggered monitoring requirements for groundwater sources.—Consistency with federal regulations; Economic impact; Reasonableness.**

In the Preamble, the Board explains the implementation of the federal Groundwater Rule in Section 109.1303. Commentators believe that Subsection (a) improperly excludes portions of the federal rule, particularly an exemption available in the federal rule. We request further explanation of how the regulation is consistent with the federal rule. A similar concern applies to Section 109.1307(a)(1)(ii).

**6. Section 109.1307. System management responsibilities.—Clarity; Reasonableness; Consistency with federal regulations.**

*Tier 1 notice*

A commentator believes that the requirement for Tier 1 notice in Subsection (a) is inconsistent with the Code of Federal Regulations which only requires a Tier 2 notice. The Board should explain how it determined Tier 1 notice is necessary.

*Documentation*

Numerous provisions in Subsection (b) require documentation to be maintained for various time frames. We have three concerns. First, what specific "documentation" is required? For example, under Paragraph (2), would the actual notice be required in the records, or just documentation that a notice to the public occurred? Second, how did the Board determine how long the records must be kept? Finally, can electronic records be used to meet this requirement?

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 09-228. Filed for public inspection February 6, 2009, 9:00 a.m.]

Appeal of Kathleen Boese; file no. 08-214-59584; AIG National Insurance Company; doc. no. PH08-10-043; April 3, 2009, 9 a.m.

Appeal of Robyn Daniels; file no. 08-214-54640; State Farm Fire and Casualty Insurance Company; doc. no. PH08-07-016; April 2, 2009, 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 Donna R. Fleischauer, Human Resources Director, at (717) 705-3873.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 09-229. Filed for public inspection February 6, 2009, 9:00 a.m.]

## INSURANCE DEPARTMENT

### 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, Philadelphia and Pittsburgh, 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 Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

### Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have 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 offices in Harrisburg, Philadelphia and Pittsburgh, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

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 James R. Dalton; file no. N/A; Mutual Benefit Insurance Company; doc. no. PH09-01-003; April 2, 2009, 12:30 p.m.

Appeal of Dorothy Kopasz; file no. 08-214-59797; Erie Insurance Exchange; doc. no. PH08-10-042; April 2, 2009, 2 p.m.

Appeal of Horace Taylor; file no. 08-216-62735; Fair Plan of Pennsylvania; doc. no. PH09-01-010; April 2, 2009, 10 a.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 Donna R. Fleischauer, Human Resources Director, at (717) 705-3873.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 09-230. Filed for public inspection February 6, 2009, 9:00 a.m.]

### Review Procedure Hearings under the Unfair Insurance Practices Act

The following insurers have 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 offices in Harrisburg, Philadelphia and Pittsburgh, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

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 The Philadelphia Contributionship; file no. 08-215-55320; William J. Dunne; doc. no. PH08-07-014; April 3, 2009, 10 a.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 Donna R. Fleischauer, Human Resources Director, at (717) 705-3873.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 09-231. Filed for public inspection February 6, 2009, 9:00 a.m.]

### RiverSource Life Insurance Company; Rate Increase Filing for LTC Forms 30225-PA, 30225-PA1 and 30225A-PA1; Rate Filing

RiverSource Life Insurance Company (previously called IDS Life Insurance Company) is requesting approval to increase the premium 15% on Long-Term Care policy forms 30225-PA, 30225-PA1 and 30225A-PA1. A total of 4,152 Pennsylvania policyholders will be affected by this rate adjustment.

Unless formal administrative action is taken prior to April 23, 2009, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) web site at [www.ins.state.pa.us](http://www.ins.state.pa.us). Scroll down the home page and click on "Consumer Information" located on the left side. Next scroll down to "General Information," located in the middle of the page, and click on "Notices." The pdf copy of this filing is located at the link "Filing.pdf" following the name of the filing.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg office.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square,

Harrisburg, PA 17120, jlaverty@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
Insurance Commissioner

[Pa.B. Doc. No. 09-232. Filed for public inspection February 6, 2009, 9:00 a.m.]

### RiverSource Life Insurance Company; Rate Increase Filing for LTC Form 30240-PA; Rate Filing

RiverSource Life Insurance Company (previously called IDS Life Insurance Company) is requesting approval to increase the premium 15% on Long-Term Care policy form 30240-PA. A total of 1,574 Pennsylvania policyholders will be affected by this rate adjustment.

Unless formal administrative action is taken prior to April 23, 2009, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) web site at [www.ins.state.pa.us](http://www.ins.state.pa.us). Scroll down the home page and click on "Consumer Information" located on the left side. Next scroll down to "General Information," located in the middle of the page, and click on "Notices." The pdf copy of this filing is located at the link "Filing.pdf" following the name of the filing.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg office.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
Insurance Commissioner

[Pa.B. Doc. No. 09-233. Filed for public inspection February 6, 2009, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Electric Transmission

**A-2009-2086954 and A-2009-2086963. West Penn Power Company.** Application of West Penn Power Company for approval: 1) to locate, construct, operate and maintain certain high voltage electric transmission line facilities; and 2) to exercise the power of eminent domain to construct and install the proposed aerial electric transmission line facilities along the proposed route.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before March 24, 2009. The documents

filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

*Applicant:* West Penn Power Company

*Through and By Counsel:* W. Edwin Ogden, Esquire, Alan Michael Seltzer, Esquire, John F. Povilaitis, Esquire, Ryan, Russell, Ogden and Seltzer, P.C., 1150 Berkshire Boulevard, Suite 210, Wyomissing, PA 19610

### Application of West Penn Power Company

For approval: 1) to locate, construct, operate and maintain certain high voltage electric transmission line facilities; and 2) to exercise the power of eminent domain to construct and install the proposed aerial electric transmission line facilities along the proposed route.

#### Notice

This is to inform you that an Initial prehearing conference on the previous-captioned case will be held as follows:

*Type:* Initial Prehearing Conference

*Date:* Tuesday, March 31, 2009

*Time:* 10 a.m.

*Location:* 11th Floor Hearing Room  
Pittsburgh State Office Building  
300 Liberty Avenue  
Pittsburgh, PA 15222

*Presiding:* Administrative Law Judge Robert P. Meehan  
Administrative Law Judge Mark A. Hoyer  
1103 Pittsburgh State Office Building  
300 Liberty Avenue  
Pittsburgh, PA 15222  
Phone: (412) 565-3550  
Fax: (412) 565-5692

Persons with a disability, who wish to attend the hearing, may be able to make arrangements for their special needs. Call the scheduling office at the Pennsylvania Public Utility Commission (Commission) at least 5 business days prior to the prehearing conference to submit your request.

Persons who require an interpreter to participate in the hearings, we will make every reasonable effort to have an interpreter present. Call the scheduling office at the Commission at least 10 business days prior to the prehearing conference to submit your request.

- Scheduling Office: (717) 787-1399
- AT&T Relay Service number for persons who are deaf or hearing-impaired: (800) 654-5988

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 09-234. Filed for public inspection February 6, 2009, 9:00 a.m.]

### Implementation Order

Public Meeting held  
January 15, 2009

*Commissioners Present:* James H. Cawley, Chairperson, Joint Statement Attached; Tyrone J. Christy, Vice Chairperson, Statement Attached; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner, Joint Statement Attached

*Energy Efficiency and Conservation Program; Doc. No. M-2008-2069887*

### Implementation Order

*By the Commission:*

The Commission has been charged by the Pennsylvania General Assembly (General Assembly) with establishing an energy efficiency and conservation program. The energy efficiency and conservation program requires each electric distribution company (EDC) with at least 100,000 customers to adopt a plan to reduce energy demand and consumption within its service territory. 66 Pa.C.S. § 2806.1. In order to fulfill this obligation, the Commission commenced a stakeholder process with interested parties. This Implementation Order will establish the standards each plan must meet and provide guidance on the procedures to be followed for submittal, review and approval of all aspects of EDC plans.

#### Background and History of this Proceeding

Governor Edward Rendell signed Act 129 of 2008 (the Act or Act 129) into law on October 15, 2008. The Act took effect 30 days thereafter on November 14, 2008. Among other things, the Act created an energy efficiency and conservation program, codified in the Pennsylvania Public Utility Code at Sections 2806.1 and 2806.2, 66 Pa.C.S. §§ 2806.1 and 2806.2. This program requires an EDC with at least 100,000 customers to adopt a plan, approved by the Commission, to reduce electric consumption by at least one percent (1%) of its expected consumption for June 1, 2009, through May 31, 2010, adjusted for weather and extraordinary loads. This one percent (1%) reduction is to be accomplished by May 31, 2011. By May 31, 2013, the total annual weather-normalized consumption is to be reduced by a minimum of three percent (3%). Also, by May 31, 2013, peak demand is to be reduced by a minimum of four-and-a-half percent (4.5%) of the EDC's annual system peak demand in the 100 hours of highest demand, measured against the EDC's peak demand during the period of June 1, 2007, through May 31, 2008. By November 30, 2013, the Commission is to assess the cost effectiveness of the program and set additional incremental reductions in electric consumption if the benefits of the program exceed its costs.

The Act requires the Commission to develop and adopt an Energy Efficiency and Conservation Program (EE&C Program) by January 15, 2009, and sets out specific issues the EE&C Program must address. 66 Pa.C.S. § 2806.1(a). The Commission's EE&C Program is to include the following:

- (1) A procedure for approving plans.
- (2) A process to evaluate and verify the results of each plan and the program as a whole.
- (3) A process to analyze the costs and benefits of each plan in accordance with a total resource cost test.
- (4) A process to analyze how the program as a whole and each plan will enable the EDCs to meet or exceed the consumption reduction requirements.

(5) Standards to ensure that each plan uses a variety of measures that are applied equitably to all customer classes.

(6) A process through which recommendations can be made for the employment of additional consumption reduction measures.

(7) A procedure to require and approve the competitive bidding of all contracts with conservation service providers (CSP).

(8) A procedure through which the Commission will review and modify, if necessary, all contracts with conservation service providers prior to execution.

(9) A procedure to ensure compliance with the requirements of Sections 2806.1(c) and (d).

(10) A requirement for the participation of conservation service providers in the implementation of all or part of a plan.

(11) A cost recovery mechanism to ensure that measures approved are financed by the customer class that directly receives the energy and conservation benefits.

On October 21, 2008, the Commission issued a Secretarial Letter seeking comments on each of the individual aspects of the EE&C Program outlined in Sections 2806.1(a)(1)—(11). 66 Pa.C.S. § 2806.1(a)(1)—(11). This Secretarial Letter was sent to all EDCs and the members of the DSR<sup>1</sup> Working Group at Docket No. M-00061984. Pursuant to an October 29, 2008 Secretarial Letter at Docket No. M-00061984, the comments were due November 3, 2008. The October 29th Secretarial Letter announced a special *en banc* hearing on alternative energy, energy conservation and efficiency, and demand side response to be held on November 19, 2008. Presenters at this *en banc* hearing provided comments related to the EE&C Program. Comments in reply to those expressed at the November 19th *en banc* hearing were due no later than December 1, 2008.

The parties who filed comments in response to the October 21, 2008, Secretarial Letter were: The Industrial Users Groups (IUG)<sup>2</sup>; Department of Environmental Protection (DEP); Duquesne Light Company (Duquesne); Office of Consumer Advocate (OCA); Office of Small Business Advocate (OSBA); Pennsylvania Utility Law Project (PULP); Citizens for Pennsylvania's Future (Penn Future); PECO Energy Company (PECO); PPL Electric Utilities Corporation (PPL); West Penn Power Company, d/b/a Allegheny Power (Allegheny); Pennsylvania Gas Association (PGA); Metropolitan Edison Company (Met-Ed), Pennsylvania Electric Company (Penelec), and Pennsylvania Power Company (Penn Power), (collectively, FirstEnergy); UGI Utilities Inc.—Electric Division (UGI); Energy Association of Pennsylvania (EAP); Reliant Energy, Inc., (Reliant); Retail Energy Supply Association (RESA); Augusta Systems, Inc. (Augusta); ClearChoice Energy (ClearChoice); Comverge, Inc. (Comverge); EnergyConnect, Inc. (EnergyConnect); Elster Integrated Solution (Elster); The E Cubed Company, LLC (E Cubed); eMeter Strategic Consulting (eMeter); Keystone Energy Efficiency Alliance (KEEA); The Reinvestment Fund (TRF); and Sensus Metering Systems (Sensus).

The parties that participated at the November 19, 2008 *en banc* hearing were: Rep. Camille Bud George (D-Clearfield), Chairman, House Environmental Resources &

<sup>1</sup>Demand Side Response.

<sup>2</sup>Industrial Energy Consumers of PA, Duquesne Industrial Intervenor, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Penn Power Users Group, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenor.

Energy Committee; Acting Secretary John Hanger, DEP; Frank Jiruska, Director of Energy & Marketing Services, PECO; Nancy Krajovic, Major Commercial and Industrial Accounts Manager, Duquesne; Doug Krall, Manager, Regulatory Strategy, PPL; John Paganie, Vice President of Energy Efficiency, FirstEnergy; Paul H. Raab, Principal, Energytools, LLC; Ron Edelstein, Director of Regulatory and Government Relations, Gas Technology Institute; Ritchie Hudson, Pennsylvania Chairperson, RESA; Chris Kallaher, Director, Government and Regulatory Affairs, Direct Energy; Arthur Pearson, Director of Operations, E Cubed, on behalf of Joint Supporters; Arthur Pearson, on behalf of Donald D. Gilligan, President, National Association of Energy Service Companies; Greg Thomas, President, Performance System Development, on behalf of PA Home Energy; Edward V. Johnstonbaugh, Extension Educator, Renewable Energy, Penn State University, Westmoreland County Cooperative Extension; Jay Birnbaum, Senior Vice President and General Counsel, Current Group, LLC; Robert Chiste, Chairman and CEO, Converge; Carolyn Pengidore, President/CEO, ClearChoice; Tom Rutigliano, Program Manager, Mid-Atlantic Region, CPower Inc.; Ed Gray, Vice President of Regulatory Affairs, Elster; Glenn Garland, President, CLEARresult Consulting Inc.; Jeremy Kirsch, Vice President, Client Solutions, Positive Energy, Inc.; Helen E. Perrine, Executive Director, Affordable Comfort, Inc.; Doug Bloom, CEO, RealWinWin, Inc.; A. Clifton Payne, Jr., Executive Vice President, CMC Energy Services; Pamela C. Polacek, Counsel, McNeese Wallace & Nurick, LLC, on behalf of Industrial Energy Consumers of Pennsylvania (IECPA); William Lloyd, Jr., State Small Business Advocate; Sonny Popowsky, State Consumer Advocate; Scott H. DeBroff, Chair, Energy & Telecommunications Practice Group, Rhoads & Sinon, on behalf of Wal-Mart Stores; Courtney Lane, Policy Analyst, PennFuture; Roger Clark, Manager for Technology and Policy, TRF; Liz Robinson, Executive Director, Energy Coordinating Agency.

On November 26, 2008, the Commission circulated a draft staff proposal and further questions relative to the Act 129 implementation plan. The draft staff proposal and further questions were served on all participants and posted on the Commission's web site to solicit stakeholder input. Comments on the draft proposal were due December 8, 2008, in anticipation of a working group meeting on December 10, 2008.

Those who provided comments to the November 26, 2008, draft staff proposal and questions include: ClearChoice Energy; OCA; E Cubed Company, LLC, UGI Corporation; National Fuel Gas; Industrial Energy Consumers of PA; Allegheny Power; PPL Electric Utilities; FirstEnergy Companies; US Steel Corporation; Department of Environmental Protection; Reliant Energy; Performance Systems Development; OSBA; PennFuture; National Association of Energy Service Cos.; The Reinvestment Fund; Positive Energy; Duquesne Light; Energy Association of PA; Keystone Energy Efficiency Alliance; PECO Energy Company.

An EE&C Program stakeholder meeting held on December 10, 2008, offered parties an opportunity to be present in Harrisburg or to participate by means of telephone. Those entities who identified themselves as being present in Harrisburg, by signing-in, are as follows: ACLARA; Affordable Comfort, Inc.; Allegheny Power; Altimate Energy; CM3 Building Solutions; CMC Energy Services; Clean Power Markets; ClearChoice Energy; CLEARresult Consulting; Cogentrix; Conexus, Inc; Dauphin County Commission; Duquesne Light; ECA; Elster

Intergrated Solutions; Energy Solve; FirstEnergy; Honeywell; Itron, Inc; KEEA; Lockheed Martin; MaGrann Associates; MWN Industrials; NAESCO; OCA; PECO; PJM; PPL Electric; PA DEP; Pennsylvania Utility Law Project; PennFuture; PenTap—PSU; Performance Systems; Positive Energy; RealWinWin; Regulatory Connect.; Reliant Energy; Rhodes & Sinon; Senator Tomlinson's Office; Sustainable Energy Fund; The E Cubed Company, LLC; The Reinvestment Fund; UGI and Warren Energy Engineering.

Those entities that indicated that they intended to participate in person but whose names are not on the sign-in sheet include: OSBA; PA Home Energy; Pennsylvania Small Business Development Center; and US Steel Corp. Those entities who indicated they would participate via conference bridge include the following: Bottom Line Resource Technology; Citizens Power; the Energy Association; Gastechology; Imagine ProCom, Inc.; Landis+Gyr; MCR Performance Solution; National Fuel Gas Distribution Corporation; PCL&P; and Renewable Energy—PSU. The names of those who participated by telephone were not recorded.

Those who provided reply comments by December 19, include: ClearChoice Energy; Federal Trade Commission; Department of General Services; Altimate Energy; Penn Future; Sustainable Energy Fund; OSBA; UGI Gas Distribution Companies; Department of Environmental Protection; E Cubed; Joint Supporters Industrial Energy Consumers of PA; FirstEnergy Companies; Green Building Alliance; Energy Association of PA; Keystone Energy Efficiency Alliance; Wal-Mart; Trilliant Inc.; PECO Energy Company; West Penn Power; RealWinWin; PPL Electric Utilities; DC Energy.

## Discussion

In this section the Commission will outline its EE&C Program by addressing the issues delineated in Section 2806.1(a) of the Act. This EE&C Program becomes effective with the entry of this order.

### A. Plan Approval Process

The Act requires the Commission to establish procedures for approving plans submitted by EDCs. 66 Pa.C.S. § 2806.1(a)(1). The Act further dictates that by July 1, 2009, all EDCs with at least 100,000 customers must develop and file an EE&C plan with the Commission for approval. 66 Pa.C.S. §§ 2806.1(b)(1) and 2806.1(l). The Commission is to conduct a public hearing on each plan that allows for submission of recommendations by the statutory advocates and the public regarding how the plan could be improved. 66 Pa.C.S. § 2806.1(e)(1). The Commission is to rule on each plan within 120 days of submission. 66 Pa.C.S. § 2806.1(e)(2). If the Commission disapproves a plan, it must describe in detail its reasons after which the EDC has 60 days to submit a revised plan. 66 Pa.C.S. § 2806.1(e)(2). The Commission then has 60 days to rule on the revised plan. *Id.*

#### 1. Consumption Forecast

Initially, the Commission notes that both the one percent consumption reduction, to be met by May 31, 2011, and the three percent consumption reduction to be met by May 31, 2013, are to be measured against the EDC's expected consumption as forecasted by the Commission for June 1, 2009, through May 31, 2010. 66 Pa.C.S. § 2806.1(c)(1). As the expected consumption forecast for June 1, 2009, through May 31, 2010, will establish the target each covered EDC must meet, it is

critical that this consumption forecast be established early in 2009 so that EDCs can develop a plan to meet the target.

In order to make this forecast, the Commission will need input from the EDCs and other interested parties. The Commission intends to complete these forecasts by March 26, 2009. As such, each EDC that is required to file an EE&C plan must file with the Commission its consumption forecast for the period of June 1, 2009, through May 31, 2010, by February 9, 2009. Each filing shall include a listing of assumptions used to calculate the forecast, supporting data, a description of the weather normalization methodology and any other supporting documentation. The consumption forecast filing is to be served on OCA, OSBA, the Commission's Office of Trial Staff (OTS) and interested parties. Comments will be accepted through February 24, 2009, with reply comments due no later than March 6, 2009.

## 2. Peak Demand

The four-and-a-half percent reduction in peak demand to be met by May 31, 2013, is to be measured against the EDC's historical peak load for June 1, 2007, through May 31, 2008. 66 Pa.C.S. § 2806.1(d). As this peak demand data will be used to establish the target each covered EDC must meet, it is critical that this data also be available early in 2009 so that EDCs can develop a plan to meet their peak demand reduction targets. As such, the Commission directs each EDC that is required to file an EE&C plan, to file by February 9, 2009, its hourly peak load data, in megawatts (MW), for the period June 1, 2007, through May 31, 2008. Each filing shall also include the average of hourly peak loads for the 100 hours of highest load for June 1, 2007, through May 31, 2008, and the average of hourly peak loads for the 100 hours of highest load for the period of June 1, 2007, through September 30, 2007. We direct that this data also be filed in electronic format (Microsoft Office Excel format is acceptable) on compact disk.

## 3. Conservation Service Provider Contract Review Process

The Act also requires each EDC to include in its plan a contract with one or more CSPs selected by competitive bid to implement all or part of the plan as approved by the Commission. 66 Pa.C.S. § 2806.1(b)(1)(i)(E). This section of the Act establishes that CSPs can perform some or all functions of an EDC's EE&C plan, to include management of the entire plan. The Act requires the Commission to establish procedures to require EDCs to competitively bid all contracts with conservation service providers. 66 Pa.C.S. § 2806.1(a)(7). The Act further requires the Commission to establish procedures to review all proposed contracts with conservation service providers prior to execution of the contract. 66 Pa.C.S. § 2806.1(a)(8). The Act gives the Commission power to order the modification of proposed contracts to ensure that plans meet consumption reduction requirements. *Id.*

As CSPs can be consulted or utilized by EDCs to design, administer or manage its EE&C plan, a process for Commission review of an EDC's CSP bidding processes and contracts must be established now so that EDCs can employ CSPs during the plan development phase. To facilitate this, the Commission directs all EDCs subject to Act 129 to file by March 1, 2009, proposed RFP procedures and its standard form CSP contract for Commission approval. The criteria the Commission will utilize in approving the RFP procedures and standard form contracts are established below in Section G of this Order.

## 4. EE&C Plan Approval Process

The plan approval process being established below balances the desire to provide all interested parties an opportunity to be heard, with the need to complete the process within the statutory time constraints. In addition, the Commission notes that these plans are evolutionary in nature as the Act provides for modification of plans after approval. See 66 Pa.C.S. §§ 2806.1(a)(6), 2806.1(b)(2) and 2806.1(b)(3). Finally, the Commission notes that while the process outlined below establishes a formal approval process, the Commission directs all covered EDCs to offer and engage in informal discussions with the statutory advocates and interested stakeholders during the pre-filing development of the plans.

All EDCs with at least 100,000 customers are required to file their plans by July 1, 2009.<sup>3</sup> The plans are to be served on OCA, OSBA and OTS. Each EDC filing must contain the following:<sup>4</sup>

1. A detailed plan addressing each of the requirements in 66 Pa.C.S. § 2806.1(b)(1)(i).<sup>5</sup>
2. Sufficient supporting documentation and verified statements or testimony or both.
3. Approved contract(s) with one or more CSPs.<sup>6</sup>
4. Description of the work and measures being performed by CSPs and by the EDC along with a justification for the allocation.
5. A budget showing total planned expenditures by program and customer class.
6. Tariffs and a Section 1307 cost recovery mechanism.
7. The Commission approved consumption forecast for the period of June 1, 2009 through May 31, 2010.
8. A weather adjustment calculation that meets the requirements outlined in Section H of this Implementation Order.
9. The Commission approved average of the EDC's 100 highest peak hours during the period of June 1, 2007 through September 30, 2007.

<sup>3</sup>The Commission reserves the ability to issue a filing schedule with a specific date for each EDC to file its EE&C plan with the Commission. The Commission will not accept voluntary plans proposed by other EDCs at this time due to the compressed time constraints of the approval process.

<sup>4</sup>The Commission will issue a Secretarial Letter establishing a more detailed format for plan filings.

<sup>5</sup>In addition to meeting the requirements laid out in 66 Pa.C.S. §§ 2806.1(a), 2806.1(c) & 2806.1(d), and this Implementation Order, the plans must include the following:

- a) Specific proposals to implement EE&C measures that at least achieve the required consumption reductions.
- b) Specific proposals to obtain 10% of required consumption reductions from units of federal, state and local governments, to include municipalities, school districts, institutions of higher education and nonprofit entities.
- c) An explanation of how quality assurance and performance will be measured, verified and evaluated.
- d) A statement delineating the manner in which the plan will achieve the requirements of the program under 66 Pa.C.S. §§ 2806.1(a), 2806.1(c) & 2806.1(d).
- e) Contract(s) with one or more CSPs selected by competitive bid to implement all or part of the plan as approved by the Commission.
- f) Estimates of the cost of implementing the EE&C measures.
- g) Specific measures for households at or below 150% of the federal poverty income guidelines, the number of which shall be proportionate to those households' share of the total energy usage in the service territory.
- h) A proposed cost-recovery mechanism, in accordance with Section 1307, 66 Pa.C.S. § 1307, to fund the EE&C measures, to include administrative costs.
- i) A demonstration that the plan is cost-effective through a total resource cost test approved by the Commission and that provides a diverse cross-section of measures for customers of all rate classes.
- j) A statement delineating how an annual independent evaluation of cost-effectiveness will be accomplished, as well as a full review of the results of each five-year plan. Furthermore, to the extent practical, provide a description of how the plan will be adjusted as a result of these evaluations.
- k) An analysis of the EDC's administrative costs associated with the implementation of the plan.
- <sup>6</sup>A CSP is defined in the Act at 66 Pa.C.S. § 2806.1(m) as an "entity that provides information and technical assistance on measures to enable a person to increase energy efficiency or reduce energy consumption and that has no direct or indirect ownership, partnership or other affiliated interest with an" EDC.

10. A description of the EDC's method for monitoring and verifying plan results.

The Commission will publish a notice of each proposed plan in the *Pennsylvania Bulletin* within 20 days of its filing. In addition, the Commission will post each proposed plan on its web site. An answer along with comments and recommendations are to be filed within 20 days of the publication of the notice in the *Pennsylvania Bulletin*. Each plan will be referred to an Administrative Law Judge (ALJ), who will establish a discovery schedule and hold a public input hearing(s) in the EDC's service territory, as well as an evidentiary hearing(s) on issues related to the EDC's EE&C plan. Such hearings are to be completed on or before the 65th day after a plan is filed,<sup>7</sup> after which, the parties will have 10 days to file briefs.<sup>8</sup> The EDC will then have 10 days to submit a revised plan or reply comments or both.<sup>9</sup> The ALJ will then certify the record to the Commission.

The Commission will approve or reject all or part of a plan at public meeting within 120 days of the EDC's filing.<sup>10</sup> The Commission will provide a detailed rationale for rejecting all or part of a plan. Thereafter, the EDC will have 60 days from the entry date of the order to file a revised plan that addresses the identified deficiencies. This revised plan is to be served on OCA, OSBA, OTS and all other parties to the EDC's EE&C plan filing, who, along with other interested parties, will have 10 days to file comments on the revised plan, with reply comments due 10 days thereafter. The Commission will approve or reject a revised plan at a public meeting within 60 days of the EDC's revised plan filing. This process will be repeated until a plan receives Commission approval.

#### **B. Plan Effectiveness Evaluation Process**

The Act requires the Commission to establish an evaluation process that monitors and verifies data collection, quality assurance and the results of each EDC plan and the program as a whole. 66 Pa.C.S. § 2806.1(a)(2). While Section 2806.1(b)(1)(i)(C) requires each EDC plan to explain how quality assurance and performance will be measured, verified and evaluated, it is apparent that Section 2806.1(a)(2) requires the Commission to monitor and verify this data. This evaluation process is to be conducted every year, as each EDC is to submit an annual report documenting the effectiveness of its plan, energy savings measurement and verification, an evaluation of the cost-effectiveness of expenditures and any other information the Commission requires. 66 Pa.C.S. § 2806.1(i)(1).

The Commission will utilize the Technical Reference Manual (TRM) to help fulfill the evaluation process requirements contained in the Act. The TRM was supported by participants and previously adopted by the Commission in the Alternative Energy Portfolio Standards Act (AEPS) proceedings at Docket No. M-00051865 (order entered October 3, 2005). However, as the TRM was initially created to fulfill requirements of the AEPS Act, it will need to be updated and expanded to fulfill the requirements of the EE&C provisions of Act 129. As such, the Commission will initiate a process to update and expand the TRM to provide for additional energy efficient technologies, under Docket No. M-00051865. It is the intent of the Commission to complete the TRM update early in 2009 such that EDCs will have ample time to incorporate any TRM updates in its EE&C plan.

<sup>7</sup>If the plans are filed on July 1, 2009, all hearings must be completed by September 3, 2009.

<sup>8</sup>Briefs are due, at the latest, September 14, 2009.

<sup>9</sup>Reply briefs are due, at the latest, September 24, 2009.

<sup>10</sup>The Commission must complete its review of all plans by October 29, 2009.

Thereafter, the Commission will periodically review and initiate the process to update the TRM as needed. Any such updates will be prospective in nature and applicable to measures undertaken after final approval of any TRM changes.

The Commission also believes that a standardized format for the reporting of data is important. However, given that the EDCs will not be required to file their annual reports until 2010, we will address the annual report filing requirements in a subsequent order.

#### **C. Cost—Benefit Analysis Approval Process**

The Act requires that an analysis of the cost and benefit of each plan, in accordance with a total resource cost test (TRC test), be approved by the Commission. 66 Pa.C.S. § 2806.1(a)(3). The Act also requires an EDC to demonstrate that its plan is cost-effective using this TRC test, and that it provides a diverse cross section of alternatives for customers of all rate classes. 66 Pa.C.S. § 2806.1(b)(1)(i)(I). The Act defines "total resource cost test" as "a standard test that is met if, over the effective life of each plan not to exceed 15 years, the net present value of the avoided monetary cost of supplying electricity is greater than the net present value of the monetary cost of energy efficiency conservation measures." 66 Pa.C.S. § 2806.1(m).

The Commission believes that the TRC test set forth in *The California Standard Practice Manual—Economic Analysis of Demand—Side Programs and Projects*, July 2002, p. 18,<sup>11</sup> (*California Manual*) provides an excellent beginning frame work. As the TRC test will be a critical measuring tool in determining the cost effectiveness of the Act 129 EE&C plans, the Commission believes it may be necessary to modify the *California Manual* to meet any unique requirements of Act 129 and this Commonwealth's electric industry. As such, the Commission will institute a process to review and, if necessary, modify the *California Manual*.

The Commission directs that EDCs evaluate the cost effectiveness of each of its energy efficiency or demand reduction programs using the TRC test to be set forth in the version of the *California Manual* adopted by this Commission. The TRC test will take into account the combined effects of a program on both participating and non-participating customers based on the costs incurred by the EDC and participating customers. In addition, the Commission expects the benefits calculated in the TRC test will include the avoided supply costs, such as the reduction in transmission, distribution, generation and capacity costs valued at marginal cost for the periods when there is a consumption reduction. The avoided supply costs should be calculated using net program savings, savings net of changes in energy use that would have happened in the absence of the program. The persistence of savings over time should also be considered in the net savings.

The Commission further expects that the costs calculated in this test will include the program costs paid by the utility and the participants, plus the increase in supply costs for the periods in which consumption is increased. Thus, for example, all equipment, installation, operation and maintenance costs, cost of removal (less salvage value), and administrative costs, regardless of who pays for them, should be included.

The *California Manual* allows for the Societal Test to be used as part of the TRC test. The Societal Test is a

<sup>11</sup>This manual can be found at [http://www.clarkstrategicpartners.net/files/calif\\_standard\\_practice\\_manual.pdf](http://www.clarkstrategicpartners.net/files/calif_standard_practice_manual.pdf).



variant of the TRC and goes beyond the TRC test in that it attempts to quantify the change in the total resource costs to society as a whole rather than to only the service territory. Act 129 specifically notes that environmental and societal benefits are not to be included in the TRC test by referencing only monetary costs. See 66 Pa.C.S. 2806.1(m) (TRC test defined as "A standard test that is met if, over the effective life of each plan not to exceed 15 years, the net present value of the avoided monetary cost of supplying electricity is greater than the net present value of the monetary cost of energy efficiency conservation measures"). Furthermore, the Commission agrees with Allegheny, EAP and FirstEnergy, who point out those environmental costs are already reflected in energy market prices. Therefore, the TRC test that we will be adopting will exclude environmental and societal costs that are not otherwise already embedded in the wholesale costs for the generation of electricity.

In addition, the Commission expects the results of the TRC test to be expressed as both a net present value (NPV) and a benefit-cost ratio (B/C ratio). The NPV is the discounted value of the net benefits of this test over a specified period of time. The NPV is a measure of the change in the total resource costs due to the program. An NPV above zero indicates that the program is a less expensive resource than the supply option upon which the marginal costs are based. A discount rate must be established to calculate the net present value. The Commission agrees with PECO and the Energy Association, that each EDC's post-tax weighted average cost of capital is the most appropriate discount rate to use in calculating the net present value for the TRC test.

The B/C ratio is the ratio of the discounted total benefits of the program to the discounted total costs over some specific time period. The B/C gives an indication of the rate of return of this program to the utility and its ratepayers. A B/C ratio above one indicates that the program is beneficial to the utility and its ratepayers on a total resource cost basis. The methodology to calculate the NPV and B/C ratio of the TRC is found in the *California Manual*, at page 18-19.

#### **D. Process to Analyze How the Program and Each Plan will Enable EDCs to Meet Reduction Requirements**

The Act requires the Commission to conduct an analysis of how the program, as a whole, and how the EDC's individual plan, in particular, will enable an EDC to meet or exceed the required consumption (66 Pa.C.S. § 2806.1(c)) and peak demand reductions (66 Pa.C.S. § 2806.1(d)). 66 Pa.C.S. § 2806.1(a)(4). Each EDC plan must include specific proposals to implement measures to achieve or exceed the required reductions. 66 Pa.C.S. § 2806.1(b)(1)(i)(A). Each plan must also state the manner in which it will achieve or exceed the required consumption reductions. 66 Pa.C.S. § 2806.1(b)(1)(i)(D).

##### **1. Measuring Annual Consumption Reductions**

Consumption is addressed at 66 Pa.C.S. § 2806.1(c), which requires that by May 31, 2011, total annual weather-normalized consumption of the retail customers of each EDC must be reduced by a minimum of one percent, measured against the EDC's expected consumption for the period June 1, 2009, through May 31, 2010. 66 Pa.C.S. § 2806.1(c)(1). Furthermore, by May 31, 2013, the total annual weather-normalized consumption of the retail customers of each EDC must be reduced by a minimum of three percent, measured against the EDC's expected consumption for the period June 1, 2009, through May 31, 2010. 66 Pa.C.S. § 2806.1(c)(2).

Participants in the working group and commentators noted that there were two possible ways to measure the consumption reduction goals. One method would require each EDC to show that its actual annual retail customer consumption for the year ending May 31, 2011, was at least one percent lower (three percent lower for the year ending May 31, 2013) than the EDC's forecasted consumption for the year ending May 31, 2010. In other words, if an EDC's June 1, 2009, through May 31, 2010, forecast consumption was 100,000 MWh that EDC would have to demonstrate that its consumption for the period of June 1, 2010, through May 31, 2011, was actually 99,000 MWh, with adjustments made for weather and extraordinary loads. This method is commonly referred to as the reduction approach. TRF supported this method asserting that the goal of Act 129 was to reduce sales, not merely to slow down the increases in retail sales. Under a savings approach, TRF claims that the EDCs could "meet" the targets even while seeing energy consumption and peak demand grow.<sup>12</sup>

The second method, commonly referred to as the savings approach, would require each EDC to show that during the year ending May 31, 2011, its EE&C plan conserved the equivalent of one percent of its forecasted consumption for the year ending May 31, 2010 and three percent for the year ending May 31, 2013. In other words, if the EDC's forecasted consumption for the year ending May 31, 2010 was 100,000 MWh, that EDC would have to demonstrate that its EE&C plan conserved 1,000 MWh during the year ending May 31, 2011, and 3,000 MWh during the year ending May 31, 2013. Commentators, such as DEP, PECO and PPL, stated that the correct interpretation was that the EDCs must demonstrate that its plan conserved 1,000 MWh of electricity, in this example.

The Commission believes (along with most of the commentators) that the savings approach is the appropriate method to use and therefore adopts this approach. The Commission agrees with PECO, PPL and DEP, as well as other commentators, that the statutory targets are intended to reflect energy savings, as opposed to absolute reductions in consumption.<sup>13</sup> The absolute reduction approach advocated by TRF would, in effect, as even TRF acknowledges, penalize an EDC for economic growth in terms of new customers and businesses in its service territory.<sup>14</sup> Accordingly, each plan will be evaluated as to whether the consumption and demand reduction goals in Act 129 will be achieved based on the use of a TRM and other metric resources to measure the effect of various energy efficiency and conservation measures. In addition, if peak demand reductions can be demonstrated to result in overall consumption reduction (not load shifting), then they should also be allowed to contribute to the consumption reduction goals.

The Commission further notes that the adoption of the savings approach will simplify everyone's tasks and reduce the likelihood of unnecessary litigation. Specifically, the Commission believes that the adoption of the savings approach moots the need to weather-normalize the target year overall program results or determine what qualifies as extraordinary load. This belief is based on the fact that the results of specific conservation measures will be determined by using the deemed savings approach as outlined in the TRM, which uses calculations derived from studies or measurement methods that already ac-

<sup>12</sup>At the December 10, 2008 stakeholder meeting the representative for TRF indicated that TRF agreed with DEP's position on this issue.

<sup>13</sup>See PECO Comments at 6; PPL Comments at 4 at this docket; and DEP En Banc Comments at transcript page \_\_\_ on November 19, 2008, at Docket M-0061984.

<sup>14</sup>TRF Comments at 11-12.

count for extraordinary weather or loads. Regarding custom measures not included in the TRM, the Commission directs its staff to take into account extraordinary weather and loads when reviewing and approving any such custom measure.

## 2. Measuring Peak Demand Reductions

Peak demand is addressed at 66 Pa.C.S. § 2806.1(d), which requires that by May 31, 2013, the weather-normalized demand of the retail customers of each EDC must be reduced by a minimum of four-and-a-half percent of the annual system peak demand in the 100 hours of highest demand, measured against the EDC's peak demand for June 1, 2007, through May 31, 2008. Commentators have also proposed two methods for measuring the peak demand reduction requirement.

One method, put forth by PECO and FirstEnergy would require each EDC to show that they have the demonstrated capability to reduce a specific amount of peak demand when a predetermined demand trigger point of peak demand is met. Advocates of this "demonstrated capability" approach assert that this approach would prevent the need to impose demand response when it is not needed or when it would have no effect on the wholesale energy market.

The other method, put forth by DEP, uses the savings approach outlined above for annual consumption reductions for peak demand reductions as well. Based on our interpretation of the act, the Commission agrees with DEP that the savings approach is the appropriate method to use for measuring peak demand reductions and therefore adopts this approach. The savings approach measures the actual reduction in peak demand from what the peak demand would have been absent the EDC's demand reduction program. Moreover, as explained by DEP, curbing peak demand, even at a time that does not constitute a critical reliability or peak price situation, will still provide significant savings for consumers.<sup>15</sup> Lastly, the Commission believes that utilizing the savings approach for determining peak demand reductions will not penalize the EDC for economic growth in its service territory and will moot the need to weather-normalize overall program results.

However, the Commission notes that it does not agree with DEP's assertion that measures that reduce both overall consumption and peak demand can only be used for the consumption or peak demand targets, but not both. The Commission agrees with FirstEnergy and EAP<sup>16</sup> that as these measures do in fact have an effect on both consumption and peak demand, it is a wise and cost effective use of customer provided funds to allow EDCs to use these combined effect measures toward both reduction targets. In fact, the Commission expects EDC EE&C plans to contain peak pricing, load control and curtailment programs that, along with energy efficiency programs, will meet or exceed the four-and-a-half percent peak demand reduction target.

The commentators also put forward two methods for determining the 100 hours of highest demand. DEP, OCA and others assert that the Commission should use the 100 highest peak hours during the entire year. These commentators assert that the Act specifically references "annual system peak demand." See 66 Pa.C.S. § 2806.1(d)(1). PECO, PPL and others assert that the Commission should use the 100 highest peak hours during the summer months of June through September.

These commentators point out that the Act references the "system peak demand," and note that the "system" the legislature was referencing was the regional transmission organization. These commentators further stress that energy prices are highest during the summer months and note that limiting the 100 hours to the summer months will allow the EDCs to focus the limited resources on programs that will have the largest impact on energy prices.

The Commission agrees with PECO and PPL that the 100 hours of highest demand for the annual system peak demand determination should be limited to the months of June, July, August and September. The Commission believes that focusing the EE&C program efforts on the summer peak period will provide the greatest benefit and be more cost effective. Therefore, to determine the targeted peak demand savings each EDC must meet in the year ending May 31, 2013, the Commission adopts the use of four-and-a-half percent of the EDC's average of the 100 highest peak hours during the summer months of June, July, August and September in 2007.

## E. Standards to Ensure that a Variety of Measures are Applied Equitably to all Customer Classes

The Act requires the Commission to establish standards to ensure that each plan includes a variety of measures and that each plan will provide the measures equitably to all customer classes. 66 Pa.C.S. § 2806.1(a)(5).<sup>17</sup> The Act defines "energy efficiency and conservation measures" at 66 Pa.C.S. § 2806.1(m).

There are clear requirements in the Act regarding proportionate measures for low-income customers (within a residential customer class) as well as for governments, schools, etc. (within a commercial customer class). Beyond those requirements, we believe that EDCs should develop plans to achieve the most energy savings per expenditure. The driving principle should be the most cost effective use of resources so that benefits can accrue to all customers, even if only by virtue of more reasonable energy market prices.

We agree that "equitable" does not mean "pro rata," especially when cost-effectiveness is factored into the process. EDCs must offer a well-reasoned and balanced set of measures that are tailored to usage and to the potential for savings and reductions for each customer class. We believe that the overall limitation on cost recovery and the specific limitation tying costs to a benefited class (discussed in Section J, below) will ensure that offerings will not be skewed toward or away from any particular class. There is no single set of measures that will fit all EDCs and the myriad mix of customer classes. It is entirely possible that the most cost effective energy efficiency and demand response programs may not come proportionally from each customer class.

Most commentators agree that all classes of customers will, however, benefit the most from a general approach because it has the best potential to impact future energy prices. Furthermore, there is no consensus as to what denominator (per capita, usage, revenue, potential for savings, etc.) to use if one were to attempt to require a proportionate distribution.

We will not require a proportionate distribution of measures among customer classes. However, we direct that each customer class be offered at least one energy efficiency and one demand response program. While we

<sup>15</sup>DEP Reply Comments at 3 and 4.

<sup>16</sup>See FirstEnergy Reply Comments at 6 and 7, and EAP Reply Comments at 4-6.

<sup>17</sup>The program must include "standards to ensure that each plan includes a variety of energy, efficiency and conservation measures and will provide the measures equitably to all classes of customers."

will leave the initial mix and proportion of energy efficiency and demand response programs to the EDCs, we expect the EDCs to provide a reasonable mix of energy efficiency and demand response programs for all customers. The burden is on an EDC to explain and justify its distribution of measures among its customer classes if such distribution is challenged.

#### **F. Process to Make Recommendations for Additional Measures**

The Act requires the Commission to establish procedures through which recommendations can be made as to additional measures that will enable an EDC to improve its plan. 66 Pa.C.S. § 2806.1(a)(6). Furthermore, the Act permits the Commission to direct an EDC to modify or terminate any part of an approved plan if, after an adequate period for implementation, the Commission determines that a measure included in the plan will not achieve the required consumption reductions in a cost-effective manner. 66 Pa.C.S. § 2806.1(b)(2).

Below is the Commission's procedure for recommending additional measures that enable an EDC to improve its plan. Initially it must be noted that interested parties will have an opportunity to make recommendations during the initial plan approval process described above in Section A of this Implementation Order.

Regarding approved plans, the Commission will permit EDCs and other interested stakeholders, as well as the statutory advocates, to propose plan changes in conjunction with the EDC's annual report filing required by the Act at 66 Pa.C.S. § 2806.1(i)(1). The Commission will establish a deadline for the filing of annual reports by the EDCs following the approval of the EDCs' plans in 2009. These annual reports are to be served on OCA, OSBA and OTS. The Commission will also post the annual reports on a web page dedicated to the EE&C program. The Commission and any interested party can make a recommendation for plan improvement or object to an EDC's proposed plan revision within 30 days of the annual report filing. EDCs will have 20 days to file replies, after which the Commission will determine whether to rule on the recommended changes or refer the matter to an ALJ for hearings and a recommended decision. The Commission notes that, in addition to the above-described process, the Commission retains its statutory authority to conduct investigations and initiate statutory and regulatory compliance proceedings against jurisdictional utilities.

#### **G. Procedures to Require Competitive Bidding and Approval of Contracts with CSPs**

The Act requires the Commission to establish procedures to require EDCs to competitively bid all contracts with conservation service providers. 66 Pa.C.S. § 2806.1(a)(7). The Act further requires the Commission to establish procedures to review all proposed contracts with conservation service providers prior to execution of the contract. 66 Pa.C.S. § 2806.1(a)(8). The Act gives the Commission power to order the modification of proposed contracts to ensure that plans meet consumption reduction requirements. *Id.* The Act also requires each EDC to include in its plan a contract with one or more CSPs selected by competitive bid to implement all or part of the plan as approved by the Commission. 66 Pa.C.S. § 2806.1(b)(1)(i)(E). This section of the Act establishes that CSPs can perform some or all functions of an EE&C plan, to include management of the entire plan.<sup>18</sup>

<sup>18</sup>As delineated in Section A above, an EDC must provide detailed justifications for why it did or did not use a CSP to perform EE&C plan functions.

Initially, the Commission would like to stress that as the General Assembly, for prudent policy reasons, has established an aggressive design and implementation schedule; EDCs are not expected to have all bids for and contracts with CSPs completed by the July 1, 2009, plan filing. However, we do expect that each filed plan will include at least one contract with a CSP. In addition, while a contract with a CSP cannot be finalized unless that CSP is on the Commission's CSP registry, we encourage EDCs to solicit bids from all potential CSPs on the condition that the CSP apply and obtain approval to be on the registry prior to final acceptance of the bid.

Furthermore, the Commission would also like to stress that CSPs covered by the procedures in this section are those that provide plan consultation, design, administration and management services to the EDC. All entities that provide services to customers or the public in general, such as equipment installers or suppliers, are not to be included in the Commission's CSP registry. In addition, any competitive bid processes for and contracts with such entities will not be reviewed by the Commission under the process described below. However, the Commission notes that it retains its statutory authority to conduct investigations and initiate statutory and regulatory compliance proceedings against jurisdictional utilities.

Below is the Commission's procedure for reviewing and approving proposed CSP bidding process. These are the minimum criteria:

- Develop list of PUC-approved and -registered CSPs created under Docket No. M-2008-2074154.
- Require EDCs to issue requests for proposal (RFPs) only to CSPs approved and registered by the PUC.
- Encourage efforts to acquire bids from "disadvantaged businesses" (i.e., minority-owned, women-owned, persons-with-disability-owned, small companies, companies located in Enterprise Zones, and similar entities) consistent with the Commission's Policy Statements at 52 Pa. Code §§ 69.804, 69.807 and 69.808.
- Encourage the use of pay-for-performance contracts with CSPs.
- Acquisition of at least three bids, or sufficient justification for proceeding based on less bids for a particular aspect of the program.
- Require submission of selection criteria to PUC for review and approval, to include:
  - Designation of and weighting of factors for the selection criteria.
  - Selection of overall best bid/proposal (i.e., no requirement to select the lowest qualified bid) that consider:
    - Quality of prior performance,
    - Timeliness of performance,
    - Quality of the proposed work plan or approach,
    - Knowledge, background, and experience of the personnel to be utilized, and
    - Other factors as deemed relevant.

If the Commission staff has not commented upon or disapproved the proposed RFP process within 15 days of it being submitted to the Commission for review, then the EDC is permitted to proceed with the RFP process without modification.

Below is the Commission's procedure for reviewing and approving proposed CSP contracts prior to execution. These are the minimum criteria:

- Review for satisfactory form and content, including:
- Nature and type of services to be provided,
- Assurance that the CSP's work product in the EDC's plan will meet the requirement for reduction in demand and consumption,
- Legal issues, enforceability, and protection of ratepayer funds for poor performance or non-compliance and similar issues,
- Adequate provisions and procedures for monitoring CSP and EDC performance quality and rate of progress, and
- Certification that the proposed CSP is not an EDC affiliate.

If the Commission staff has not commented upon or disapproved the proposed contract within 45 days of it being submitted to the Commission for review, then the EDC is permitted to proceed with the contract without modification.

#### **H. Procedures to Ensure Compliance with Consumption Reduction Requirements**

The Act requires the Commission to establish procedures to ensure compliance with the consumption reduction requirements of the Act. 66 Pa.C.S. § 2806.1(a)(9). The consumption reduction requirements are outlined in the Act at Sections 2806.1(c) and (d). 66 Pa.C.S. §§ 2806.1(c) and (d). Both the one percent consumption reduction to be met by May 31, 2011, and the three percent consumption reduction to be met by May 31, 2013, are to be measured against the EDC's expected consumption as forecasted by the Commission for June 1, 2009, through May 31, 2010, with provisions made for weather adjustments and extraordinary loads the EDC must serve. 66 Pa.C.S. § 2806.1(c)(1). The four-and-a-half percent reduction of annual system peak demand in the 100 hours of highest demand to be met by May 31, 2013, is to be measured against the EDC's peak demand for June 1, 2007, through May 31, 2008. 66 Pa.C.S. § 2806.1(d)(1). Furthermore, the Act requires that a minimum of ten percent of all consumption reduction requirements are to come from units of the Federal, State and local governments, including municipalities, school districts, institutions of higher education and nonprofit entities. 66 Pa.C.S. § 2806.1(b)(1)(i)(B).

Under the statutory requirements listed above, the Commission must establish a procedure for properly forecasting the baseline for expected EDC consumption levels from June 1, 2009, through May 31, 2010. To accomplish this, the Commission has outlined the timeline and process for establishing this baseline in Section A of this Order. The Commission believes this is the appropriate procedure as each EDC has the data, expertise and experience to make such projections regarding its customers and their usage patterns.

Next, the Commission must determine whether the term retail customer includes all customers or just those in the EDC's default service plan. The Commission defines retail customer as all customers who receive an EDC's distribution service regardless of their electric supply source. The Commission believes that it was the intent of the General Assembly that all customers contribute to the consumption and demand reduction goals, as they all collectively produce the consumption and demand.

Regarding the requirements for determining compliance with the Act 129 reduction requirements, each EDC subject to the Act is directed to file with the Commission, within 45 days after May 31, 2011, and after May 31, 2013, (at the EDC's EE&C plan docket, and serving the parties to that docket) information documenting their consumption reductions for June 1, 2010, through May 31, 2011, and for June 1, 2012, through May 31, 2013, respectively. This filing must provide total savings and savings by class of customer. To be in compliance with the Act, an EDC's must demonstrate that during the June 1, 2010, to May 31, 2011, period its plan produced total energy savings equal to at least one percent of the forecasted 2009-2010 consumption in a cost effective manner. During the June 1, 2012 to May 31, 2013 period the EDC must demonstrate that its plan produced total energy savings equal to at least three percent of the forecasted 2009-2010 consumption in a cost effective manner.<sup>19</sup>

On or before November 30, 2013, and every five years thereafter, the Commission shall evaluate the costs and benefits of an EDC's EE&C plan related to annual consumption using a TRC test or cost-benefit analysis as determined by the Commission. If the Commission determines that benefits exceed the costs, the Commission will adopt new incremental consumption reduction requirements.

Peak demand is addressed at 66 Pa.C.S. § 2806.1(d), which mandates that the 100 hours of highest demand for the period from June 1, 2007, to May 31, 2008, be calculated. As described above, this amount is determined by taking an average of the 100 highest peak hours during the months of June, July, August and September of 2007. To be in compliance the EDCs must demonstrate that its EE&C plan produced demand savings during the 100 hours of highest demand for the period June 1, 2012, through September 30, 2012, equal to at least 4.5% of the average of the 100 highest peak hours during the period from June 1, 2007, to September 30, 2007.<sup>20</sup>

On or before November 30, 2013, the Commission shall evaluate the peak demand aspects of an EDC's EE&C plan by comparing the cost of the an EDC's EE&C plan to the retail savings in energy and capacity benefits of an EDC's EE&C plan related to peak demand or by other means chosen by the Commission. If the Commission determines that benefits exceed the costs, the Commission will adopt new incremental requirements for reductions in peak demand for the highest 100 hours or otherwise as may be determined by the Commission. The new reductions shall be achieved by May 31, 2017, as measured against the EDC's peak demand for June 1, 2011, through September 30, 2011.

However, after-the-fact measurement and verification remain critical to ensure that an EDC has properly implemented its EE&C plan, that the projected savings metrics remain accurate, that non-controllable factors such as economic growth or contraction and weather have not skewed results, and that the savings are the result of the EE&C plan. The Commission will analyze the program as a whole and individual EDC plan effectiveness in meeting or exceeding the Act's mandatory savings through the initial review process as described in Section

<sup>19</sup>The failure to meet these reduction mandates will subject the EDC to a civil penalty of between one million and twenty million dollars that cannot be recovered in rates (66 Pa.C.S. § 2806.1(f)(2)(i)), and the Commission will engage a CSP, at the EDC's expense, to achieve the mandated reductions (66 Pa.C.S. § 2806.1(f)(2)(ii)).

<sup>20</sup>The failure to meet this reduction mandates will subject the EDC to a civil penalty of between one million and twenty million dollars that cannot be recovered in rates (66 Pa.C.S. § 2806.1(f)(2)(i)), and the Commission will engage a CSP, at the EDC's expense, to achieve the mandated reductions (66 Pa.C.S. § 2806.1(f)(2)(ii)).

A above. In addition, the Commission will assess the program and individual plan effectiveness during the annual report review process described above in Section F of this Order.

Finally, based on comments received and the nature of the work to be performed, an outside consultant may be necessary to undertake the annual and five year independent evaluations of the cost-effectiveness of each EDC plan, assuming that an acceptable and cost-effective proposal is received. As such, the Commission intends to issue a request for proposal to retain the services of an evaluation vendor or vendors to perform the annual and five year independent evaluation of the cost-effectiveness of each EDC plan, as well as to develop the measurement and evaluation protocols, standard data collection formats, and data bases for the evaluation of program benefits and results to be used across all EDC service territories. The evaluation vendors will work with the Commission staff and interested parties in the development of the evaluation methods, protocols, data collection formats and data bases. The evaluation methods, protocols, data collection formats and data bases will be fully developed and approved by the Commission prior to the initiation of EDC programs and no later than November 1, 2009. The costs for the evaluation contract or contracts with the Commission will be recovered from EDCs consistent with Section 2806.1(h) of the Act. 66 Pa.C.S. § 2806.1(h).

#### **I. Participation of Conservation Service Providers**

The Act establishes a requirement for the participation of conservation service providers in the implementation of all or part of a plan. 66 Pa.C.S. § 2806.1(a)(10). The Act requires the Commission to establish, by March 1, 2009, a registry of approved persons qualified to provide conservation services to all classes of customers, that meet experience and other qualifying criteria established by the Commission. 66 Pa.C.S. § 2806.2(a). The Act further requires the Commission to develop a conservation service provider application and permits the Commission to charge a reasonable registration fee. 66 Pa.C.S. § 2806.2(b).

The Commission initiated a separate stakeholder process to establish the qualification requirements CSPs must meet to be included in a Commission registry of CSPs under Docket Number M-2008-2074154. The Commission chose to institute a separate proceeding due to the requirement that the CSP registry is to be in place by March 1, 2009.

#### **J. EDC Cost Recovery**

The Act directs the Commission to establish a cost recovery mechanism that ensures that approved measures are financed by the customer class that receives the direct energy and conservation benefit of the measure. 66 Pa.C.S. § 2806.1(a)(11). All EDC plans must include cost estimates for implementation of all measures. 66 Pa.C.S. § 2806.1(b)(1)(i)(F). Each plan must also include a proposed cost-recovery tariff mechanism, in accordance with Section 1307 (relating to sliding scale or rates; adjustments), to fund all measures and to ensure full and current recovery of prudent and reasonable costs, including administrative costs, as approved by the Commission. 66 Pa.C.S. § 2806.1(b)(1)(i)(H). In addition, each plan must include an analysis of administrative costs. 66 Pa.C.S. § 2806.1(b)(1)(i)(K). The Act dictates that the total cost of any plan must not exceed two percent of the EDC's total annual revenue as of December 31, 2006, excluding Low-Income Usage Reduction Programs estab-

lished under 52 Pa. Code § 58 (relating to residential Low-Income Usage Reduction Programs). 66 Pa.C.S. § 2806.1(g). Finally, all EDCs, including those subject to generation or other rate caps, must recover on a full and current basis from customers, through a reconcilable adjustment clause under Section 1307, all reasonable and prudent costs incurred in the provision or management of its plan. 66 Pa.C.S. § 2806.1(k).

We view the matter of cost recovery as consisting of three main issues as set forth in the relevant provisions of Act 129. These issues are:

- 1) Determination of allowable costs,
- 2) Allocation of costs to customer classes, and
- 3) Cost recovery tariff mechanism.

#### **1. Determination of Allowable Costs**

The Act allows an EDC to recover all prudent and reasonable costs relating to the provision or management of its EE&C plan, but limits such costs to an amount not to exceed two percent of the EDC's total annual revenue as of December 31, 2006, excluding Low-Income Usage Reduction Programs established under 52 Pa. Code § 58. 66 Pa.C.S. § 2806.1(g).

In order to determine the level of costs that an EDC will be permitted to recover in implementing its EE&C program, it will first be necessary to ascertain the amount of the EDC's total annual revenues as of December 31, 2006. Accordingly, we will require all subject EDCs to confirm this information in their EE&C plans. Pursuant to the Act, total annual revenues shall be defined as "[a]mounts paid to the electric distribution company for generation, transmission, distribution and surcharges by retail customers." 66 Pa.C.S. § 2806.1(m). We will then require each EDC to include a calculation of the total amount of EE&C costs it will be permitted to recover (exclusive of expenditures on Low-Income Usage Reduction Programs established under 52 Pa. Code § 58) based on the two percent limitation as set forth in the Act. This will represent the maximum level of spending on EE&C measures that will be recoverable under the EDC's plan.

We will next require each EDC to provide a careful estimate of the costs relating to all EE&C programs and measures as set forth in its plan. Such costs will include both capital and expense items relating to all program elements, equipment and facilities, as well as an analysis of all related administrative costs. More specifically, these costs would include, but not be limited to, capital expenditures for any equipment and facilities that may be required to implement the EE&C programs, as well as depreciation, operating and maintenance expenses, a return component based on the EDC's weighted cost of capital, and taxes. Administrative costs would include, but not be limited to, costs relating to plan and program development, cost-benefit analysis, measurement and verification, and reporting. The EDC must also provide ample support to demonstrate that all such costs are reasonable and prudent in light of its plan and the goals of the Act, keeping in mind that the total level of these costs must not exceed the two percent limitation as previously determined.

We agree generally with PPL that the EDC should be permitted to recover both the ongoing costs of its plan, as well as incremental costs incurred to design, create, and obtain Commission approval of the plan. However, all costs submitted for recovery in an EDC's plan will be subject to review by the Commission to determine

whether the costs are prudent and reasonable, and are directly related to the development and implementation of the plan. Furthermore, we do not agree with PECO and Duquesne that EE&C measures and associated costs that are approved by the Commission should not be subject to after-the-fact scrutiny. In this regard, we note that the Act provides that:

The Commission shall direct an (EDC) to modify or terminate any part of a plan approved under this section if, after an adequate period for implementation, the Commission determines that an energy efficiency or conservation measure included in the plan will not achieve the required reductions in consumption in a cost-effective manner under (66 Pa.C.S. §§ 2806.1(c) & (d)).

66 Pa.C.S. § 2806.1(b)(2). Thus, plan measures and their associated costs that may be tentatively approved, will, in fact, be subject to ongoing review and possible modification or termination if it is determined that such measures are not or have not been cost effective.

With regard to the two percent limitation provision of the Act, we agree with PPL that this limitation on the "total cost of any plan" should be interpreted as an annual amount, rather than an amount for the full five-year period. Since the statutory limitation in this subsection is computed based on annual revenues as of December 31, 2006, we believe it is reasonable to require that the resulting allowable cost figure be applied on an annual basis as well. In addition, we note that the plans are subject to annual review and annual cost recovery under the Act, 66 Pa.C.S. § 2806.1(h) and (k). Finally, based upon the information presented in the comments<sup>21</sup> and experience in other states, it appears that the statutory goals for consumption and demand savings are not likely to be achievable if the two percent limit was read as applicable to the entire multi-year EE&C program.

Duquesne raised a concern regarding the application of the two percent spending limitation on an EDC with a substantial number of customers being served by EGSs. Specifically, Duquesne commented that the cost limitation provision of Act 129 could be interpreted in a manner that makes compliance very difficult for any EDC where rate caps have been removed and significant electric competition has occurred. Duquesne points out that approximately half of its load were taking service with an EGS at the end of 2006, including about 50 percent of its commercial and 85 percent of its industrial customers. If the Commission were to interpret 66 Pa.C.S. § 2806.1(g) such that EDC generation and transmission revenues exclude those collected by EGSs, Duquesne would be limited to a substantially smaller program budget than other EDCs. And if, under this scenario, Duquesne did not meet the Act 129 targets, it would be subject to mandatory financial penalties that would not be recoverable from rate payers.

To alleviate this situation, Duquesne proposed that it be allowed to revise its 2006 total annual revenue to reflect POLR revenues as if there had been no shopping. OCA, DEP and TRF, all suggest that EDC 2006 total annual revenues include generation and transmission revenues paid to an EGS through an EDC's combined bill. OSBA disagreed, asserting that the language in Section 2806.1(g) does not permit this outcome.

The Commission agrees with Duquesne, OCA, DEP and TRF, in that the General Assembly intended Act 129 to be

competitively neutral, and not disadvantage EDCs that had active retail electric markets. The Commission also notes that, in ascertaining legislative intent, the Commission is to presume that the General Assembly did not intend a result that was impossible of execution, unreasonable or unconstitutional. See 1 Pa.C.S. § 1922. Excluding these EGS revenues may so limit Duquesne's EE&C plan budget such that it could be impossible for it to meet the Act 129 EE&C targets. Therefore, the Commission interprets "amounts paid to the [EDC] for generation, transmission, distribution and surcharges by retail customer," set forth as the definition of EDC total annual revenue in 66 Pa.C.S. § 2806.1(m), to include all amounts paid to the EDC for generation service, including generation revenues collected by an EDC for an EGS that uses consolidated billing. This result will bring Duquesne's program budget closer to a level of parity with the other EDCs, and ensure that it has a more meaningful opportunity to comply with the EE&C provisions of Act 129.

Finally, with respect to the recovery of revenues lost due to reduced energy consumption or changes in demand, we note that the Act clearly states that such revenue losses shall not be a recoverable cost under a reconcilable automatic adjustment clause. 66 Pa.C.S. § 2806.1(k)(2). The Act does provide, however, that "[d]eferred revenue and reduced energy consumption may be reflected in revenue and sales data used to calculate rates in a distribution-base rate proceeding filed by an electric distribution company under [66 Pa.C.S. § 1308] (relating to voluntary changes in rates)." 66 Pa.C.S. § 2806.1(k)(3).

## 2. Allocation of Costs to Customer Classes

The Act requires that all approved EE&C measures be financed by the customer class that receives the direct energy and conservation benefit of such measures. Several of the parties filed comments addressing the issue of how to allocate the total allowable EE&C costs in order to ensure that this provision is met.

In order to ensure that all approved EE&C measures are financed by the customer classes that receive the benefit of such measures, it will be necessary to first assign the costs relating to each measure to those classes to whom it benefits. Therefore, once the EDC has developed an estimate of its total EE&C costs as directed above, we will require it to allocate those costs to each of its customer classes that will benefit from the measures to which the costs relate. Those costs that can be clearly demonstrated to relate exclusively to measures that have been dedicated to a specific customer class should be assigned solely to that class. Those costs that relate to measures that are applicable to more than one class, or that can be shown to provide system-wide benefits, must be allocated using reasonable and generally acceptable cost of service principles as are commonly utilized in base rate proceedings.<sup>22</sup> Administrative costs should also be allocated using reasonable and generally acceptable cost-of-service principles.

With regard to the assignment of EE&C costs to low-income customers, the Act requires EE&C measures to be financed by the same customer class that will receive the direct energy and conservation benefits from them. 66 Pa.C.S. § 2806.1(a)(11). The Act does not provide for the exclusion of low-income customers from EE&C cost recovery as recommended by PULP, and in any event, it would be difficult to determine a way to

<sup>21</sup>See Duquesne Light Company Comments at 6-8. See also, PPL Reply Comments at 11 and 12.

<sup>22</sup>As the General Assembly declared in its Act 129 policy statement "[i]t is in the public interest to adopt energy efficiency and conservation measures and to implement energy procurement requirements designed to ensure that electricity obtained reduces the possibility of electric price instability, promotes economic growth and ensures affordable and available electric service to all residents."

exclude such customers from the allocation of EE&C costs within their particular customer class. Although we have great concern for the difficulties experienced by low-income customers in paying their energy bills, we do not believe that exempting such customers from contributing toward the recovery of fairly allocated EE&C costs is the appropriate way to address this concern. We point out that low-income customers will stand to benefit financially from well-designed EE&C measures implemented by the EDCs. Moreover, such customers can take advantage of the many programs currently available to help low-income and payment-troubled customers pay their energy bills.

### 3. Cost Recovery Tariff Mechanism

As noted above, the Act allows all EDCs, including those subject to generation or other rate caps, to recover on a full and current basis from customers, through a reconcilable adjustment clause under 66 Pa.C.S. § 1307, all reasonable and prudent costs incurred in the provision or management of its plan. The Act also requires that each EDC's plan include a proposed cost-recovery tariff mechanism, in accordance with 66 Pa.C.S. § 1307 (relating to sliding scale of rates; adjustments), to fund all measures and to ensure full and current recovery of prudent and reasonable costs, including administrative costs, as approved by the Commission.

We will require each subject EDC to develop a reconcilable adjustment clause tariff mechanism in accordance with 66 Pa.C.S. § 1307 and include this mechanism in its EE&C plan. Such a mechanism shall be designed to recover, on a full and current basis from each customer class, all prudent and reasonable EE&C costs that have been assigned to each class as directed above. When the EE&C plans to be offered by EDCs will benefit both shopping and non-shopping customers, the cost recovery mechanism shall be non-bypassable, and structured such that it will not affect the EDC's price-to-compare.<sup>23</sup> The mechanism shall be set forth in the EDC's tariff, accompanied by a full and clear explanation as to its operation and applicability to each customer class. We agree with OCA that there should be no need to adjust the mechanism more frequently than on an annual basis. Therefore, the tariff mechanism will be subject to an annual review and reconciliation in accordance with 66 Pa.C.S. § 1307(e). The annual review and reconciliation for each EDC's cost recovery mechanism will occur pursuant to a public hearing, if required due to petitions filed by interveners, and will include an evaluation of the reasonableness of all program costs and their allocation to the applicable customer classes. Such annual review and reconciliation will be scheduled to coincide with our review of the annual report on the EDC's plan submitted in accordance with 66 Pa.C.S. § 2806.1(i), and all calculations and supporting cost documentation shall be provided at the time that report is filed.

### Conclusion

This Order establishes an energy efficiency and conservation program that requires electric distribution companies with at least 100,000 customers to adopt and implement cost-effective plans to reduce energy consumption and peak demand within this Commonwealth. We extend our thanks to those who participated in the stakeholder meeting and provided comments on this

<sup>23</sup>However, it may not be appropriate to subsidize or assign costs for various utility-offered curtailment or pricing programs across all customers if any such subsidies or incentives are not offered to competitive providers of service, or are used exclusively for or to support utility curtailment or generation supply programs. An EDC may not recover costs under its EE&C plan cost recovery mechanism for any costs which it recovers through its default service program.

crucial and timely energy program. We would especially like to note our appreciation for the cooperation and courtesy extended by all, which was essential in meeting the aggressive timeline established by the General Assembly.

*Therefore,*

*It Is Ordered That:*

1. The Commission establishes an energy efficiency and conservation program as outlined in this Implementation Order.

2. Electric distribution companies with at least 100,000 customers adhere to the schedule for submission and filing requirements for energy efficiency and conservation plans identified in this Implementation Order.

3. The electric distribution companies that are required to file an energy efficiency and conservation plan also must file by February 9, 2009, its consumption forecast for the period of June 1, 2009, through May 31, 2010, as outlined in this Implementation Order.

4. The electric distribution companies that are required to file an energy efficiency and conservation plan also must file by February 9, 2009, its hourly peak load data, in megawatts (MW), for the period June 1, 2007, through May 31, 2008, as outlined in this Implementation Order.

5. The Commission staff shall have delegated authority to review and approve electric distribution company proposed conservation service provider bidding processes, as set forth in Section G of this order. Such staff determinations shall be the final determination of the Commission unless appealed to the full Commission within 20 days, per 52 Pa. Code § 5.44.

6. The Commission staff shall have delegated authority to review and approve contracts between electric distribution companies and conservation service providers, as set forth in Section G of this order. Such staff determinations shall be the final determination of the Commission unless appealed to the full Commission within 20 days, per 52 Pa. Code § 5.44.

7. The electric distribution companies that are required to file an energy efficiency and conservation plan also must file by March 1, 2009, proposed conservation service provider request for proposal procedures and standard form conservation service provider contracts for Commission approval, as outlined in this Implementation Order.

8. This Implementation Order be published in the *Pennsylvania Bulletin* and served on the Office of Consumer Advocate, Office of Small Business Advocate, Office of Trial Staff, and all jurisdictional electric distribution companies.

*By the Commission*

JAMES J. MCNULTY,  
*Secretary*

*Joint Statement of Chairperson Cawley and  
Commissioner Gardner*

Before the Commission is the Energy Efficiency and Conservation Program Implementation Order (Order). The Order establishes the guidelines and requirements for electric distribution company (EDC) energy efficiency and conservation plans to be filed on or before July 1, 2009. In this Order, the Commission seeks to enhance the ability of EDCs to attain the goals established under Act 129 of 2008.

In order to achieve lasting efficiency gains, it may be necessary for some customers to invest significant

amounts of capital in their homes, apartments or small businesses—capital they may not have at hand. To eliminate this financial barrier, we strongly encourage EDCs to support, design and implement a statewide program similar to Keystone HELP.

Keystone HELP is a loan program administered by AFC Financial, and funded in part by the PA Treasury, and supported by PA Home Energy, which provides needed capital to customers throughout Pennsylvania for projects that reduce energy consumption.

To date, Keystone HELP has loaned \$23 million to 3,511 households across the Commonwealth. Loan rates range from 5.99% to 8.875% depending upon customer qualifications. The program has a remarkably low default rate of .33% and has successfully helped the often overlooked middle income segment of our population to undertake conservation and energy efficiency projects that those individuals may have not otherwise been able to afford.

Similarly, the Pennsylvania Housing Finance Agency (PHFA) initiated a program to provide funding for the implementation of energy upgrades in multifamily developments throughout the Commonwealth to address the energy efficiency needs of over 139,000 affordable rental units, over 50 percent of which have been placed into service at least 25 years ago. PHFA is in the process of providing training for the certification of energy auditors to become skilled in auditing multifamily buildings. They are also pooling together various funding sources for low interest loans for the upgrades. Additionally, they have an agreement with the West Penn Sustainable Energy Fund where they will help defray the costs of the energy audits on developments in their footprint and will provide some funding for training of the energy auditors.

We strongly encourage the EDCs, EAPA, PA Treasury, AFC Financial, PA Home Energy, sustainable energy funds/economic development funds and other interested stakeholders to work collaboratively to develop such programs prior to July 1, 2009. Important program goals include the following elements:

- Identify a sustainable source of low cost capital for funding of these programs in conjunction with the PA Treasury, EDCs, sustainable energy funds/economic development funds, federal sources, and others.
- Develop additional mechanisms for interest buy-down and bad debt reserve to further mitigate consumer interest charges.
- Design programs to maximize efficiencies achievable with a “whole home” or “whole building” approach.
- Ensure adequate contractor training is available regionally to support these programs.
- Ensure that participating EDCs are provided with a mechanism for recovery of program contributions, and receive efficiency credits towards Act 129 goals. Any EDC contributions should be matched with customers residing in that EDC’s service area.

JAMES H. CAWLEY,  
*Chairperson*

WAYNE E. GARDNER,  
*Commissioner*

*Statement of Vice Chairperson Tyrone J. Christy*

Today the Commission is taking yet another significant step toward implementing a comprehensive Energy Efficiency and Conservation Program for Pennsylvania. The Energy Efficiency and Conservation Program offers the

most meaningful tool available to the Commission to cushion the rate shock that likely will occur as rate caps continue to expire in additional utility service territories in the Commonwealth over the next 23 months. As electric rate caps continue to expire, Pennsylvania customers increasingly will be exposed to higher electric prices that are to large extent beyond our current ability to control given Federal jurisdiction over the wholesale power market. I commend the General Assembly and Governor for championing the passage of Act 129, and extend my appreciation to our staff for their hard work in crafting the order that we are approving today in the short amount of time available to us under the requirements of Act 129.

I have some concerns regarding the separate approval processes that the Commission is establishing by this order for contracts with conservation service providers (CSPs) and for the plans that will be filed by the electric distribution companies (EDCs) beginning July 1 of this year. In contrast to the abbreviated staff review process being established for CSP contracts, proposed EDC plans will be reviewed in evidentiary proceedings assigned to an ALJ. Because CSP contracts may constitute a large portion of an EDC’s plan, I believe that it may be better to review proposed CSP contracts in conjunction with the EDC’s plan rather than separately. However, if the separate review procedures that we are establishing today prove to be unworkable, we can revisit the procedures in the future.

TYRONE J. CHRISTY,  
*Vice Chairperson*

[Pa.B. Doc. No. 09-235. Filed for public inspection February 6, 2009, 9:00 a.m.]

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by February 23, 2009. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

**Application of the following for approval to *begin* operating as *common carriers* for transportation of *persons* as described under the application.**

**A-2008-2064873. (Corrected) Raymond Dunkle, t/a Dunkle Transportation** (16703 Timmons Road, Spring Run, Franklin County, PA 17262)—persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Franklin, to points in Pennsylvania, and return.



**Applications of the following for the approval of the transfer of stock as described under the application.**

**A-2009-2085949. Reach For The Stars Limousine Service, Inc.** (507 West Duttons Mill Road, Aston, PA 19014)—a corporation of the Commonwealth—for the approval of the transfer of the issued and outstanding stock, from Integrity Transportation Services, LLC (100 shares), to BKG Enterprises Incorporated. *Attorney:* George S. Segal, 1700 Benjamin Franklin Parkway, Penthouse Suite, Philadelphia, PA 19103.

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Jason Koss and Nicholas Molyneus, t/a Affair to Remember; Doc. No. A-00122025C0701 and A-00122025, F.2*

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 here by represents as follows:

1. That all authority issued to Jason Koss and Nicholas Molyneus, t/a Affair to Remember, (respondent) is under suspension effective February 18, 2007, for failure to maintain evidence of insurance on file with this Commission.
2. That respondent maintains a principal place of business at R. R. 2 Box 142K, Falls, PA 18615.
3. That respondent was issued a Certificate of Public Convenience by this Commission on March 13, 2006, at A-00122025, F.2.
4. That respondent has failed to maintain evidence of Liability insurance on file with this Commission. The penalty is \$250.00 and cancellation of the Certificate of Public Convenience.
5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

*Wherefore*, unless respondent pays the fine of \$250.00 and causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Transportation and Safety Prosecutory Staff will request that the Commission issue an Order which: (1) cancels the Certificate of Public Convenience held by respondent at A-00122025 F.2 for failure to maintain evidence of current insurance on file with the Commission; (2) fines Respondent the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in this Complaint; (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration; and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Bureau of Transportation and Safety

NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. Pursuant to 66 Pa.C.S. § 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, or any other remedy as may be appropriate. Each day you continue to violate any regulation, direction, requirement, determination or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations **and by paying the \$250.00 fine** proposed in the Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Transportation and Safety  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Acord Certificates of Insurance and Faxed Form Es and Hs are **Unacceptable** as Evidence of Insurance.

The fine payment must be made to the Commonwealth of Pennsylvania and forwarded to:

James J. McNulty, Secretary  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations.

Upon receipt of the evidence of insurance from your insurer **and receipt of your fine payment**, the Complaint proceeding shall be closed.

D. If you file an Answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the cancellation of your Certificate of Public Convenience. Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 09-236. Filed for public inspection February 6, 2009, 9:00 a.m.]

### Telecommunications

**A-2009-2086656. Bentleyville Communications Corporation and Marianna and Scenery Hill Telephone Company, d/b/a FairPoint Communications and IDT America, Corp.** Joint petition of Bentleyville Communications Corporation and Marianna and Scenery Hill Telephone Company, d/b/a FairPoint Communications and IDT America, Corp. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Bentleyville Communications Corporation and Marianna and Scenery Hill Telephone Company, d/b/a FairPoint Communications and IDT America, Corp., by its counsel, filed on January 26, 2009, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Bentleyville Communications Corporation and Marianna and Scenery Hill Telephone Company, d/b/a FairPoint Communications and IDT America, Corp. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 09-237. Filed for public inspection February 6, 2009, 9:00 a.m.]

### Telecommunications

**A-2009-2085805. Conestoga Telephone and Telegraph Company and Comcast Business Communications, LLC.** Joint petition of Conestoga Telephone and Telegraph Company and Comcast Business Communications, LLC for approval of an interconnection agreement for the mutual exchange and termination of traffic under section 252(e) of the Telecommunications Act of 1996.

Conestoga Telephone and Telegraph Company and Comcast Business Communications, LLC, by its counsel, filed on January 20, 2009, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement for the mutual exchange and termination of traffic under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of Conestoga Telephone and Telegraph Company and Comcast Business Communications, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 09-238. Filed for public inspection February 6, 2009, 9:00 a.m.]

### Telecommunications

**A-2009-2085734. Verizon North, Inc. and XO Communications Services, Inc.** Joint petition of Verizon North, Inc. and XO Communications Services, Inc. for approval of amendment No. 1 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North, Inc. and XO Communications Services, Inc., by its counsel, filed on January 21, 2009, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment No. 1 to the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days

after the date of publication of this notice. Copies of the Verizon North, Inc. and XO Communications Services, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 09-239. Filed for public inspection February 6, 2009, 9:00 a.m.]

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### Telecommunications

**A-2009-2085611. Verizon Pennsylvania, Inc. and XO Communications Services, Inc.** Joint petition of Verizon Pennsylvania, Inc. and XO Communications Services, Inc. for approval of amendment No. 8 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and XO Communications Services, Inc., by its counsel, filed on January 21, 2009, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment No. 8 to the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania, Inc. and XO Communications Services, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 09-240. Filed for public inspection February 6, 2009, 9:00 a.m.]

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### Water Service

**A-2009-2086451. City of Bethlehem.** Application of the City of Bethlehem for approval to supply domestic water service to the public in additional territory in portions of Allen and Bethlehem Townships located in Northampton County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before February 23, 2009. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

*Applicant:* City of Bethlehem

*Through and By Counsel:* John J. Gallagher, Esq., Edward G. Lanza, Esq., Saul Ewing, LLP, 2 North 2nd Street, 7th Floor, Harrisburg, PA 17101

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 09-241. Filed for public inspection February 6, 2009, 9:00 a.m.]

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## STATE EMPLOYEES' RETIREMENT BOARD

### Second Amended and Restated Right-To-Know Law Policy

#### I. General Policy

The State Employees' Retirement System (SERS) shall provide the public with access to public records to the fullest extent required by law consistent with its duties to protect the interests and rights of SERS and its members. This policy relates to the release of information pertaining to SERS business in compliance with the Pennsylvania Right-To-Know Law (RTKL) (65 P.S. §§ 67.101-67.3104) and any management directives issued pertaining to the RTKL, each as may be amended from time to time. The Chief Counsel of SERS' Legal Office should be consulted in cases in which this policy does not provide sufficient guidance to reach a determination.

In promulgating this policy, the State Employees' Retirement Board (Board) is cognizant of the statutory and decisional law on the subject and the fiduciary and administrative duties it owes to the members of SERS and its obligations to the citizens of the Commonwealth of Pennsylvania (Commonwealth) to operate in an open manner. Retirement benefit options and payments and individual recipients' names may be released to the public when such release would not be inconsistent with the RTKL and the State Employees' Retirement Code.

In situations where a resident's right to access competes with the foregoing duties of the Board, the standards listed below shall, when appropriate, be applied.

- The release of medical records to the public shall be in compliance with State and Federal laws, which protect the privacy of health care information by restricting the disclosure of records.

- As a general rule, the disclosure of information that will be detrimental to SERS' investments shall be protected if disclosure would breach the fiduciary responsibility set forth in 71 Pa.C.S. § 5931 or the requirements of 71 Pa.C.S. § 5902(e) or if such information constitutes or reveals a trade secret or confidential proprietary information as provided by 65 P.S. §§ 67.708, 3101.1.

- Disclosure of nonpublic information in response to court orders and subpoenas shall not result in disciplinary action.

- The names and home addresses of any active members, vestees or annuitants who are law enforcement officers, enforcement officers or psychiatric security aides (as defined by 71 Pa.C.S. § 5102), members of the judiciary (as defined by 71 Pa.C.S. § 5102), prison personnel employed by the Pennsylvania Department of Corrections, officers employed by the Pennsylvania Board

of Probation and Parole and similarly-situated members shall not be released to the public because disclosure may impair such members' personal security.

Consistent with this policy, SERS may, from time to time, make available on its web site certain financial and investment information to facilitate access to such information and reduce time delays and processing efforts associated with formal written RTKL Requests. Should this policy ever conflict with the RTKL, as it may be amended from time to time, the RTKL shall control and this policy shall be deemed modified only to the extent necessary to conform it to the RTKL.

## II. Definitions

*Business Day*—Any Monday, Tuesday, Wednesday, Thursday or Friday, except those days when SERS Central Office in Harrisburg, Pennsylvania is closed for all or part of a day due to a state holiday; pursuant to Management Directive 530.17, Partial and Full Day Closings of State Offices, or Management Directive 505.7, Personnel Rules, Section 8.7, due to severe weather (such as blizzard or ice storm); due to natural or other disaster; or due to the request or direction of local, State or Federal law enforcement agencies or officials.

*Deemed Denied*—A RTKL Request is Deemed Denied if one of the following conditions occurs, subject to extension agreed to by the Requester: (i) SERS fails to respond within the initial 5 Business Day period after receiving a RTKL Request; (ii) SERS extends the 5 Business Day period by up to 30 calendar days, but then fails to respond by the end of that extended period; or (iii) SERS notifies the Requester that it requires additional time to issue or respond in excess of the permitted 30 calendar day period.

*Exceptions*—The exceptions to the definition of Public Record under the RTKL include but are not limited to those set forth in 65 P. S. §§ 67.708, 3101.1.

*Financial record*—Any of the following:

- (1) Any account, voucher or contract dealing with:
  - (i) the receipt or disbursement of funds by an agency; or
  - (ii) an agency's acquisition, use or disposal of services, supplies, materials, equipment or property.
- (2) The salary or other payments or expenses paid to an officer or employee of an agency, including the name and title of the officer or employee.

(3) A financial audit report. The term does not include work papers underlying an audit.

*Mailing Date*—The date (1) affixed to a Response from the Open-Records Officer to a RTKL Request, which is to be the date the Response is deposited in the United States Mail.

*Open-Records Officer*—Any official or employee designated by the Board or, if authorized by the Board, by the Executive Director to receive and respond to RTKL Requests. The Board or, if authorized by the Board, the Executive Director may designate a chief Open-Records Officer and one or more individuals as assistant Open-Records Officers.

*Public Record*—A record, including a financial record, of a Commonwealth or local agency that:

- (1) is not exempt under the Right-to-Know Law;
- (2) is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; or

(3) is not protected by a privilege.

*Privilege*—The attorney-work product doctrine, the attorney-client privilege, the doctor-patient privilege, the speech and debate privilege or other privilege recognized by a court interpreting the laws of this Commonwealth.

*Record*—Information, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency. The term includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically and a data-processed or image-processed document.

*Records Custodian*—Any person having custody, possession or control of a record.

*Redaction*—The eradication of a portion of a record by any means while retaining the remainder.

*Requester*—A person who is a legal resident of the United States and requests a record pursuant to the RTKL. The term includes an agency.

*Response*—Access to a record or SERS' written notice to a requester granting, denying or partially granting and partially denying access to a record.

## III. Form of RTKL Request

All RTKL Requests must:

- Be submitted in writing;
- State the name and address of the Requester;
- Set forth the address to which the Response should be addressed; and
- Identify or describe the records sought with sufficient specificity to enable SERS to ascertain which records are being requested.

**Note:** SERS will accept RTKL Requests submitted on a uniform form published by the Office of Open Records in the *Pennsylvania Bulletin* and on the Office of Open Record's Internet web site or on a substantially similar SERS' form.

All RTKL Requests must be submitted in writing by means of United States mail, facsimile, e-mail or hand delivery to the Open-Records Officer and be properly addressed as follows:

Mail:	SERS Open-Records Officer 30 North Third Street, Suite 150 Harrisburg, PA 17101-1716
Facsimile:	SERS Open-Records Officer (717) 783-7300
Hand delivery:	SERS Open-Records Officer 30 North Third Street 1st Floor Receptionist Harrisburg, PA
E-mail:	RA-sersrtk@state.pa.us

For purposes of this policy, SERS' business hours are from 8:30 a.m. to 4 p.m. on any Business Day.

## IV. Who Has the Right to Know

The RTKL provides that, unless otherwise provided by law, a Public Record shall be accessible for inspection and duplication by a Requester in accordance with the RTKL. SERS may, at its discretion, require a requesting party to produce proper identification to establish that the party is a legal resident of the United States.

SERS may receive requests for records from parties that are not legal residents of the United States, especially from businesses that may use the requested records for commercial purposes. In such cases, SERS may exercise discretion in either declining to comply with the request or providing the records as a courtesy to the requesting party. Among the factors that may be considered by SERS are the administrative burdens of compliance, the benefits to be derived by SERS (that is, cooperating in a survey that would be of interest to SERS), the risk that the information could be used to SERS' or a member's detriment, and other considerations that may be relevant to the particular request at hand. Voluntary disclosure by SERS shall not require SERS to provide the same records to others or to provide future records of the same type to anyone.

#### V. Procedure for Responding to RTKL Requests

SERS shall respond only to written RTKL Requests delivered via United States mail, facsimile, e-mail or hand delivery. All RTKL Requests must be directed to the SERS Open-Records Officer. The time limitations set forth herein do not take effect until the SERS Open-Records Officer receives the RTKL Request. (Any RTKL Request received by SERS after the close of SERS' business hours, as set forth above, shall be deemed received on the following Business Day.) Upon receipt of a RTKL Request, the SERS Open-Records Officer will take the following actions:

- Date stamp the RTKL Request;
- Assign a tracking number to the RTKL Request;
- Record the RTKL Request in the system used by SERS for tracking RTKL Requests;
- Compute the day on which the 5-Business Day period will expire and make a notation of that date on the first page of the RTKL Request (the day that a RTKL Request is received or deemed received is not counted for this purpose);
- Make an electronic or paper copy of the RTKL Request, including all documents submitted with it and the envelope, if any, in which it came;
- Create a file for the retention of the original RTKL Request, a copy of the Response, a record of verbal or written communications with the Requester and a copy of other communications.

The SERS Open-Records Officer shall be responsible for the issuance of interim and final Responses to all RTKL requests. Upon receipt of a RTKL Request, the SERS Open-Records Officer shall render a final Response within 5 Business Days from the date the RTKL Request is received, unless an interim Response is warranted and issued within that time.

An interim Response may be sent on or before the last day of the 5-Business Day period to extend the period for a final Response. Such interim Response must notify the Requester that the RTKL Request is being reviewed, must state a reasonable date that a final Response is expected to be provided, and must set forth one of the following reasons justifying the need for additional time:

- The RTKL Request requires Redaction of a Public Record;
- The RTKL Request requires the retrieval of a record stored in a remote location;
- A final Response within the 5-Business Day period cannot be accomplished due to bona fide and specified staffing limitations;

- A legal review is necessary to determine if a record is a Public Record subject to access under the RTKL;

- The Requester has not complied with SERS' policies regarding access to Public Records; or

- The anticipated cost of complying with the RTKL Request exceeds \$100 and the Requester has not prepaid such amount. If SERS requires prepayment, the time for issuance of a final Response shall be tolled from the time the demand for prepayment is made until such time as payment is actually received.

- The extent or nature of the request precludes a response within the required time period.

If an interim Response is issued, then a final Response should be sent within 30 calendar days from the end of the 5-Business Day period. Failure to comply with either the 5-Business Day or the 30-calendar day time limit will result in the RTKL Request being Deemed Denied unless the requester agrees in writing to a further extension.

**Note:** If the anticipated cost of complying with the RTKL Request exceeds \$100 and the Requester does not pay such amount within 30 calendar days after he/she is informed to do so by an interim Response, the RTKL Request will be considered withdrawn.

The SERS Open-Records Officer shall conduct an initial review of each RTKL Request according to the following intake procedure:

- Review the RTKL Request to determine whether a basis exists for rejecting or forwarding the RTKL Request, in whole or in part, without further consideration, including but not limited to the following:

A. The requesting party is not a legal resident of the United States;

B. Lack of specificity;

C. The requested records are not within the RTKL's definition of Public Record; or

D. If the SERS Open-Records Officer after making a good faith effort to determine that the requested records are not in the possession or control of SERS, has personal knowledge that the requested records are in the possession or control of another Commonwealth agency subject to the RTKL, then the SERS Open-Records Officer may forward the request to that agency's appropriate SERS Open-Records Officer and notify the requester forthwith.

- Determine whether the RTKL Request must be granted, in whole or in part, without further consideration;

- Draft any Response denying or granting access to the identified records as necessary;

- Review any questions with RTKL Counsel as necessary;

- Draft written instructions to Records Custodians regarding compliance with the RTKL Request as necessary; and

- Determine if the anticipated cost of complying with the RTKL Request will exceed \$100 and if prepayment will be required and, if so, present the Requester with a demand for prepayment.

If the SERS Open-Records Officer does not identify a basis for denying the RTKL Request in its entirety without further consideration, the SERS Open-Records Officer shall forward the RTKL Request or relevant portions thereof to potential Records Custodians. Once the SERS Open-Records Officer forwards the RTKL Request or relevant portions thereof, it shall be the responsibility of each such potential Records Custodian to conduct a good faith investigation to determine if he/she has custody of any of the requested records. It shall be the responsibility of each such potential Records Custodian to promptly inform the SERS Open-Records Officer whether he/she has possession of any of the requested records, and, if so, the estimated cost of providing such records.

If any such potential Records Custodian knows or believes that another official, employee or agent of SERS has possession of the requested records, he/she shall forward the RTKL Request to that person and shall inform the SERS Open-Records Officer of this immediately.

The SERS Open-Records Officer shall issue a final Response within the aforementioned time periods, which Response shall specify that the RTKL Request is: (1) granted; (2) denied; or (3) granted in part and denied in part. If a RTKL Request is denied, in whole or in part, the SERS Open-Records Officer must specify the following in the Response:

- A description of the records requested;
- The specific reasons for the denial, including a citation of supporting legal authority (if based on a determination that a record is not a Public Record, the specific reasons for such determination shall be included):
- The typed or printed name, title, business address, business telephone number, and signature of the SERS Open-Records Officer on whose authority the denial is issued;
- The Mailing Date of the Response;
- The procedure to appeal the denial of access under the RTKL.

**Note:** SERS is not required to create a Public Record that does not already exist, nor is SERS required to compile, maintain, format or organize a Public Record in a manner that the agency does not currently do so.

#### **VI. Physical Access to Public Records**

The Public Records of SERS shall be accessible for inspection and duplication by any Requester during the hours of 8:30 a.m. to 4 p.m. on any Business Day. A Requester wishing to inspect SERS' Public Records on site shall provide a written request to the SERS Open-Records Officer who shall determine on an ad hoc basis the time and place where such Public Records shall be made available to a Requester and the manner of duplication that shall be available.

SERS may maintain certain Public Records in electronic form. For those who wish to inspect a paper copy of portions of such Public Records, SERS shall print the portions of such Public Records that the Requester wishes to see. If the Requester wants to keep the pages from such printed portions or to receive the record in electronic form, SERS will charge a fee.

#### **VII. Notice to Member**

At the time SERS issues a Response to a RTKL Request for records regarding a member account, SERS may provide written notice to that member that identifies (a) the name of the Requester and (b) the information provided by SERS. For those RTKL Requests that seek records regarding the accounts of multiple members, notice may be provided by publication via the web site, newsletter or any other reasonable method.

Neither members nor employers have the right to approve or disapprove a request for SERS' records. Records regarding a member may be furnished to current agency employers and former employers upon request without written notice to the member.

#### **VIII. Member Authorization for Release of Information**

In addition to any release of records in response to a RTKL Request, any information available to a member from his/her own member file shall be released upon written authorization from such member and confirmation by SERS.

#### **IX. Redaction**

SERS shall redact those portions of a record that are prohibited from disclosure and may redact those portions that otherwise are not public records. The Public Record portions of a record that may remain after such redaction shall be subject to release.

#### **X. Fees**

The fees applicable to all RTKL Requests shall be determined by the Open-Records Officer.

• Charges for other services and materials will be determined on a case-by-case basis based upon the applicable cost to SERS. These include, but are not limited to, charges for the following:

- A) PC Diskette or Compact Disc copies
- B) Microfilm/microfiche and other forms of copies
- C) Postage
- D) Redaction (based on hourly wage and benefits)
- E) User fee for printing or copying records from SERS' computers
- F) Certification of copies
- G) Employee time for compiling and printing requested records (based on hourly wage and benefits)
- H) Employee time for compiling electronic disk of requested records (based on wage and benefits)
- I) Computer time for compiling requested records

The SERS Open-Records Officer, after consultation with the Executive Director, may waive fees on the basis of hardship or de minimus charges.

**Note:** The SERS Open-Records Officer may require a Requester to prepay if the fees required to fulfill the request are expected to exceed \$100. If SERS requires prepayment, the time for providing the records as to which SERS has indicated it will grant access shall be tolled from the time the demand for prepayment is made until such time as payment is actually received.

A Requester who is informed that his/her RTKL Request has been granted but that prepayment is necessary due to the anticipated costs exceeding \$100 shall have 30

calendar days to make payment to SERS. If SERS does not receive payment by the end of this period, SERS will consider the RTKL Request to have been withdrawn and will purge the file accordingly. Any future attempt to procure the identified records after this time must be done by initiating a new RTKL Request.

#### **XI. Appeals.**

If a written request for access to a record is denied or deemed denied, the Requester may file an appeal with the Office of Open Records within 15 business days of the mailing date of SERS' response or within 15 business days of a deemed denial. The appeal shall state the grounds upon which the Requester asserts that the record is a Public Record and shall address any grounds stated by SERS for delaying or denying the request.

LEONARD KNEPP,  
*Secretary*

[Pa.B. Doc. No. 09-242. Filed for public inspection February 6, 2009, 9:00 a.m.]

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## **STATE REAL ESTATE COMMISSION**

**Bureau of Professional and Occupational Affairs v.  
Melquisidec Caraballo, Doc. No. 2191-56-2008**

On December 12, 2008, Melquisidec Caraballo, license no. RS283227, of Allentown, Lehigh County, was suspended under the Order of the Court of Common Pleas of Lehigh County dated December 12, 2008, which the Court issued under 23 Pa.C.S. § 4355 (relating to denial or suspension of licenses). The suspension is effective immediately.

Individuals may obtain a copy of the order by writing to Cynthia K. Montgomery, Senior Counsel in Charge, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649.

ANNIE HANNA CESTRA,  
*Chairperson*

[Pa.B. Doc. No. 09-243. Filed for public inspection February 6, 2009, 9:00 a.m.]

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