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# PENNSYLVANIA BULLETIN

Volume 37

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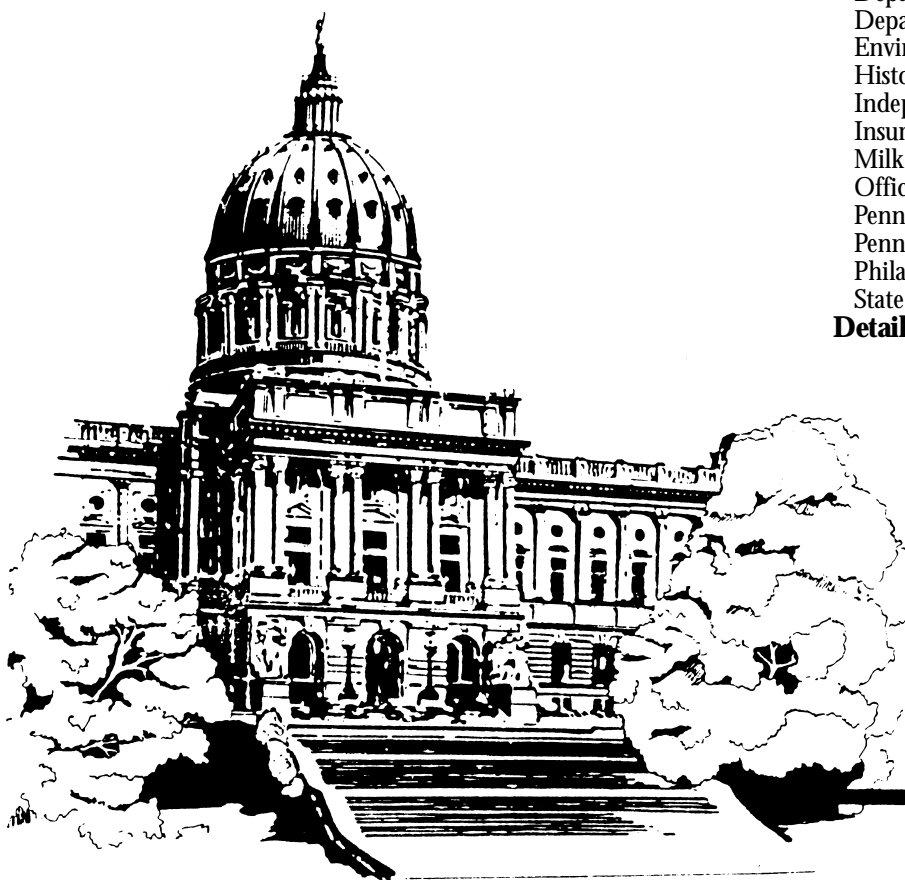
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## Part I

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Insurance Department  
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Pennsylvania Public Utility Commission  
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State Real Estate Commission

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

**No. 390, May 2007**

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# READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

## ***Pennsylvania Bulletin***

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

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

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

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

### **Adoption, Amendment or Repeal of Regulations**

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

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

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

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

### **Citation to the *Pennsylvania Bulletin***

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

### ***Pennsylvania Code***

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

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

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

### **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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## List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2007.

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# THE COURTS

## Title 255—LOCAL COURT RULES

### PIKE COUNTY

#### Promulgation of Civil Local Rule 227.3; No. 709-2007-Civil

##### Order

*And Now*, this 1st day of May, 2007, the Court *Orders* the following:

1. Local Rule of Civil Procedure 227.3 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 Civil Procedural Rules Committee;

d. Provide one (1) copy of this *Order* and the Local Rule to each member of the Pike County Bar Association who maintains 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*

JOSEPH F. KAMEEN,  
*President Judge*

#### **Local Rule 227.3—Transcripts of Testimony**

A. Either party, may petition the Court to transcribe the record, or any portion thereof of any hearing or trial, at the completion of said hearing or trial. Oral Arguments shall not be transcribed.

B. The formal Motion for Transcript shall be in writing and filed with the Prothonotary.

a. The Motion shall set forth the specific hearing and/or trial dates to be transcribed.

b. Copies of the Motion shall be delivered to:

- i. The court reporter
- ii. The district court administrator
- iii. The opposing party, and
- iv. In the case of an appeal, to the clerk of the appellate court.

C. For an appeal, the transcript request shall be included as part of the notice of appeal, pursuant to Pa.R.A.P. 1911.

D. Upon the Court's approval of the party's Motion for Transcript, the Court Reporter shall require a deposit of up to one-half of the estimated charge for the transcript as a condition precedent to starting transcription.

E. Upon completion of the transcript, the Court Reporter shall request any balance due on the transcript. The Court Reporter may refuse to deliver the transcript until such balance is fully paid.

F. The Completed transcript shall be filed with the Prothonotary of the Court. The certified copy shall be sent to the petitioning party.

G. The reporter who takes the notes or monitors the recording of a proceeding shall certify in proper form the accuracy of the transcription.

[Pa.B. Doc. No. 07-881. Filed for public inspection May 18, 2007, 9:00 a.m.]

### PIKE COUNTY

#### Promulgation of Criminal Local Rule 115; No. 710-2007-Civil; No. 63-2007-M. D.

##### Order

*And Now*, this 1st day of May, 2007, the Court *Orders* the following:

1. Local Rule of Criminal Procedure 115 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 Rules Committee;

d. Provide one (1) copy of this *Order* and the Local Rule to each member of the Pike County Bar Association who maintains 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*

JOSEPH F. KAMEEN,  
*President Judge*

#### **Local Rule 115—Transcripts of Testimony**

A. The Commonwealth or the Defendant may petition the Court to transcribe the record, or any portion thereof of any hearing or trial, at the completion of said hearing or trial.

B. The formal Motion for Transcript shall be in writing and filed with the Prothonotary.

a. The Motion shall set forth the specific hearing and/or trial dates to be transcribed.

b. Copies of the Motion shall be delivered to:

- i. The court reporter
- ii. The district court administrator

iii. The opposing party, and

iv. In the case of an appeal, to the clerk of the appellate court.

C. For an appeal, the transcript request shall be included as part of the notice of appeal, pursuant to Pa.R.A.P. 1911.

D. Upon the Court's approval of the party's Motion for Transcript, the Court Reporter shall require a deposit of up to one-half of the estimated charge for the transcript as a condition precedent to starting transcription. The Commonwealth and Public Defenders shall be exempt from this requirement.

E. Upon completion of the transcript, the Court Reporter shall request any balance due on the transcript. The Court Reporter may refuse to deliver the transcript until such balance is fully paid. The Commonwealth and Public Defenders shall be exempt from this requirement.

F. The Completed transcript shall be filed with the Prothonotary of the Court, The certified copy shall be sent to the petitioning party.

G. The reporter who takes the notes or monitors the recording of a proceeding shall certify in proper form the accuracy of the transcription.

[Pa.B. Doc. No. 07-882. Filed for public inspection May 18, 2007, 9:00 a.m.]

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# RULES AND REGULATIONS

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### STATE REAL ESTATE COMMISSION [49 PA. CODE CH. 35]

#### Consumer Notice—Commercial Property Excep- tion

The State Real Estate Commission (Commission) amends § 35.284 (relating to disclosure of business relationships) to read as set forth in Annex A.

#### *Omission of Proposed Rulemaking*

Under section 204 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204), known as the Commonwealth Documents Law (CDL), the Board is authorized to omit the procedures for proposed rulemaking in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) if the Board finds that the criteria of section 204 of the CDL are met.

Under section 204(3) of the CDL, proposed rulemaking has been omitted as unnecessary because the rulemaking is incorporating the statutory exception for commercial property transactions mandated by the act of October 27, 2006 (P. L. 1189, No. 125) (Act 125), which was effective on January 25, 2007.

#### *Description of the Final-Omitted Rulemaking*

Section 608 of the Real Estate Licensing and Registration Act (RELRA) (63 P. S. § 455.608) requires real estate licensees to provide consumers with a "consumer notice" that sets forth the various agency relationships licensees are permitted to have with consumers. The consumer notice was to be provided to every consumer at the initial interview regardless of the type of property.

Act 125 carved out an exception from the consumer notice requirement for transactions involving the sale or lease of commercial property to consumers who are not individuals. This final-omitted rulemaking incorporates the commercial property exception in § 35.284. The final-omitted rulemaking is necessary to avoid confusion. Without it, the Commission's regulations would conflict with amended section 608 of the RELRA.

#### *Statutory Authority*

Section 404 of the RELRA (63 P. S. § 455.404) authorizes the Commission to promulgate and adopt regulations to administer and effectuate the purposes of the RELRA. Amended section 608 of the RELRA requires licensees to provide the consumer notice to consumers prior to substantive discussion in real estate transactions, except for the sale or lease of commercial property to consumers who are not individuals.

#### *Fiscal impact and Paperwork Requirements*

The final-omitted rulemaking will not have a fiscal impact on, or create additional paperwork for, the regulated community or the political subdivisions of the Commonwealth. It eliminates the paperwork requirement for real estate transactions involving the sale or lease of commercial property to consumers who are not individuals.

#### *Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on March 30, 2007, the Commission submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and the House Professional Licensure Committee (HPLC). On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on April 18, 2007, the final-omitted rulemaking was approved by the HPLC. The final-omitted rulemaking was deemed approved by the SCP/PLC on May 2, 2007. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 3, 2007, and approved the final-omitted rulemaking.

#### *Additional Information*

For additional information, submit inquiries to Patricia A. Ridley, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-3658, ST-REALESTATE@state.pa.us.

#### *Findings*

The Commission finds that:

(1) Public notice of the Commission's intention to amend its regulations under sections 201 and 202 of the CDL has been omitted under the authority of section 204 of the CDL because public comment is unnecessary in that the amendment incorporates a statutory exception required by Act 125.

(2) The amendment of the Commission's regulation in the manner provided in this order is necessary and appropriate for the administration of the RELRA.

#### *Order*

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

(a) The regulations of the Commission, 49 Pa. Code Chapter 35, are amended by amending § 35.284 to read as set forth in Annex A.

(b) The Commission shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to form and legality as required by law.

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

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

JOSEPH J. MCGETTIGAN, Sr.,  
Chairperson

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 37 Pa.B. 2355 (May 19, 2007).)*

**Fiscal Note:** 16A-5617. No fiscal impact; (8) recommends adoption.

**Annex A****TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS****PART I. DEPARTMENT OF STATE****Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS****CHAPTER 35. STATE REAL ESTATE COMMISSION****Subchapter E. STANDARDS OF CONDUCT AND PRACTICE****GENERAL ETHICAL RESPONSIBILITIES****§ 35.284. Disclosures of business relationships.**

(a) *Disclosure to consumers seeking to sell or purchase residential or commercial real estate.*

(1) Except as provided in subsection (e), a licensee shall provide the disclosure summary in § 35.336 (relating to disclosure summary for the purchase or sale of residential or commercial real estate or for the lease of residential or commercial real estate when the licensee is working on behalf of the tenant) to consumers seeking to purchase or sell real estate at the initial interview if the interview occurs in person.

(2) If the initial interview does not occur in person, the licensee shall provide the oral disclosure in § 35.339 (relating to the oral disclosure) at the initial interview and the written disclosure statement in § 35.336 no later than the earlier of:

(i) The first meeting that the licensee has in person with the consumer after the initial interview.

(ii) The time the licensee or any person working with the licensee first shows a property to the consumer.

(b) *Disclosure to tenants seeking to lease residential or commercial real estate.*

(1) Except as provided in subsection (e), a licensee who is working on behalf of the tenant shall provide the disclosure summary in § 35.336 as required in subsection (a).

(2) Except as provided in subsection (e), a licensee who is working on behalf of the owner shall provide the disclosure summary in § 35.337 (relating to disclosure summary for the lease of residential or commercial real estate when the licensee is working on behalf of the owner) to tenants seeking to lease residential or commercial property at the initial interview.

(c) *Disclosure to consumers seeking to sell time shares.* A licensee shall provide the disclosure summary in § 35.338 (relating to disclosure summary for time-share estates) to consumers seeking to purchase time-share estates at the initial interview.

(d) *Signed disclosure.* A licensee shall provide a copy of the signed disclosure to the consumers referenced in subsections (a)—(c) and retain the signed acknowledgment under § 35.286 (relating to retention and production of records). If a consumer refuses to sign the acknowledgment, the refusal shall be noted on the acknowledgment.

(e) *Exception.* The disclosures required under subsections (a) and (b) do not apply to transactions involving the sale or lease of commercial property, as defined in section 201 of the act (63 P. S. § 455.201), to consumers who are not individuals.

[Pa.B. Doc. No. 07-883. Filed for public inspection May 18, 2007, 9:00 a.m.]

**Title 58—RECREATION****PENNSYLVANIA GAMING CONTROL BOARD****[58 PA. CODE CHS. 433, 440, 461 AND 465]****Licensing, Slot Machine Testing, Certification and Control and Accounting and Internal Control Requirements**

Under the Pennsylvania Gaming Control Board's (Board) Resolutions No. 2006-5-REG, 2005-3-REG and 2006-2-REG, the Board has the authority to amend the temporary regulations adopted on January 19, 2006, June 16, 2005, and February 2, 2006, as it deems necessary in accordance with the purpose of 4 Pa.C.S. Part II (relating to gaming) enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71), as amended by the act of November 1, 2006 (P. L. 1243, No. 135) and to further the intent of Act 71. To respond to changes in the Board's licensing, slot machine testing, certification and control and accounting and internal control requirements, the Board has decided to make changes to the temporary regulations dated January 19, 2006, June 16, 2005, and February 2, 2006, as deposited with the Legislative Reference Bureau (Bureau) and published at 36 Pa.B. 679 (February 4, 2006), 35 Pa.B. 4045 (July 16, 2005) and 36 Pa.B. 910 (February 18, 2006).

Therefore, the Board deposited with the Bureau amendments to Chapters 433, 440, 461 and 465. The amendments are effective as of April 9, 2007.

*Order*

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

(a) The Board, acting under the authority of the Act 71, adopts the amendments to the temporary regulations adopted by resolution at the April 9, 2007, public meeting. The amendments to the temporary regulations pertain to the Board's licensing, slot machine testing, certification and control and accounting and internal control requirements.

(b) The temporary regulations of the Board, 58 Pa. Code Chapters 433, 440, 461 and 465, are amended by amending §§ 433.105, 440.3, 461.8, 461.10, 461.12, 465.3, 465.12, 465.18, 465.19 and 465.25 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(c) The amendments are effective April 9, 2007.

(d) The amendments to the temporary regulations shall be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The Chairperson of the Board shall certify this order and deposit the amendments to the temporary regulations with the Bureau as required by law.

THOMAS A. DECKER,  
Chairperson

**Fiscal Note:** 125-69. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART VII. GAMING CONTROL BOARD**

**Subpart B. LICENSING, REGISTERING,  
CERTIFYING AND PERMITTING**

**CHAPTER 433. PRINCIPAL LICENSES**

**§ 433.105. Institutional investors.**

(a) Notwithstanding any provision to the contrary in this chapter, an institutional investor that owns less than 15% of the outstanding voting securities of a publicly traded intermediary or holding company of an applicant for or holder of a manufacturer license, manufacturer designee license, supplier license, management company license or junket enterprise license will not be required to be licensed as a principal if the following conditions are satisfied:

(1) The institutional investor or the applicant or licensee files a notice with the Board containing a description of the institutional investor's interests.

(2) The institutional investor has filed a Schedule 13G with the SEC, and the institutional investor continues to be eligible to file the Schedule 13G.

(b) Notwithstanding any provision to the contrary in this chapter, an institutional investor that owns less than 10% of the outstanding voting securities of an intermediary or holding company of a slot machine licensee or applicant shall be eligible to receive a waiver from the requirements of licensure from the Board by filing a Principal Waiver-Entity Form. The waiver request must include, at a minimum, a certification by the institutional investor stating that the institutional investor has no present involvement in, and no intention of influencing or affecting the affairs of, the slot machine applicant or licensee or an intermediary or holding company of the slot machine applicant or licensee and will give the Board 30 days notice if the institutional investor intends to do so.

(c) Notwithstanding subsection (b), an institutional investor that has been granted a waiver shall be permitted to vote on matters put to the vote of the outstanding security holders.

(d) A holding company of an institutional investor may file a notice or waiver request on behalf of its institutional investor subsidiaries provided that the holding company does not own more than 5% or more of the securities of the intermediary or holding company of the applicant or licensee.

(e) A registered investment adviser or a holding company of a registered investment adviser may file a notice or waiver request, when permitted, on behalf of the registered investment companies that hold securities beneficially owned by the registered investment adviser.

**CHAPTER 440. MANAGEMENT COMPANIES**

**§ 440.3. Management contracts generally.**

\* \* \* \* \*

(e) A management contract submitted for Board review and approval must enumerate with specificity the responsibilities of the slot machine licensee and management company under the terms and conditions of the management contract. At a minimum, the terms should address whether, and to what extent, the management company is involved in the following:

(1) Operation of the following departments: information technology, internal audit, finance, slot management, security and surveillance.

\* \* \* \* \*

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

**CHAPTER 461. SLOT MACHINE TESTING AND  
ASSOCIATED EQUIPMENT**

**§ 461.8. Gaming vouchers.**

\* \* \* \* \*

(e) Prior to issuing a gaming voucher, each slot machine licensee shall establish a system of internal controls for the issuance and redemption of gaming vouchers. The internal controls shall be submitted and approved by the Board under § 465.3 (relating to internal control systems and audit protocols) and address:

\* \* \* \* \*

(5) The duties and responsibilities of the information technology, internal audit, slot operations and finance departments, respectively, and the level of access for each position with regard to the gaming voucher system.

\* \* \* \* \*

(g) At the end of each gaming day, the gaming voucher system must generate reports, as approved by the Board. The reports shall be provided to the finance department, either directly by the system or through the information technology department, and contain the following information, at a minimum:

\* \* \* \* \*

(l) Gaming vouchers redeemed at cashiering locations shall be transferred to the finance department on a daily basis. Gaming vouchers redeemed by slot machines shall be counted in the count room and forwarded to the finance department upon the conclusion of the count process. Gaming vouchers redeemed at automated gaming voucher redemption machines shall be forwarded to finance upon the conclusion of the cashiers' cage reconciliation process. Finance department representatives with no incompatible functions shall perform, at a minimum, the following:

\* \* \* \* \*

**§ 461.10. Automated gaming voucher and coupon redemption machines.**

\* \* \* \* \*

(g) Each automated gaming voucher and coupon redemption machine must have, at a minimum, the following:

(1) One lock securing the compartment housing the storage box, one lock securing the storage box within the compartment, the keys to which must be different from each another. The key to the compartment housing the storage box shall be controlled by the slot operations department. The key to the lock securing the storage box within the compartment shall be controlled by the finance department.

(2) One lock securing the compartment housing the currency cassettes, the key to which shall be controlled by the finance department.

(3) One lock securing the compartment housing the coin storage container, the key to which shall be controlled by the finance department.

(4) One lock securing the contents of the storage box, the key to which must be different from the keys referenced in paragraphs (1)—(3). This key shall be controlled by an employee of the finance department other than the employee controlling the keys referenced in paragraphs (1)—(3).

\* \* \* \* \*

(i) Each automated gaming voucher and coupon redemption machine's currency cassettes must be designed to preclude access to its interior and must render itself inoperable if unauthorized access occurs. The key to each currency cassette shall be controlled by the finance department.

\* \* \* \* \*

(o) An automated gaming voucher and coupon redemption machine must detect, display and record electronically the following error conditions in paragraphs (1)—(4). These error conditions must disable the automated gaming voucher and coupon redemption machine and prohibit new transactions and may only be cleared by either the finance department or slot operations department.

\* \* \* \* \*

**§ 461.12. Progressive slot machines.**

\* \* \* \* \*

(b) Each slot machine that offers a progressive jackpot which may increase in value based upon wager and is adjusted and displayed by a device other than the approved program that controls the operation of the slot machine, referred to in this section as a progressive controller, must have the following features:

\* \* \* \* \*

(7) Dual key control by the security department and finance, or alternative key controls as the Board approves, of the compartment housing the microprocessor or other unit that controls the progressive meter or meters. The compartment shall be in a location approved by the Board.

\* \* \* \* \*

(k) The amount indicated on the progressive meter or meters and coin in meter on each slot machine governed by subsection (b) shall be recorded on a progressive slot summary report at least once every 7 calendar days and each report shall be signed by the preparer. If not prepared by the finance department, the progressive slot summary report shall be forwarded to the finance department by the end of the gaming day on which it is prepared. A representative of the finance department shall be responsible for calculating the correct amount that should appear on a progressive meter. If an adjustment to the progressive meters is necessary, the adjustment shall be made by a member of the slot operations department as follows:

(1) Supporting documentation shall be maintained to explain any addition or reduction in the registered amount on the progressive meter. The documentation must include the date, asset number of the slot machine, the amount of the adjustment and the signatures of the

finance department member requesting the adjustment and of the slot operations department member making the adjustment.

\* \* \* \* \*

**CHAPTER 465. ACCOUNTING AND INTERNAL CONTROLS**

**§ 465.3. Internal control systems and audit protocols.**

\* \* \* \* \*

(g) If during the 30-day review period in subsection (f), the Board's Bureau of Corporate Compliance and Internal Controls preliminarily determines that a procedure in a submission contains a substantial and material insufficiency likely to have a direct and materially adverse impact on the integrity of slot operations or the control of gross terminal revenue, that Bureau, by written notice to the slot machine licensee, will:

\* \* \* \* \*

(2) Direct that the 30 calendar day review period in subsection (f) is tolled and that any internal controls at issue not be implemented until approved by the Executive Director.

\* \* \* \* \*

(j) Notwithstanding any provision to the contrary, the submission of changes or amendments to a jobs compendium involving changes or amendments to license categories, job codes, job functions, reporting lines (including new and deleted positions) or job titles in the information technology, internal audit, security, finance, slot operations or surveillance departments must be accompanied by the attestations required in subsection (b) and be submitted to the Board by the end of the business day of implementation.

\* \* \* \* \*

**§ 465.12. Slot machine licensee's organization.**

\* \* \* \* \*

(b) In addition to satisfying the requirements of subsection (a), a slot machine licensee's system of internal controls must include, at a minimum, the following departments and supervisory positions, each of which must be categorized as mandatory and must cooperate with, yet perform independently of, all other mandatory departments and supervisory positions of the slot machine licensee. Notwithstanding the foregoing, a department or supervisor of a slot machine licensee that is not required or authorized by this section may operate under or in conjunction with a mandatory department or supervisor if the organizational structure is consistent with the standards contained within the act and subsection (a). Mandatory departments and supervisory positions are as follows:

\* \* \* \* \*

(3) An information technology department supervised by a person located at the licensed facility who functions, for regulatory purposes, as the information technology director. The information technology director shall be licensed as a key employee and be responsible for the quality, reliability and accuracy of all slot computer systems used by the slot machine licensee regardless of whether data, software or systems are located within or outside the licensed facility. The information technology director shall further be responsible for the security and physical integrity of, and the accountability and maintenance of, the following:

\* \* \* \* \*

(iv) The computerized slot monitoring system utilized by the slot machine licensee. Specifically, the information technology director shall ensure that:

\* \* \* \* \*

(C) Computerized jackpot payout systems utilized by the slot machine licensee are configured to require that any modification of \$100 or more to the original amount recorded on a computerized jackpot payout or system override is authorized by two finance department employees, one of whom is in a position of greater authority than the individual preparing the jackpot payout.

(D) Procedures and controls are in place that define and limit interaction between both the slot operations department and finance department and the computerized slot monitoring system including access to system menus, the establishment of slot machine profile parameters and the ability of each department to access, delete, create or modify information contained in the slot monitoring system.

\* \* \* \* \*

(6) A finance department supervised by a person located at the licensed facility who functions, for regulatory purposes, as the director of finance. The director of slot accounting shall be licensed as a key employee and shall be responsible for all finance functions including the preparation and control of records and data, the control of stored data, the control of unused forms, the accounting for and comparison of operational data and forms and the control and supervision of the cashiers' cage, satellite cages and the count room. In addition to the requirement that the director of finance be licensed as a key employee, the supervisor of the cashiers' cage shall, on all shifts, be licensed as a key employee.

\* \* \* \* \*

**§ 465.18. Bill validators and slot cash storage boxes.**

\* \* \* \* \*

(d) The slot cash storage box shall be secured to the bill validator by two separate locks, the keys to which shall be different from each other, one of which may be the lock to the belly door or main door of the slot machine and a second of which is the lock on the release mechanism on the slot cash storage box. If there is not a full door on the bill validator, the lock on the release mechanism on the slot cash storage box must detect and display whether it is locked or unlocked and communicate whether it is locked or unlocked to a slot monitoring system. The key to the belly door or main door of the slot machine shall be maintained and controlled by the slot operations department. The key to the lock securing the release mechanism on the slot cash storage box shall be maintained and controlled by the security department. The security department shall establish a sign-out and sign-in procedure with regard to this key which includes documentation of this transfer.

(e) A slot cash storage box must:

(1) Have at least one lock securing the contents of the slot cash storage box, the key to which shall be maintained and controlled by the finance department.

\* \* \* \* \*

**§ 465.19. Transportation of slot cash storage boxes to and from bill validators; storage.**

(a) Slot machine licensees shall place on file with the Board, in the manner prescribed by the Board, a schedule

setting forth the specific times at which slot cash storage boxes will be brought to or removed from the bill validators along with specifications as to what areas of the gaming floor will be dropped on each pick-up day and the specific transportation route to be utilized from the gaming floor to the count room. Slot machine licensees shall also maintain immediately available to the Board and the Pennsylvania State Police, a current list, with license numbers, of the employees participating in the transportation of slot cash storage boxes. Any deviation from the schedule setting forth the specific times at which slot cash storage boxes will be brought to or removed from the bill validators, a change in the areas to be dropped or the transportation route to the count room shall be noticed to the Board in advance in a manner prescribed by the Board.

(b) Slot cash storage boxes removed from bill validators shall be transported directly to, and secured in, the count room or a trolley storage area located immediately adjacent thereto, configured and secured in a manner approved by the Board, by a minimum of three employees, at least one of which is a member of the security department and at least one of which is a member of the finance department.

(1) Upon its removal from a bill validator, a slot cash storage box shall be placed immediately in an enclosed trolley which is secured by two separately keyed locks. The key to one lock shall be maintained and controlled by the finance department. The key to the second lock shall be maintained and controlled by the security department. Access to the security department's key shall be controlled, at a minimum, by a sign-out and sign-in procedure. The security department key shall be returned to its secure location immediately upon the completion of the collection and transportation of the slot cash storage boxes.

(2) Prior to the movement of any trolley containing slot cash storage boxes from the gaming floor into the count room, the drop team supervisor shall verify that the number of slot cash storage boxes being transported from the gaming floor equals the number of slot cash storage boxes scheduled to be collected that day.

(3) A slot cash storage box being replaced by an emergency slot cash storage box shall be transported to, and secured in, the count room by a minimum of three employees, at least one of which is a member of the finance department and at least one of which is a member of the security department.

(c) Slot cash storage boxes not contained in a bill validator, including emergency slot cash storage boxes which are not actively in use, shall be stored in the count room or other secure area outside the count room approved by the Board, in an enclosed storage cabinet or trolley and secured in the cabinet or trolley by a separately keyed, double locking system. The key to one lock shall be maintained and controlled by the finance department and the key to the second lock shall be maintained and controlled by a security department. Access to the security department's key shall be limited to a supervisor of that department.

(d) Notwithstanding subsection (b), the security department may, immediately prior to the commencement of the count process, issue its key to the storage cabinet or trolley to a count room supervisor for the purpose of allowing count room personnel to gain access to the slot cash storage boxes to be counted. A key transferred from the custody of the security department to the count room



supervisor shall be returned immediately following the conclusion of the count of the slot cash storage boxes and the return of any empty emergency drop boxes and slot cash storage boxes to their respective storage cabinet or trolley by the count room supervisor. The security department shall establish a sign-out and sign-in procedure which includes documentation of this transfer.

**§ 465.25. Count room characteristics.**

(a) Each slot machine licensee shall have adjacent or reasonably proximate to the cashiers' cage a room, to be known as a count room, specifically designated, designed and used for counting the contents of slot cash storage boxes.

(b) The count room shall be designed and constructed to provide maximum security for the materials housed therein and for the activities conducted therein. Each slot machine licensee shall design and construct a count room with the following security measures:

(1) A metal door installed on each entrance and exit equipped with an alarm device which audibly signals the surveillance department monitoring room and the security department whenever a door to the count room is opened at times other than those times for which the slot machine licensee has provided prior notice under § 465.26 (relating to counting of slot cash storage boxes).

(2) Each entrance and exit door must be equipped with two separate locks, the keys to which must be different from each other and different from the lock securing the contents of each slot cash storage box. The key to one of the locks shall be maintained and controlled by the security department and the key to the other lock shall be maintained and controlled by finance. Sign-out and sign-in procedures must be established for both keys.

(c) The following must be located within the count room:

(1) A table constructed of clear glass or similar material for the emptying, counting and recording of the contents of slot cash storage boxes.

(2) Surveillance cameras capable of the following:

(i) Effective video monitoring of the entire count process.

(ii) Effective video monitoring of the interior of the count room, including any storage cabinets or trolleys used to store slot cash storage boxes and any Board-approved trolley storage area located adjacent to the count room.

[Pa.B. Doc. No. 07-884. Filed for public inspection May 18, 2007, 9:00 a.m.]

**PENNSYLVANIA GAMING CONTROL BOARD  
[58 PA. CODE CH. 441]  
Slot Machine Licenses**

Under the Pennsylvania Gaming Control Board's (Board) Resolution No. 2005-4-REG, the Board has the authority to amend the temporary regulations adopted on July 21, 2005, as it deems necessary in accordance with the purpose of 4 Pa.C.S. Part II (relating to gaming) enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71), as amended by the act of November 1, 2006 (P. L. 1243, No. 135) and to further the intent of Act 71. To respond to changes in the Board's licensing program for

Category 3 slot machine licensees, the Board has decided to make changes to the temporary regulations, dated July 21, 2005, as deposited with the Legislative Reference Bureau (Bureau) and published at 35 Pa.B. 4543 (August 6, 2005).

Therefore, the Board has deposited with the Bureau amendments to Chapter 441 (relating to slot machine licenses). The amendments are effective as of April 9, 2007.

*Order*

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

(a) The Board, acting under the authority of the Act 71, adopts the amendments to the temporary regulations adopted by resolution at the April 9, 2007, public meeting. The amendments to the temporary regulations pertain to the Board's licensing program for Category 3 slot machine licensees.

(b) The temporary regulations of the Board, 58 Pa. Code Chapter 441, are amended by amending §§ 441.1 and 441.23a to read as set forth in Annex A.

(c) The amendments are effective April 9, 2007.

(d) The amendments to the temporary regulations shall be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The Chairperson of the Board shall certify this order and deposit the amendments to the temporary regulations with the Bureau as required by law.

THOMAS A. DECKER,  
*Chairperson*

**Fiscal Note:** 125-70. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART VII. GAMING CONTROL BOARD**

**Subpart B. LICENSING, REGISTERING,  
CERTIFYING AND PERMITTING**

**CHAPTER 441. SLOT MACHINE LICENSES**

**§ 441.1. Definitions.**

For purposes of this subpart, the following words and terms have the following meanings, unless the context clearly indicates otherwise:

*Amenities*—Ancillary activities, services or facilities in which a registered guest or the transient public, in return for non-de minimis consideration, may participate at a resort hotel, including, but not limited to:

(i) Sports and recreational activities and facilities such as a golf course or golf driving range, tennis courts or swimming pools.

(ii) Health spa.

(iii) Convention, meeting and banquet facilities.

(iv) Entertainment facilities.

(v) Restaurant facilities.

*Applicant*—A person who applies to the Board to receive a slot machine license as defined in this section.

*Developer*—A person engaged by a slot machine applicant or licensee to construct a proposed licensed facility or to otherwise make land or buildings suitable for use as a licensed facility.

*Guest rooms under common ownership*—A room or group of rooms, including timeshare units, that are owned by a well-established resort hotel and that are available for rental.

*Licensing hearing*—A hearing before the Board in which an applicant for a grant of a permanent slot machine license or a Conditional Category 1 slot machine license will have an opportunity to present to the Board:

- (i) Evidence concerning its eligibility for a license.
- (ii) Evidence concerning its suitability for a license.
- (iii) Evidence of how its proposed facility and operation addresses the criteria identified in section 1325(c) of the act (relating to license or permit issuance).
- (iv) For applicants seeking licensure under section 1304 of the act (relating to Category 2 slot machine license), evidence which sets forth a comparison between the applicant and other applicants within the same category of licensure on the standards and criteria in the act.

*Non-de minimis consideration*—A payment of fair market value of at least \$10 per patron paid to the resort hotel for use of one or more amenities.

*Organization*—All legal business entities that are under common ownership or control, including, but not limited to, affiliates, subsidiaries, intermediaries and holding companies.

*Patron of amenities*—An individual who is a registered attendee of a convention, meeting or banquet event or a participant in a sport or recreational event or any other social, cultural or business event held at a resort hotel or who participates in one or more of the amenities provided to registered guests of the resort hotel.

*Slot machine license*—A Category 1 slot machine license under section 1302 of the act (relating to Category 1 slot machine license), a Conditional Category 1 slot machine license under section 1315 of the act (relating to Conditional Category 1 license), a Category 2 slot machine license under section 1304 of the act (relating to Category 2 slot machine license) and a Category 3 slot machine license under section 1305 of the act (relating to Category 3 slot machine license).

*Well-established resort hotel*—A resort hotel having at least 275 guest rooms under common ownership at the time of application for a Category 3 slot machine license and having substantial year-round recreational guest amenities.

**§ 441.23a. Category 3 slot machine licensees.**

(a) To qualify as a well-established resort hotel with substantial year-round recreational guest amenities, the resort hotel must offer on its premises a complement of amenities characteristic of a well-established resort hotel, including the following:

- (1) Sports and recreational activities and facilities such as a golf course or golf driving range.
- (2) Tennis courts.
- (3) Swimming pools or a water park.
- (4) Health spa.
- (5) Meeting and banquet facilities.
- (6) Entertainment facilities.
- (7) Restaurant facilities.
- (8) Downhill or cross-country skiing facilities.
- (9) Bowling lanes.
- (10) Movie theaters.

(b) A Category 3 slot machine applicant shall submit, as part of its application and its internal controls required under Chapter 465 (relating to accounting and internal controls), a plan detailing how the applicant will monitor the gaming area to ensure compliance with Chapters 503, 511 and 513 (relating to self-exclusion; persons required to be excluded; and underage gaming) and that only the following persons are permitted to enter the gaming area:

- (1) Registered overnight guests.
- (2) Patrons of one or more amenities.
- (3) Authorized employees.
- (4) Other persons authorized by the Board.

(c) Individuals holding a valid seasonal or year-round membership, which has been approved by the Board and entitles the individual to use one or more of the amenities at the well-established resort hotel holding the Category 3 slot machine license, may be allowed on the gaming floor at any time. The Board will base its approval of a membership on the duration of the membership, the amenities covered by the membership and whether the fee charged for the membership represents the fair market value for the use of the amenity or amenities.

(d) A patron of an amenity at a well-established resort hotel holding a Category 3 slot machine license may be permitted unlimited access to the gaming floor for one 24-hour period within 72 hours of the use of the amenity.

[Pa.B. Doc. No. 07-885. Filed for public inspection May 18, 2007, 9:00 a.m.]

# PROPOSED RULEMAKING

## PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 493a, 494a, 495a,  
497a AND 499a]

### Practice and Procedure

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. § 1205 (relating to license or permit application hearing process; public input hearings), proposes to add Chapters 493a, 494a, 495a, 497a and 499a to read as set forth in Annex A.

#### *Purpose of the Proposed Rulemaking*

Under 4 Pa.C.S. § 1203 (relating to temporary regulations), the Board initially adopted temporary regulations in Chapters 493 and 494 at 36 Pa.B. 1578 (April 1, 2006) and in Chapters 495, 497 and 499 at 35 Pa.B. 4045 (July 16, 2005). Under 4 Pa.C.S. Part II (relating to gaming), the temporary regulations expire on July 5, 2007.

The Board is proposing to replace the temporary regulations with the permanent regulations in this proposed rulemaking.

#### *Explanation of Chapter 493a*

Chapter 493a (relating to pleadings) contains general rules pertaining to the filing of pleadings with the Board. These regulations provide guidance as to the form and filing of pleadings, including motions, complaints, answers and other pleadings, service, time requirements, the content of the pleadings, discovery and intervention.

Amendments to the temporary regulations in this proposed rulemaking include a large number of editorial changes that improve the clarity of the language in the temporary regulations. Some of the language in the temporary regulations has been eliminated as unnecessary as a result of the development of the Board's hearing process.

#### *Explanation of Chapter 494a*

Chapter 494a (relating to hearing procedure) contains general rules regarding hearing procedure before the Board. These regulations discuss the scheduling of hearings and the rules for oral and documentary hearings. These regulations also provide guidance as to the procedure for hearings including the report or recommendation of the hearing officer, Board review, the procedure for reopening the record, filing exceptions, rehearing or reconsideration, briefs and oral argument, reports of compliance and the appeal process.

Amendments to the temporary regulations in this proposed rulemaking include a large number of editorial changes that improve the clarity of the language in the temporary regulations. In § 494a.11 (relating to appeals), the language has been modified to ensure compliance with the Pennsylvania Rules of Appellate Procedure (See 210 Pa. Code).

#### *Explanation of Chapter 495a*

Chapter 495a (relating to documentary filings) lists the form requirements for documentary filings with the Board. This chapter includes regulations on incorporation

by reference in a documentary filing, execution of documents, and verification and affidavit forms. This chapter also notifies parties of the number of copies that are required to be submitted to the Board.

This chapter contains minor editorial changes to the temporary regulations intended to improve the clarity of the language.

#### *Explanation of Chapter 497a*

Chapter 497a (relating to time) provides guidance as to the Board's method of calculation of time for the purpose of filing pleadings and other documents with the Board. This chapter also provides guidance as to the commencement of the appeal period.

This chapter contains minor editorial changes to the temporary regulations intended to improve the clarity of the language.

#### *Explanation of Chapter 499a*

Chapter 499a (relating to representation before the Board) contains regulations pertaining to representation before the Board. This chapter includes the form and procedure by which an individual may file a notice of appearance with the Board. Also included in this chapter are prohibitions on contemptuous conduct and the Board's ability to deny the privilege of appearance before the Board.

This chapter contains minor editorial changes to the temporary regulations intended to improve the clarity of the language.

#### *Affected Parties*

This proposed rulemaking imposes requirements on individuals and attorneys appearing before the Board in a hearing.

#### *Fiscal Impact*

*Commonwealth.* This proposed rulemaking will impose costs on the Board for the administration of a uniform filing, docketing and system of hearings and appeals, including compliance with practice and procedure requirements.

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

*Private sector.* Entities appearing before the Board in a hearing will experience some costs to comply with the filing and procedural requirements in these chapters and the filing fees published by the Board.

*General public.* Individuals appearing before the Board in a hearing will experience some costs to comply with the procedural requirements in these chapters and the filing fees published by the Board.

#### *Paperwork Requirements*

This proposed rulemaking does not impose new reporting or paperwork requirements on the affected parties under the Board's jurisdiction. This proposed rulemaking clarifies the procedural and form requirements for filings that are submitted to the Board by parties.

#### *Effective Date*

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

*Public Comments*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking within 30 days after publication to Paul Resch, Secretary, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-56.

*Contact Person*

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

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 9, 2007, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee. A copy of this material is available to the public upon request.

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

THOMAS A. DECKER,  
*Chairperson*

**Fiscal Note:** 125-56. (1) State Gaming Fund; (2) Implementing Year 2006-07 is \$600,000; (3) 1st Succeeding Year 2007-08 is \$630,000; 2nd Succeeding Year 2008-09 is \$662,000; 3rd Succeeding Year 2009-10 is \$695,000; 4th Succeeding Year 2010-11 is \$730,000; 5th Succeeding Year 2011-12 is \$767,000; (4) 2005-06 Program—\$26,400,000; 2004-05 Program—\$13,200,000; 2003-04 Program—\$2,900,000; (7) State Gaming Board; (8) recommends adoption.

*(Editor's Note:* In Annex A, some references to chapters not yet adopted as permanent regulations appear in this proposed rulemaking. The chapter number of the permanent regulations will have an "a" indicator after the chapter number. Refer to the corresponding temporary regulations adopted by the Board when necessary.)

**Annex A**

**TITLE 58. RECREATION**

**PART VII. GAMING CONTROL BOARD**

**Subpart H. PRACTICE AND PROCEDURE**

**CHAPTER 493a. PLEADINGS**

Sec.	
493a.1.	Generally.
493a.2.	Complaints.
493a.3.	Satisfaction of complaints.
493a.4.	Petitions generally.
493a.5.	Answers.
493a.6.	Consolidation.
493a.7.	Amendments and withdrawal of pleadings.
493a.8.	Motions generally.
493a.9.	Preliminary motions.
493a.10.	Motions for summary judgment and judgment on the pleadings.
493a.11.	Discovery.
493a.12.	Intervention.
493a.13.	Consent agreements.

**§ 493a.1. Generally.**

(a) Pleadings permitted are as follows:

- (1) Complaints.
- (2) Petitions.
- (3) Motions.
- (4) Answers to pleadings.
- (5) Exceptions.
- (6) Appeals.
- (7) Formal notices.

(b) Filing fees for pleadings, copies and other administrative requests will be in accordance with a fee schedule published by the Board in the *Pennsylvania Bulletin*, available on the Board's website, and in the Office of the Clerk.

(c) Pleadings shall be filed with the Clerk and contain a docket number. The Clerk will assign a docket number if one has not been assigned.

(d) This section supplements 1 Pa. Code §§ 35.1 and 35.2 and 35.9—35.11 (relating to applications; and formal complaints).

**§ 493a.2. Complaints.**

(a) The procedures for filing complaints shall be in accordance with 1 Pa. Code §§ 35.9—35.11 (relating to formal complaints) as supplemented by this chapter.

(b) Complaints may be filed by the Bureau and other persons authorized by the Board.

(c) A proceeding against a licensee, permittee, persons registered or certified by the Board or employee of a licensee or persons registered or certified by the Board shall be initiated by written complaint filed by the complainant, which must include a statement setting forth in ordinary and concise language the matter complained of and the facts supporting the complaint.

(d) Complaints will be served in accordance with § 491a.5 (relating to service by the Board).

(e) Within 20 days of service of the complaint filed by the complainant, the respondent may file with the Clerk a notice of defense, in which the respondent may:

- (1) Request a hearing.
- (2) Admit the matter complained of and the alleged facts in whole or in part.
- (3) Present new matter or explanation by way of defense.
- (4) State any legal objection to the complaint.
- (5) Present affirmative defenses.

(f) The respondent may be entitled to a hearing on the merits if the respondent files the required notice of defense within the time allowed by subsection (e). The notice of defense will be deemed a specific denial of all parts of the complaint not expressly admitted.

(g) Failure to timely file the required notice of defense or to appear at the hearing constitutes an admission of all matters and facts contained in the complaint and a waiver of the respondent's rights to a hearing. The Board may conduct a hearing despite a respondent's failure to timely file the required notice of defense or to appear at the hearing.

(h) Affirmative defenses shall be specifically stated, and unless objection is taken as provided in subsection (e)(4), objections to the form of the complaint shall be deemed waived.

(i) The Clerk will deliver or send by mail a notice to all parties at least 10 days prior to a hearing.

(j) Applicants, licensees, permittees, persons registered or certified and other persons authorized by the Board may request a hearing on any matter by filing a written petition for special relief in accordance with § 493a.4 (relating to petitions generally).

(k) The complainant has the burden to demonstrate, by a preponderance of the evidence, that the respondent has failed to comply with the act or this part.

(l) This section supplements 1 Pa. Code §§ 35.9—35.11 and 35.14 (relating to formal complaints; and orders to show cause).

#### § 493a.3. Satisfaction of complaints.

(a) If the respondent satisfies a complaint either before or after a hearing, a statement to that effect signed by the complainant shall be filed with the Clerk setting forth that the complaint has been satisfied and requesting dismissal or withdrawal of the complaint. Except when requested by the parties, the Board will not be required to render a final order upon the satisfaction of a complaint.

(b) This section supersedes 1 Pa. Code § 35.41 (relating to satisfaction of complaints).

#### § 493a.4. Petitions generally.

(a) Petitions may be filed by parties, applicants, licensees, permittees, persons registered or certified by the Board, and other persons authorized by the Board.

(b) Petitions must be in writing, state clearly and concisely the grounds for the petition, the interest of the petitioner in the subject matter, the facts relied upon and the relief sought.

(c) The procedure for petitions shall be in accordance with 1 Pa. Code §§ 35.17 and 35.18 (relating to petitions generally; and petitions for issuance, amendment, waiver or deletion of regulations). Petitions must conform to § 491a.4 (relating to filing generally) and Chapters 495a and 497a (relating to documentary filings; and time), and be served on all persons directly affected.

(d) Copies shall also be served in accordance with the Board's direction.

(e) This section supplements 1 Pa. Code §§ 35.17 and 35.18.

#### § 493a.5. Answers.

(a) Answers shall be filed with the Clerk and other parties within 20 days after the date of service of a complaint, petition, motion or other pleading, unless a different time is prescribed by the Board or presiding officer.

(b) The procedures in 1 Pa. Code §§ 35.35—35.40 (relating to answers) apply.

(c) This section supplements 1 Pa. Code §§ 35.35—35.40.

#### § 493a.6. Consolidation.

(a) The Board or presiding officer, with or without motion, may consolidate proceedings involving a common question of law or fact.

(b) This section supersedes 1 Pa. Code § 35.45 (relating to consolidation).

#### § 493a.7. Amendments and withdrawal of pleadings.

Amendments and withdrawal of pleadings shall be in accordance with 1 Pa. Code §§ 35.48—35.51 (relating to amendment and withdrawal of pleadings).

#### § 493a.8. Motions generally.

The procedures for motions shall be in accordance with 1 Pa. Code §§ 35.177—35.180 (relating to motions).

#### § 493a.9. Preliminary motions.

(a) A preliminary motion may be filed by a party. The preliminary motion must state the specific grounds relied upon, and be limited to the following:

(1) A motion questioning the jurisdiction of the Board or the presiding officer.

(2) A motion to strike a pleading that is insufficient as to form.

(3) A motion for a more specific pleading.

(b) Except when a motion for a more specific pleading is filed, an answer to a preliminary motion may be filed within the time period prescribed for answers to complaints, petitions and motions. All preliminary motions filed by a party shall be raised at the same time.

(c) If a motion for more specific pleading is filed, an answer may not be filed until further directed by the Board or presiding officer.

(d) A preliminary motion will be decided by the Board or presiding officer within 30 days of the filing of the preliminary motion.

(e) If a preliminary motion to strike is granted, the party who submitted the stricken pleading may file an amended pleading within 10 days of service of the order granting the motion to strike.

(f) This section supplements 1 Pa. Code §§ 35.177—35.180 (relating to motions).

#### § 493a.10. Motions for summary judgment and judgment on the pleadings.

(a) *Motion for judgment on the pleadings.* After the pleadings are closed, but within a time so that the hearing is not delayed, a party may move for judgment on the pleadings. An answer to a motion for judgment on the pleadings may be filed within 10 days of the date of service of the motion.

(b) *Motion for summary judgment.* After the pleadings are closed, but within a time so that the hearing is not delayed, a party may move for summary judgment based on the pleadings and depositions, answers to interrogatories, admissions and supporting affidavits.

(c) *Answers to motions.* An answer to a motion for summary judgment or a motion for judgment on the pleadings, including an opposing affidavit to a motion for summary judgment, may be filed within 10 days of the date of service of the motion. An answer to a motion for summary judgment may be supplemented by pleadings and depositions, answers to interrogatories or further affidavits and admissions.

(d) *Decisions on motions.* If a motion is granted in whole or in part by a presiding officer, it will be in the form of a recommended decision. The Board will make a final ruling on a motion for judgment on the pleadings or a motion for summary judgment.

(e) *Supplementation.* This section supplements 1 Pa. Code Chapter 35, Subchapter D (relating to motions).

#### § 493a.11. Discovery.

(a) Upon written request from a party in a proceeding served upon another party in the proceeding, the requesting party shall be entitled to the name and address of any witness who may be called to testify on behalf of the

responding party and all documents or other material in the possession or control of the responding party which the responding party reasonably expects will be introduced into evidence. The responding party shall be under a continuing duty to update its response to this request.

(b) The presiding officer may, upon request of a party, permit the testimony of a witness or the introduction of other evidence not disclosed pursuant to a request made under subsection (a), if following proffer by the party seeking to present the evidence, the presiding officer determines that justice so requires.

(c) Confidential information furnished to or obtained by the Board or the Bureau from any source will not be discoverable under this subsection.

(d) Depositions will be conducted in accordance with 1 Pa. Code §§ 35.145—35.152 (relating to depositions).

**§ 493a.12. Intervention.**

(a) The decision to grant a petition to intervene in a proceeding before the Board or a presiding officer is within the sole discretion of the Board.

(b) A person wishing to intervene in a proceeding may file a petition with the Clerk which shall be served on all named parties to the underlying proceeding. When a petition to intervene is filed with the Clerk, it will be referred to the Board which will issue a determination as soon as practicable.

(c) The Board may grant a petition to intervene if it determines:

(1) The person has an interest in the proceeding which is substantial, direct and immediate.

(2) The interest is not adequately represented by a party to the proceeding.

(3) The person may be bound by the action of the Board in the proceeding.

(d) Petitions to intervene may be filed at any time following the filing of an application, petition, complaint, or other document seeking Board action, but no later than 30 days prior to the date set for a hearing unless, in extraordinary circumstances for good cause shown, the Board authorizes a later filing.

(e) Petitions to intervene must be in writing and set out clearly and concisely the facts demonstrating the nature of the alleged right or interest of the petitioner, the grounds of the proposed intervention, and the position of the petitioner in the proceeding. The petitioner shall fully advise the parties and the Board of the specific issues of fact or law to be raised or controverted, by admitting, denying or otherwise answering, specifically and in detail, each material allegation of fact or law asserted in the petition or complaint initiating the proceeding, and citing by appropriate reference provisions or other authority relied on.

(f) A party may file an answer to a petition to intervene, and in default thereof, will be deemed to have waived any objection to the granting of the petition. Answers shall be filed within 10 days after the date of service of the petition, unless for cause the Board prescribes a different time.

(g) Except when the Board determines that it is necessary to develop a comprehensive evidentiary record, the participation of a person granted the right to intervene in a proceeding will be limited to the presentation of evidence through the submission of written statements

attested to under oath. The written statements shall be part of the evidentiary record.

(h) Notwithstanding the provisions of this section, petitions to intervene in licensing hearings for slot machine licenses shall be governed by § 441.19(x) (relating to licensing hearing for slot machine licenses).

(i) This section supersedes 1 Pa. Code §§ 35.27—35.32, and 35.36 (relating to intervention; and answers to petitions to intervene).

**§ 493a.13. Consent agreements.**

(a) Parties may propose consent agreements at any time prior to the entry of a final order.

(b) Consent agreements must be in writing, signed by all parties and accurately reflect the terms of the consent agreement, including the facts agreed to by the parties constituting the grounds for the action proposed in the consent agreement.

(c) If the consent agreement is proposed in a matter that is the subject of a proceeding before a presiding officer, the proposal of the consent agreement will stay the proceeding until the consent agreement is acted upon by the Board.

(d) The consent agreement shall be presented to the Board for its approval or disapproval. If the Board approves the consent agreement, it will become the final order of the Board. If the Board disapproves the consent agreement, the parties will be notified and the consent agreement and any documents solely relating to the consent agreement will not constitute part of the record.

**CHAPTER 494a. HEARING PROCEDURE**

Sec.	
494a.1.	Generally.
494a.2.	Oral hearings.
494a.3.	Documentary hearings.
494a.4.	Report or recommendation of the presiding officer.
494a.5.	Review.
494a.6.	Reopening of record.
494a.7.	Exceptions.
494a.8.	Rehearing or reconsideration.
494a.9.	Briefs and oral argument.
494a.10.	Reports of compliance.
494a.11.	Appeals.

**§ 494a.1. Generally.**

(a) A hearing calendar of all matters set for hearing will be maintained by the Clerk and will be in order of assignment as far as practicable. All matters will be heard in Harrisburg, unless a different site is designated by the Board or the presiding officer. The Board or the presiding officer, in its discretion with or without motion, for cause may at any time with due notice to the parties advance or postpone any proceeding on the hearing calendar.

(b) Hearings will be held before the Board or presiding officer, and all appearances, including staff counsel participating, will be entered upon the record, with a notation on whose behalf each appearance is made. A notation will be made in the record of the names of the members of the staff of the Board participating, including accountants, and other experts, who are assisting in the investigation of the matter. This section supersedes 1 Pa. Code §§ 35.123 and 35.124 (relating to conduct of hearings; and order of procedure).

(c) In oral and documentary hearings, neither the Board nor the presiding officer will be bound by technical rules of evidence, and all relevant evidence of reasonable probative value may be received. Reasonable examination and cross-examination will be permitted at all oral hear-

ings. If a party does not testify on his own behalf, the party may be called and examined as if under cross-examination.

(d) Subsection (a) supersedes 1 Pa. Code § 35.102 (relating to hearing calendar).

**§ 494a.2. Oral hearings.**

Oral hearings will be conducted in accordance with 1 Pa. Code §§ 35.121—35.126 and 35.137—35.173.

**§ 494a.3. Documentary hearings.**

(a) Documentary hearings will be held before the Board or a presiding officer.

(b) The parties will be notified at least 15 days prior to the date set for hearing, and the evidentiary record will be closed 5 days prior to the date set for hearing.

(c) Parties may introduce documents and other evidence, except that witnesses may not testify. Depositions and interrogatories may be taken at any time prior to the close of the evidentiary record, and may be introduced for consideration by the Board or presiding officer.

**§ 494a.4. Report or recommendation of the presiding officer.**

(a) A report or recommendation of the presiding officer may be required by the Board, in both oral and documentary hearings, except that recommendations will not be made in proceedings involving the issuance, approval, renewal, revocation, suspension or conditioning of a license.

(b) The presiding officer will file with the Clerk and certify to the Board a verbatim record of any oral hearing, all documents submitted for consideration, and a report or recommendation, when required, as soon as practicable after the conclusion of the hearing and expiration of the time for filing of briefs.

(c) The presiding officer's report or recommendation will include a statement of:

(1) Findings and conclusions, as well as the reasons or basis therefore, for all the material issues of fact, law or discretion presented on the record.

(2) The appropriate statutory provision, regulation, order, sanction, relief or denial thereof.

(3) Facts officially noticed under 1 Pa. Code § 35.173 (relating to official notice of facts), relied upon in the decision.

(d) The report or recommendation will be in writing, provided to all parties, and will be part of the public record, except for matters and materials designated as confidential by the Board. Service will be in accordance with § 491a.9(e) (relating to hearings generally).

(e) This section supplements 1 Pa. Code §§ 35.201—35.206, regarding proposed reports generally.

**§ 494a.5. Review.**

(a) The Clerk will transmit the record of the hearing to the Board and will make it available to all parties.

(b) The Board will review the record of the hearing and the report or recommendation of the presiding officer. The Board may adopt some or all of the recommendations, conduct a full or partial de novo hearing, or remand all or part of the matter to a presiding officer for the taking of additional evidence or clarification of issues, or make an adjudication based on the record.

**§ 494a.6. Reopening of record.**

(a) After the conclusion of the hearing, a party in a proceeding may file with the presiding officer, prior to the issuance of a report or recommendation, a petition to reopen the proceeding for the purpose of taking additional evidence. The petition must set forth clearly the facts claimed to constitute grounds requiring reopening of the proceeding, including material changes of fact or law alleged to have occurred since the hearing was concluded.

(b) After the issuance of a report or recommendation by a presiding officer and before the Board issues its final order, a party in a proceeding may file with the Board, a petition to reopen the proceeding for the purpose of taking additional evidence. The petition must set forth clearly the facts claimed to constitute grounds requiring reopening of the proceeding, including material changes of fact or law alleged to have occurred since the issuance of a report or recommendation.

(c) Answers may be filed within 10 days of service of the petition. If no answers are filed, objections to the granting of the petition are waived.

(d) After the filing of the petition and answer, the Board or presiding officer will grant or deny the petition.

(e) Prior to filing a report or recommendation, the presiding officer, after notice to the parties, may reopen the proceedings for the receipt of further evidence on his own motion, if the presiding officer has reason to believe that the facts or law have changed as to require, or that the public interest requires, the reopening of the proceedings.

(f) Prior to the issuance of a final order, the Board, after notice to the parties, may reopen the proceeding for the receipt of further evidence, if the Board has reason to believe that the facts or law have changed as to require, or that the public interest requires, the reopening of the proceeding.

(g) This section supersedes 1 Pa. Code §§ 35.231—35.233 (relating to reopening of record).

**§ 494a.7. Exceptions.**

(a) A party may file exceptions to the report or recommendations of the presiding officer within 10 days of the date of the report or recommendations, unless the time is extended upon good cause shown.

(b) Exceptions must be in writing, filed with the Clerk, and state with particularity the matter objected to, including the portion of the record where the basis of the objection may be found.

(c) The party filing the exceptions shall attach a brief with the filing. The brief must set forth the party's position in clear and concise terms and be in accordance with 1 Pa. Code § 35.212 (relating to content and form of briefs on exceptions). The length of the brief may be limited by the presiding officer. The brief shall be served on the Board, the presiding officer and other parties of record.

(d) Failure to file a brief on exceptions within the time allowed shall constitute a waiver of all objections to the report or recommendations. Exceptions to any part of the report or recommendations may not thereafter be raised before the Board in oral argument, if an oral argument is permitted, or in an application for rehearing or reconsideration, and shall be deemed to be waived. The Board may refuse to consider exceptions to a ruling admitting or excluding evidence unless there was an objection at the

time the ruling was made or within an extension of time prescribed by the presiding officer.

(e) Exceptions will be considered by the Board and will be limited to the record established during the hearing. The Board may permit evidence not already established in the record if compelling reasons are shown for its submission, the party requesting its admission did not previously know of its existence and its existence could not have been discovered with the exercise of reasonable diligence.

(f) The Board will conduct a documentary hearing on the exceptions within 30 days of receipt of the exceptions brief, unless exigent circumstances require a longer period of time. The Board may grant or deny the exceptions in whole or in part.

(g) The Board will issue its final order in consideration of the presiding officer's report or recommendation and any filed exceptions, and notify all parties by regular mail.

(h) This section supplements 1 Pa. Code §§ 35.211—35.214 (relating to exceptions to proposed reports).

#### § 494a.8. Rehearing or reconsideration.

(a) A party to a proceeding may file an application for rehearing or reconsideration by filing a petition within 15 days after the final order of the Board.

(b) The petition must state concisely the alleged errors in the adjudication or other order of the Board. If a final order or other order of the Board is sought to be vacated, reversed or modified by reason of matters that have arisen since the hearing and decision or order, or by reason of a consequence that would result from compliance therewith, the matters relied upon by the petitioner must be set forth in the petition.

(c) Answers to petitions for rehearing or reconsideration will not be entertained by the Board. If the Board grants the rehearing or reconsideration, an answer may be filed by a participant within 15 days after the issuance of the order granting rehearing or reconsideration. The response will be confined to the issues upon which rehearing or reconsideration has been granted.

(d) If the Board does not act upon the petition for rehearing or reconsideration within 30 days after it is filed, the petition will be deemed to have been denied.

(e) This section does not apply to proceedings resulting in any final order, determination or decision of the Board involving the approval, issuance, denial or conditioning of licensed entity applications which are subject to the appellate requirements of section 1204 of the act (relating to licensed entity application appeals from board).

(f) This section supersedes 1 Pa. Code § 35.241 (relating to application for rehearing or reconsideration).

#### § 494a.9. Briefs and oral argument.

(a) All parties shall be afforded an opportunity to submit briefs prior to a final order of the Board. Briefs shall be filed with the Clerk. If a matter has previously been assigned to a presiding officer, a copy of the brief shall be submitted to the presiding officer.

(b) Oral argument may be heard at the discretion of the Board or presiding officer.

#### § 494a.10. Reports of compliance.

(a) When a person subject to the jurisdiction of the Board is required to do or perform an act by a Board order, permit or license provision, the person shall file,

with the Clerk within 30 days following the date when the requirement becomes effective, a notice stating that the requirement has or has not been met or complied with, unless the Board specifies an alternate means to demonstrate compliance or proof of compliance.

(b) This section supersedes 1 Pa. Code § 35.251 (relating to reports of compliance).

#### § 494a.11. Appeals.

(a) A party may appeal final orders of the Board in accordance with the act, in the form prescribed in the Pennsylvania Rules of Appellate Procedure. (See 210 Pa. Code.)

(b) The filing of an appeal will not stay enforcement of the decision or final order of the Board unless a stay is obtained from the court upon application in accordance with the Rules of Appellate Procedure, or the Board granted a stay prior to the filing of the appeal.

(c) Within 10 days, the party filing the notice of appeal shall file a concise statement of matters complained of with the Office of the Clerk.

### CHAPTER 495a. DOCUMENTARY FILINGS

Sec.

495a.1.	Form of documentary filings generally.
495a.2.	Form of documents.
495a.3.	Incorporation by reference.
495a.4.	Single pleading covering more than one matter.
495a.5.	Execution of documents.
495a.6.	Verification.
495a.7.	Number of copies.

#### § 495a.1. Form of documentary filings generally.

(a) Pleadings or other documents must be divided into numbered paragraphs.

(b) Copies of contracts, agreements, permits or other writings referred to in pleadings or other documents may be attached as exhibits. Copies of writings or orders already of record with the Board need not be attached if reference by docket number is made to the proceeding in which they were filed.

(c) Pleadings or other documents filed with the Board in a proceeding must clearly show the docket number or similar identifying symbols, if any, and title of the proceeding before the Board. They must also show, in the title of a particular pleading or other document filed, the name of the person on whose behalf the filing is made. If more than one person is involved, a single name only need be included in the title.

(d) Pleadings or other documents must include an address and phone number where papers may be served in connection with the proceedings. Use of a fax number constitutes an agreement to accept papers connected with the proceeding by fax.

(e) Notation of counsel's current Supreme Court identification number issued by the Court Administrator of Pennsylvania constitutes proof of the right to practice in this Commonwealth.

(f) Subsections (a)—(c) supersede 1 Pa. Code § 31.5 (relating to communications and filings generally).

#### § 495a.2. Form of documents.

(a) The method of receipt and transmission of information will be under a policy published by the Board.

(b) Subsection (a) supersedes 1 Pa. Code § 33.2 (relating to form).



**§ 495a.3. Incorporation by reference.**

(a) Except as otherwise provided in subsection (b), documents on file with the Board may be incorporated by reference into a subsequently filed pleading or other document. A document may be so incorporated only by reference to the specific document and to the prior filing and docket number at which it was filed.

(b) A document which has been on file with the Board for more than 7 years may not be incorporated by reference in a current document unless the person filing the current document first makes inquiry to the Office of the Clerk and ascertains that the earlier document continues to be readily available in the active records of the Board.

**§ 495a.4. Single pleading covering more than one matter.**

(a) Except as otherwise provided under this chapter, a single pleading may be accepted for filing with respect to a particular transaction and one or more related transactions and will be deemed to be a single filing for purposes of the computation of fees under Chapter 471a (relating to schedule of fees payable to the Board).

(b) If, upon review, the Board determines that the transactions are not closely related or otherwise properly joined, the Board will direct that the single pleading be refiled as two or more separate pleadings. Each pleading will be subject to a separate filing fee.

(c) Subsection (a) supersedes 1 Pa. Code § 33.4 (relating to single pleading or submittal covering more than one matter).

**§ 495a.5. Execution of documents.**

(a) *Signature.* Except as may be otherwise ordered or requested by the Board, the original and all copies of a pleading, or other document shall be signed in ink by the party in interest, or by his attorney, as required by subsection (b), and show the office and post office address of the party or attorney.

(b) *Subscription.*

(1) A pleading or other document filed with the Board shall be subscribed by one of the following:

- (i) The person or persons filing the documents.
- (ii) An officer if it is a corporation, trust, association or other organized group.
- (iii) An officer or authorized employee thereof if it is another agency, a political subdivision, or other governmental authority, agency or instrumentality.

(iv) An attorney authorized to subscribe on behalf of the client.

(2) A document filed by a corporation, trust, association or other organized group, may be required to be supplemented by appropriate evidence of the authority of the officer or attorney subscribing the documents.

(c) *Effect.*

(1) The signature of the person subscribing a document filed with the Board constitutes a certificate by the individual that:

(i) The person has read the document being subscribed and filed, and knows the contents thereof.

(ii) The document has been subscribed and executed in the capacity specified upon the document with full power and authority to do so, if executed in a representative capacity.

(iii) The document is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, to the best of the person's knowledge, information and belief formed after reasonable inquiry.

(iv) The document is not interposed for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

(2) If a document is signed in violation of this subsection, the Board, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include striking the document, dismissal of the proceeding or the imposition of civil penalties under section 1518 of the act (relating to prohibited acts; penalties).

(d) *Supersession.* Subsections (a)—(c) supersede 1 Pa. Code § 33.11 (relating to execution).

**§ 495a.6. Verification.**

(a) Pleadings or other documents containing an averment of fact not appearing of record in the action or containing a denial of fact shall be personally verified by a party thereto or by an authorized officer of the party if a corporation or association. Verification means a signed, written statement of fact supported by oath or affirmation or made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). If verification is required, notarization is not necessary.

(b) The verification form should comply substantially with the following:

**VERIFICATION**

I, \_\_\_\_\_, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the facts. 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: \_\_\_\_\_  
(Signature)

(c) When an affidavit is used, the form should comply substantially with the following:

**AFFIDAVIT**

I, \_\_\_\_\_ (Affiant) being duly sworn (affirmed) according to law, depose and say that (I am authorized to make this affidavit on behalf of \_\_\_\_\_ corporation, being the holder of the office of \_\_\_\_\_ with that corporation,) and that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and (I or corporation) expect to be able to prove the facts.

\_\_\_\_\_  
(Signature of affiant)

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(Signature of official administering oath)

(d) An individual who executes a pleading or other document knowing that it contains a false statement and who causes it to be filed with the Board shall be subject to prosecution of a misdemeanor of the second degree in violation of 18 Pa.C.S. § 4904(a).

(e) Subsections (a)—(d) supersede 1 Pa. Code § 33.12 (relating to verification).

**§ 495a.7. Number of copies.**

(a) An original and three copies of pleadings or documents other than correspondence shall be furnished to the Board at the time of filing, except as may be otherwise ordered or requested by the Board.

(b) In the case of complaints or petitions, when more than one respondent is named, an additional copy of the complaint or petition shall be filed for each additional respondent.

(c) Subsections (a)—(b) supersede 1 Pa. Code § 33.15 (relating to number of copies).

**CHAPTER 497a. TIME**

Sec.  
 497a.1. Date of filing.  
 497a.2. Computation of time.  
 497a.3. Issuance of Board orders.  
 497a.4. Effective dates of Board orders.  
 497a.5. Extensions of time and continuances.

**§ 497a.1. Date of filing.**

(a) Whenever a pleading or other document is required or permitted to be filed under this part or by statute, it will be deemed to be filed on one of the following dates:

(1) On the date actually received in the Office of the Clerk.

(2) On the date deposited with an overnight express package delivery service as shown on the express delivery receipt attached to or included within the envelope containing the document.

(3) On the date deposited in the United States mail as shown by the United States Postal Service stamp on the envelope or on a United States Postal Service Form 3817 certificate of mailing. A mailing envelope stamped by an in-house postage meter will not constitute proof of the date of mailing.

(b) Failure to include a legible delivery receipt with the document may result in an untimely filing.

(c) Except as otherwise permitted by the Board, a document transmitted by facsimile or electronically to the Board will not be accepted for filing within the meaning of this section.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 31.11 (relating to timely filing required).

**§ 497a.2. Computation of time.**

(a) In computing a period of time prescribed or allowed by the act or this part, the day of the act, event or default after which the designated period of time begins to run is not included. The last day of the period is included, unless it is Saturday, Sunday or a legal holiday in this Commonwealth, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or holiday. Intermediate Saturdays, Sundays and legal holidays shall be included in the computation.

(b) In computing a period of time prescribed or allowed by the act or this part which is measured by counting a specified number of days backward from a scheduled future act, event or default, the day of the scheduled future act, event or default is not included. The day on which the prescribed or allowed action is to occur shall be included, unless it is a Saturday, Sunday or a legal holiday in this Commonwealth, in which event the day of the prescribed or allowed action shall run until the next preceding day which is neither a Saturday, Sunday or holiday. A part-day holiday shall be considered as a holiday. Intermediate Saturdays, Sundays and legal holidays are included in the computation.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.12 (relating to computation of time).

**§ 497a.3. Issuance of Board orders.**

(a) In computing a period of time involving the date of the issuance of an order by the Board, the day of issuance of an order will be the date the Clerk enters the order. An order will not be made public prior to its entry except when, in the Board's judgment, the public interest so requires. The date of entry of an order may or may not be the day of its adoption by the Board. The Clerk will clearly indicate on each order the date of its adoption by the Board and the date of its entry.

(b) The date of entry of an order which is subject to review by the Supreme Court of Pennsylvania is governed by 2 Pa.C.S. Chapter 7, Subchapter A (relating to judicial review of Commonwealth agency action). The date of issuance of an order shall be deemed to be the date of entry for the purposes of computing the time for appeal under an applicable statute relating to judicial review of Board action.

(c) Subsections (a) and (b) are identical to 1 Pa. Code § 31.13 (relating to issuance of agency orders).

**§ 497a.4. Effective dates of Board orders.**

(a) An order of the Board promulgating regulations will be effective upon publication in the *Pennsylvania Bulletin* unless otherwise specially provided in the order.

(b) Except as provided in subsection (a), an order of the Board will be effective as of the date of entry unless otherwise specially provided in the order.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.14 (relating to effective dates of agency orders).

**§ 497a.5. Extensions of time and continuances.**

(a) Extensions of time shall be governed by the following:

(1) Whenever under this part or by order of the Board, or notice given thereunder, an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may be extended by the Board, for good cause, upon a motion made before expiration of the period originally prescribed or as previously extended. Upon a motion made after the expiration of the specified period, the time period within which the act may be permitted to be done may be extended when reasonable grounds are shown for the failure to act.

(2) Requests for an extension of time in which to file briefs shall be filed at least 5 days before the time fixed for filing the briefs unless the Board or presiding officer, for good cause shown allows a shorter time.

(3) Requests for a continuance of a hearing shall be by motion in writing, stating the facts on which the request rests, except that during the course of a proceeding, a request may be made by oral motion in the hearing. Requests for continuance will be considered only for good cause shown.

(b) Subsection (a) supersedes 1 Pa. Code § 31.15 (relating to extensions of time).

**CHAPTER 499a. REPRESENTATION BEFORE THE BOARD**

Sec.  
 499a.1. Appearance in person.  
 499a.2. Appearance by attorney.  
 499a.3. Other representation prohibited at hearings.

- 499a.4. Notice of appearance or withdrawal.  
 499a.5. Form of notice of appearance.  
 499a.6. Contemptuous conduct.  
 499a.7. Suspension and disbarment.

**§ 499a.1. Appearance in person.**

(a) An individual who is a party in a proceeding before the Board may represent himself before the Board.

(b) A party, other than an individual appearing on his own behalf, in an adversary proceeding before the Board shall be represented by an attorney authorized to appear before the Board in accordance with § 499a.2 (relating to appearance by attorney).

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.21 (relating to appearance in person).

**§ 499a.2. Appearance by attorney.**

(a) A party in a proceeding before the Board who elects to be represented by an attorney in the proceeding, or who is required by § 499a.1 (relating to appearance in person) to be represented by an attorney in the proceeding, shall be represented by:

(1) An attorney at law admitted to practice before the Pennsylvania Supreme Court.

(2) An attorney admitted to practice before the highest court of a jurisdiction other than this Commonwealth which permits attorneys licensed in this Commonwealth to practice before its courts and agencies.

(3) An attorney authorized in accordance with subsection (b) to appear in connection with the proceeding.

(b) An attorney admitted to practice before the highest court of a jurisdiction other than this Commonwealth which does not permit attorneys licensed in this Commonwealth to appear before its courts and agencies may, at the discretion of the Board, be authorized to appear in connection with a particular proceeding. The Board will determine whether to grant the authorization upon the filing of a motion with the Clerk by an attorney admitted to practice law before the Pennsylvania Supreme Court and in good standing therewith, which contains the information required to satisfy the written notice provision of Pa.B.A.R. 301 (relating to admission pro hac vice), and provided that the attorney filing the motion shall be and remain the attorney of record in the proceeding and further provided that both the attorney of record and the attorney admitted under this subsection shall both sign all documents submitted or filed in connection with the proceeding.

(c) Subsection (a) supersedes 1 Pa. Code § 31.22 (relating to appearance by attorney).

**§ 499a.3. Other representation prohibited at hearings.**

(a) Participants, individuals, partnerships, associations, corporations or governmental entities may not be represented at a hearing before the Board except:

(1) As stated in §§ 499a.1 and 499a.2 (relating to appearance in person; and appearance by attorney).

(2) As otherwise permitted by the Board in a specific case.

(b) Subsection (a) supersedes 1 Pa. Code § 31.23 (relating to other representation prohibited at hearings).

**§ 499a.4. Notice of appearance or withdrawal.**

(a) An individual appearing without representation before the Board shall file with the Office of the Clerk an address for service of a notice or other written communi-

cation. A change in address which occurs during the course of the proceeding shall be reported to the Office of the Clerk within 3 business days.

(b) An attorney whose name and address appear in a representative capacity on an initial pleading filed with the Office of the Clerk shall be considered to have entered an appearance in that proceeding. An attorney who enters the matter at a later stage of the proceeding shall file with the Office of the Clerk a written notice of the appearance, which states his name, address and telephone number and the name and address of the person on whose behalf he appears. The notice shall be served on the other parties in the proceeding. A change in address which occurs during the course of the proceeding shall be reported to the Office of the Clerk within 3 business days.

(c) A person appearing or practicing before the Board in a representative capacity may be required to file a power of attorney with the Board showing his authority to act in that capacity.

(d) Except as provided in subsection (e), an attorney may not withdraw his appearance without leave of the Board or presiding officer. An attorney may request leave to withdraw his appearance through petition to the Board or presiding officer. Copies of the petition shall be served on all parties. The attorney requesting withdrawal shall immediately notify the party previously represented by ordinary mail of an order granting leave to withdraw.

(e) An attorney may withdraw his appearance without leave of the Board or presiding officer if one of the following occurs:

(1) Another attorney has previously entered his appearance on behalf of the party.

(2) Another attorney is simultaneously entering an appearance on behalf of the party, and the change of attorneys does not delay any stage of the litigation.

(f) An attorney who wishes to withdraw an appearance under subsection (d) shall file with the Office of the Clerk a written notice of withdrawal. The notice shall be served on the other parties.

(g) Subsections (a) and (d) supersede 1 Pa. Code § 31.24 (relating to notice of appearance).

**§ 499a.5. Form of notice of appearance.**

(a) The form of notice of appearance is as follows:

COMMONWEALTH OF PENNSYLVANIA  
 BEFORE THE PENNSYLVANIA GAMING  
 CONTROL BOARD

In the Matter of:

[File, Docket or other identifying No.:]

NOTICE OF APPEARANCE

Please enter my appearance in the above designated matter on behalf of \_\_\_\_\_.

I am authorized to accept service on behalf of said participant in this matter.

[CHECK ONE]

[ ] On the basis of this notice, I request a copy of each document hereafter issued by the Board in this matter.

[ ] I am already receiving or have access to a copy of each document issued by the Board in this matter and do not on the basis of this notice require an additional copy.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Attorney Identification Number

\_\_\_\_\_  
Name (Printed)

\_\_\_\_\_  
P. O. address

\_\_\_\_\_  
City, state and zip code

\_\_\_\_\_  
Telephone Number (including area code)

(b) Subsection (a) supersedes 1 Pa. Code § 31.25 (relating to form of notice of appearance).

**§ 499a.6. Contemptuous conduct.**

(a) Contemptuous conduct at a hearing before the Board shall be grounds for exclusion from the hearing and for summary suspension without a hearing for the duration of the hearing.

(b) Subsection (a) is identical to 1 Pa. Code § 31.27 (relating to contemptuous conduct).

**§ 499a.7. Suspension and disbarment.**

(a) The Board may deny, temporarily or permanently, the privilege of appearing or practicing before the Board to a person who is found by the Board, after notice and opportunity for hearing in the matter, to have done one or more of the following:

(1) Lacked the requisite qualifications to represent others.

(2) Engaged in unethical, contemptuous or improper conduct before the Board.

(3) Repeatedly failed to follow Board directives.

(b) For the purpose of subsection (a), practicing before the Board includes the following:

(1) Transacting business with the Board.

(2) Preparation of a statement, opinion or other paper by an attorney, accountant, engineer or other expert, filed with the Board in a pleading or other document with the consent of the attorney, accountant, engineer or other expert.

(3) Appearances at a hearing before the Board.

(c) Subsections (a) and (b) are identical to 1 Pa. Code § 31.28 (relating to suspension and disbarment).

[Pa.B. Doc. No. 07-886. Filed for public inspection May 18, 2007, 9:00 a.m.]

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# NOTICES

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking, 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 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending May 8, 2007.

#### BANKING INSTITUTIONS

##### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
5-2-07	Northwest Bancorp, Inc., Warren, to Acquire 100% of the Voting Shares of Penn Laurel Financial Corporation, Curwensville	Warren	Approved

##### New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-4-07	Great Bear Bank Allentown Lehigh County	Allentown	Approved

##### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-2-07	Northwest Savings Bank, Warren, and CSB Bank, Curwensville Surviving Institution— Northwest Savings Bank, Warren	Warren	Approved
5-8-07	Beneficial Mutual Savings Bank, Philadelphia, PA and Farmers & Mechanics Bank, Burlington, NJ Surviving Institution— Beneficial Mutual Savings Bank, Philadelphia, PA	Philadelphia	Approved

##### Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-4-07	CommunityBanks Millersburg Dauphin County	<i>To:</i> 1801 Baltimore Pike York West Manheim Township York County  <i>From:</i> 1345 Baltimore Street York West Manheim Township York County	Filed

##### Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-13-07	S & T Bank Indiana Indiana County	Treasure Lake Coral Reef and Crooked Island Roads DuBois Clearfield County	Effective
4-27-07	AmeriServ Financial Bank Johnstown Cambria County	900 Locust Street St. Michael Adams Township Cambria County	Filed

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-1-07	Standard Bank, PaSB Murrysville Westmoreland County	730 Penn Avenue Wilkinsburg Allegheny County	Effective

**SAVINGS INSTITUTIONS****Conversions**

<i>Date</i>	<i>Name of Association</i>	<i>Location</i>	<i>Action</i>
4-3-07	ESSA Bank & Trust Stroudsburg Monroe County	Stroudsburg	Effective

Represents conversion from a mutual savings association to a stock savings association and concurrent formation of a thrift holding company, ESSA Bancorp, Inc., that will own 100% of the common stock of the association.

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

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
5-1-07	TruMark Financial Credit Union Trevose Bucks County	Plymouth Whitemarsh High School 201 East Germantown Pike Plymouth Meeting Montgomery County	Filed

**Branch Relocations**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
4-30-07	White Rose Credit Union York York County	<i>To:</i> 200 East High Street Red Lion York Township York County  <i>From:</i> 13 Dairyland Square Red Lion York Township York County	Effective

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

VICTORIA A. REIDER,  
*Acting Secretary*

[Pa.B. Doc. No. 07-887. Filed for public inspection May 18, 2007, 9:00 a.m.]

**DEPARTMENT OF ENVIRONMENTAL PROTECTION****Applications, Actions and Special Notices****APPLICATIONS****THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT****APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS**

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

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

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

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

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

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

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

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

### **I. NPDES Renewal Applications**

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

<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>
PA0052892	Donald F. Byrne 2201 N. Ridley Creek Road Media, PA 19063-1968	Delaware County Upper Providence Township	UNT to Ridley Creek	Y

*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>
PA0064157 (Minor Sewage)	New Ringgold Borough P. O. Box 180 New Ringgold, PA 17960	New Ringgold Borough Schuylkill County	Little Schuylkill River 3A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0054852 (IW)	WBLF Acquisition Company, LLC 256 Eagle View Boulevard Exton, PA 19341	Berks County Cumru Township	Schuylkill River 3-C	Y
PA0111350 (Sew)	Petersburg Borough Sewer Authority P. O. Box 6 Petersburg, PA 16669-0006	Huntingdon County Logan Township	Shaver Creek	Y

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0080187 (IW)	Dauphin Meadows, Inc. 3035 SR 209 P. O. Box 68 Millersburg, PA 17061	Dauphin County Upper Paxton and Washington Townships	Wiconisco Creek 6-C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0238791	Rae Kent Gardner P. O. Box 43 Warren, PA 16365	Conewango Township Warren County	UNT to Morse Run 16-B	Y
PA0103373	Foxburg Area Water and Sewer Authority P. O. Box 2 Foxburg, PA 16036	Borough of Foxburg Clarion County	Allegheny River 17-B	Y

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

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

**PA0022365**, Sewage, **Perryopolis Area Joint Authority**, P. O. Box 298, Perryopolis, PA 15437. This application is for renewal of an NPDES permit to discharge treated sewage from Perryopolis Sewage Treatment Plant in Perryopolis Borough, **Fayette County**.

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

*Outfall 001: existing discharge, design flow of 0.75 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	38		50
Suspended Solids	30	45		60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.5			1.6
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0095982**, Sewage, **Albert Gallatin Area School District**, 2625 Morgantown Road, Uniontown, PA 15401. This application is for renewal of an NPDES permit to discharge treated sewage from Albert Gallatin North Middle School Sewage Treatment Plant in German Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of North Branch Browns Run, 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 Carmichaels Municipal Water Authority located on the Monongahela River.

*Outfall 001: existing discharge, design flow of 0.02 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)	7.5			15.0
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	0.3			0.7



<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Dissolved Oxygen	not less than 4.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0098981**, Sewage, **Dean E. Molter**, 187 Becks Run Road, Moon Township, PA 15108. This application is for renewal of an NPDES permit to discharge treated sewage from Dean E. Molter Single-Residence STP in Moon Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Flaugherty Run, 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 Nova Chemicals, BV Plant, on the Ohio River.

*Outfall 001*: existing discharge, design flow of 0.0004 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
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	Monitor and Report			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0204994**, Sewage, **Central Indiana County Joint Sanitary Authority**, P. O. Box 7, 603 South Main Street Ext., Homer City, PA 15748. This application is for renewal of an NPDES permit to discharge treated sewage from Homer City STP in Center Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Two Lick Creek, which are classified as a TSF 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.

*Outfall 001*: existing discharge, design flow of 0.65 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	37.5		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	17.5	26.3		35.0
(11-1 to 4-30)	25.0	37.5		50.0
Phosphorus				
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	0.5			1.6
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.

**PA0253430**, Sewage, **PBS Coals, Inc.**, P. O. Box 260, Friedens, PA 15541. This application is for issuance of an NPDES permit to discharge treated sewage from PBS Coals STP in Shade Township, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Coal 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 Blairsville Municipal Authority.

*Outfall 001: new discharge, design flow of 0.0038 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
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000 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.

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

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

**WQM Permit No. 2807405**, Sewerage, **Greene Township Municipal Authority**, 4182 Sunset Pike, Chambersburg, PA 17201. This proposed facility is located in Greene Township, **Franklin County**.

Description of Proposed Action/Activity: Seeking approval for construction/operation of sewers for proposed 757 residential and multiresidential units consisting of single-family units, townhouses and duplex units and one community center.

**WQM Permit No. 0605408 07-1**, Sewerage, **Bear Creek Management Co., LLC**, 1950 Old Gallows Road, Suite 600, Vienna, VA 22182. This proposed facility is located in Longswamp Township, **Berks County**.

Description of Proposed Action/Activity: Seeking approval to change from drip irrigation to spray irrigation system.

**WQM Permit No. 2207402**, Sewerage, **Lower Paxton Township Authority**, 425 Prince Street, Suite 139, Harrisburg, PA 17109. This proposed facility is located in Lower Paxton Township, **Dauphin County**.

Description of Proposed Action/Activity: Seeking approval for replacement of approximately 5,600 feet of sanitary sewer in connection with the Earl Drive Interceptor project.

**WQM Permit No. WQG01670701**, Sewerage, **Wayne Luckenbaugh**, 3801 Ridgewood Road, York, PA 17406. This proposed facility is located in Springettsburg Township, **York 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.

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

**WQM Permit No. 3007201**, Industrial Waste, **CNX Gas Company**, 1800 Washington Road, Pittsburgh, PA 15241. This proposed facility is located in Freeport Township, **Greene County**.

Description of Proposed Action/Activity: Application for the discharge of treated groundwater associated with the dewatering of coal seams during methane gas extraction.

**WQM Permit No. 6506406**, Sewerage, **Penn Township Sewage Authority**, 1032 Nike Site Road, Irwin, PA 15642. This proposed facility is located in Penn Township, **Westmoreland County**.

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

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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>
PAI011507019	YMCA of Brandywine Valley 295 Hurley Road Coatesville, PA 19320	Chester	West Brandywine Township	West Branch Brandywine Creek HQ-TSF-MF
PAI011507020	Ryan C. Todd 1152 Hollow Road Chester Springs, PA 19425	Chester	West Vincent Township	Birch Run EV

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

*Lackawanna County Conservation District: 1300 Old Plank Road, Mayfield, PA 18433, (570) 281-9495.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10N029R(1)	First Industrial Acquisition, Inc. 200 Phillips Road Exton, PA 19341-1326	Lackawanna	Covington Township	Lake Run HQ-CWF Roaring Brook HQ-CWF Tamarack Creek HQ-CWF Meadow Brook HQ-CWF
PAI023507007	Allan Mykalo Jefferson Township Sewer Authority 487 Cortez Road Lake Ariel, PA 18436	Lackawanna	Jefferson Township	West Branch of Wallenpaupack Creek HQ-CWF

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

*Lycoming County Conservation District: 542 County Farm Road, Suite 202, Montoursville, PA 17754, (570) 433-3003.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI044107002	William C. Harrison Harrison Heights Subdivision 20 Harrison Heights Cogan Station, PA 17728	Lycoming	Lycoming Township	Hoagland Run HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI063306001(1)	Department of Transportation 2550 Oakland Avenue Indiana, PA 15701	Jefferson	Pine Creek and Warsaw Townships	Little Mill Creek HQ-CWF

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

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

## PUBLIC WATER SUPPLY (PWS) PERMIT

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

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

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

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

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

### SAFE DRINKING WATER

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

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

**Application No. 4007503**, Public Water Supply.

Applicant	<b>Pennsylvania-American Water Company</b> Dallas Township <b>Luzerne County</b>
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Responsible Official David R. Kaufman, P. E.  
PA-AM Water Company  
800 West Hersheypark Drive  
P. O. Box 888  
Hershey, PA 17033

Type of Facility Community Water System

Consulting Engineer NA

Application Received Date April 19, 2007

Description of Action Application for construction of 300 GPM booster pump station and associated chlorine contact main to serve UWR—Dallas Water Company during time of need.

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

**Permit No. 0607505**, Public Water Supply.

Applicant **Wernersville Municipal Authority**

Municipality South Heidelberg Township

County **Berks**

Responsible Official Robert L. Walborn  
50 Jefferson Street  
Oley, PA 19547

Type of Facility Public Water Supply

Consulting Engineer John P. Spitko, P. E.  
Spotts Stevens and McCoy, Inc.  
1047 North Park Road  
Reading, PA 19610-0307

Application Received: March 14, 2007

Description of Action Construction of new treatment building at Well No. 5 to provide disinfection for Well Nos. 5 & 6.

**Permit No. 2107501**, Public Water Supply.

Applicant **Newville Borough Water and Sewer Authority**

Municipality West Pennsboro and Penn Townships

County **Cumberland**

Responsible Official Roger Hoover  
Authority Chairperson  
4 West Street  
Newville, PA 17241

Type of Facility Public Water Supply

Consulting Engineer Janet R. McNally, P. E.  
William F. Hill & Assoc., Inc.  
207 Baltimore Street  
Gettysburg, PA 17325

Application Received: April 9, 2007

Description of Action Service Extension

**Permit No. 5007502**, Public Water Supply.

Applicant **Hillside Manor Apartments**

Municipality Oliver Township

County **Perry**

Responsible Official David M. Bomberger  
P. O. Box 36  
Mexico, PA 17056

Type of Facility Public Water Supply

Consulting Engineer Stephen R. Morse, P. E.  
Skelly and Loy, Inc.  
2601 North Front Street  
Harrisburg, PA 17110-1185

Application Received: April 11, 2007

Description of Action Arsenic Reduction

**Permit No. 0607510**, Public Water Supply.

Applicant **Proto-Cast, LLC**

Municipality Douglass Township

County **Berks**

Responsible Official Joseph J. Gizara  
Managing Director  
1460 Benjamin Franklin Highway  
Douglassville, PA 19518

Type of Facility Public Water Supply

Consulting Engineer Karen Pollock, P. E.  
System Designs Engineering  
850 Park Road  
Wyomissing, PA 19610

Application Received: April 14, 2007

Description of Action This application is for the addition of an arsenic treatment system to the existing water system located within the Proto-Cast facility in Douglassville, PA.

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

**Permit No. 1407501—Construction**, Public Water Supply.

Applicant **College Township Municipal Authority**

Township or Borough College Township

County **Centre**

Responsible Official Martin McGann  
Authority Chairperson  
College Township Municipal Authority  
1481 East College Avenue  
College Township Building  
State College, PA 16801

Type of Facility Public Water Supply—Construction

Consulting Engineer Douglas E. Berg, P. E.  
Entech Engineering, Inc.  
4 South Fourth Street  
P. O. Box 32  
Reading, PA 19603

Permit Application Date May 4, 2007

Description of Action Bellefonte Interconnect—Approximately 1,000 LF of 12" ductile iron waterline and a pressure reducing vault to interconnect the CTWA and the Bellefonte Borough Water Authority (BBWA). The interconnection is for CTWA to provide water service to BBWA.

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

**Permit No. 6507505**, Public Water Supply.

Applicant **Municipal Authority of Westmoreland County**  
P. O. Box 730  
Greensburg, PA 15601

Township or Borough Bell Township

Responsible Official John P. Ashton  
Operations Manager-Production  
Municipal Authority of Westmoreland County  
P. O. Box 730  
Greensburg, PA 15601

Type of Facility Water treatment plant

Consulting Engineer

Application Received Date March 16, 2007

Description of Action Change from aqua ammonia to anhydrous ammonia, change 7 filters and change from 18 inches of anthracite to 40 inches of GAC.

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

**Application No. 2007502**, Public Water Supply.

Applicant **Pinedale Mobile Home Park**

Township or Borough East Fallowfield Township  
**Crawford County**

Responsible Official Diann and Jerry Boyd, Owners

Consulting Engineer Steven R. Halmi, P. E.  
Project Engineer  
Deiss & Halmi Engineering  
105 Meadville Street  
Edinboro, PA 16412

Application Received Date May 2, 2007

Description of Action Modification of public water supply treatment for iron, manganese and arsenic.

#### MINOR AMENDMENT

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

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

**Application Minor Amendment**, Public Water Supply.

Applicant **Eaton Sewer & Water Co., Inc.**  
Eaton Township  
**Wyoming County**

Responsible Official Jack Middleton, VP  
Eaton Sewer & Water Co., Inc.  
P. O. Box 316  
Nicholson, PA 18446

Type of Facility Community Water System

Consulting Engineer NA

Application Received Date March 22, 2007

Description of Action Application for removal of chemical treatment for iron sequestration, which is no longer required.

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

**Application No. 4300503-T1-MA1**, Minor Amendment.

Applicant **Aqua PA, Inc.**

Township or Borough Shenango Township  
**Mercer County**

Responsible Official Edward N. Benson  
Distribution System Manager  
665 South Dock Street  
Sharon, PA 16146

Type of Facility Public Water Supply

Application Received Date May 1, 2007

Description of Action Replacement of 11,960 feet of 12-inch ductile iron water main with new 12-inch ductile iron water main. Project in residential and agricultural area along SR 18 in Shenango and Wilmington Townships, Mercer County and Wilmington Township, Lawrence County.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 1

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

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed

remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

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

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

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

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

**Keaveney Residence**, Solebury Township, **Bucks County**. Thomas Hippensteal, Envirosearch Consultants, Inc., P. O. Box 940, 500 Norristown Road, Springhouse, PA 19477 on behalf of Richard Keaveney, 3241 Comfort Road, New Hope, PA 18938 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of No. 2 fuel oil. The future use of the site is a residential property.

**Barclay Road**, New Britain Township, **Bucks County**. Mark Fortna, DelVal Soil Env. Consultant, Inc., Sky Run II, 4050 Skyron Drive, Suite A-1, Doylestown, PA 18902 on behalf of Clay Heckler, 2312 North Broad Street, Colmar, PA 18915 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted by release of unleaded gasoline. The future use of the site is for residential development.

**George Washington Carver High School**, City of Philadelphia, **Philadelphia County**. Gloria Hunsberger, Kleinfelder, 800 East Washington Street, West Chester, PA 19380 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of inorganic. The future use of the site will remain the same.

**Richmond Towns Homes**, City of Philadelphia, **Philadelphia County**. Julian M. Toneatto, Adler Associates, Inc., P. O. Box 133, Lafayette Hill, PA 19444 on

behalf of Elio Colavita, Colvita Development, Co., LLC, 1121 Bethlehem Pike, Suite 60-175, Spring House, PA 19477 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with No. 6 fuel oil. The future use of the site is for a complex of 26 townhomes residential with basement.

**Gulf Service Station**, Doylestown Borough, **Bucks County**. Bruno M. Mercuri D. Sc., P. G., Mercuri and Associates, Inc., 627 Hampton Avenue, Southampton, PA 18966 on behalf of Charles Livezey, Gulf Service Station, 216 Main Street, Doylestown, PA 18901 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted by release of chlorinated solvents. The future use of the site will remain as auto repair garage and gasoline retail.

**Cornell Residence**, Northampton Township, **Bucks County**. Thomas Hippensteal, Envirosearch Consultants, Inc., P. O. Box 940, 500 Norristown Road, PA 19477 on behalf of Joanne Cornell, 247 Mallard Road, Holland, PA 18966 has submitted a Notice of Intent to Remediate. Soil at the site been impacted by release of no. 2 fuel oil. The future use of the site is residential.

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

**PPL Gas Utilities Corp.—Former Bangor MGP Site**, Bangor Borough, **Northampton County**. John J. Mahfood, Project Manager, Corporate Environmental Solutions, LLC, 260 Miller Run Road, Bridgeville, PA 15017 has submitted a Notice of Intent to Remediate (on behalf of his client PPL Gas Utilities Corporation, 2 North Ninth Street, Allentown, PA 18101) concerning the remediation of soils/groundwater impacted by polycyclic aromatic hydrocarbons, benzene, ethyl benzene and xylenes associated with the manufacturing of coal gas. The applicant proposes to remediate the site to meet the Statewide Health Standard and the Site-Specific Standard under Act 2. A summary of the Notice of Intent to Remediate was published in the *Easton Express Times* on May 1, 2007. The future use of this property will remain nonresidential.

**Delaware Township Municipal Building**, Delaware Township, **Pike County**. Salvatore Sciascia, S & M Management, Inc., P. O. Box No. 1429, Milford, PA 18337 has submitted a Notice of Intent to Remediate (on behalf of his client, Delaware Township, 116 Wilson Hill Road, Dingmans Ferry, PA 18328) concerning the remediation of soils and groundwater found to have been impacted by No. 2 heating oil as the result of the removal of an unregulated underground storage tank. The applicant proposes to remediate the site to meet the Statewide Health Standard for both soils and groundwater. The proposed future use of the property will be nonresidential commercial use. A summary of the Notice of Intent to Remediate was published in the *Pike County Dispatch* on December 21, 2006.

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

**Former Raymark Industries, Lower Mill Facility**, Manheim Borough, **Lancaster County**. RT Environmental Services, Inc., 215 West Church Street, King of Prussia, PA 19406, on behalf of Manheim Area Economic Development Corporation, 15 East High Street, Manheim, PA 17545, submitted a Notice of Intent to Remediate site soils contaminated with lead and arsenic. The property was a former brake products manufacturer and the future

use is as a business park. The applicant seeks to remediate to both the Site-Specific and Residential Statewide Health Standards.

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

**Wysox Equities Facility (Old Stroud Supply) Niemiec Building**, Wysox Township, **Bradford County**, ATC Associates, Inc., 920 Germantown Pike, Suite 200, Plymouth Meeting, PA 19462 on behalf of Michael Niemiec, Wysox Equities, LLC, 427 Main Street, Towanda, PA 18848 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with No. 2 fuel oil. The applicant proposes to remediate the site to meet the Statewide Health Standard. The facility has been and will continue to be used for commercial purposes.

**Imbt/Cooper Property**, Potter Township, **Centre County**, Converse Consultants, 2738 West College Avenue, State College, PA 16801 on behalf of John Imbt, P. O. Box 340, Pine Grove Mills, PA 16868 has submitted a Notice of Intent to Remediate soil, groundwater and surface water contaminated with kerosene and/or heating fuel oil located at 125 Briar Lane, Centre Hall, PA 16823. The applicant proposes to remediate the site to meet the Statewide Health Standard.

**Brookside Village Mobile Home Park**, North Centre Township, **Columbia County**, R. J. Walsh Assoc., Inc., P. O. Box 119, Allentown, NJ 08501 on behalf of Marty Mancini, Affordable Residential Communities, 1 Mark Lane, Honey Brook, PA 19344 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with fuel oil. The applicant proposes to remediate the site to meet the Statewide Health Standard.

#### RESIDUAL WASTE GENERAL PERMIT

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

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

**Renewal of General Permit No. WMGR028.** The Department of Environmental Protection, Bureau of Waste Management proposes a renewal of the statewide residual waste General Permit WMGR028. The proposed renewal of WMGR028 is for the beneficial use of baghouse fines and scrubber pond precipitates, generated by hot mixed asphalt plants, as: (i) an aggregate in roadway construction; (ii) an ingredient or component in cement or asphalt products; (iii) a soil additive; and (iv) a soil conditioner.

Comments concerning the proposed renewal of WMGR028 should be directed to Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Bureau of Waste Management, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. Public comments must be submitted within 60 days of this notice and may recommend additional conditions or revisions to or approval or denial of the proposed renewal of the general permit.

Persons interested in obtaining more information or obtaining copies of the proposed general permit may contact Peter Arnt of the Division of Municipal and Residual Waste at the previous telephone number. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

The Department will provide public notice upon finalization and issuance of the renewal of General Permit WMGR028.

## 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.

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**PLAN APPROVALS**


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**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.**

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

**12-399-018: Quality Compacted Metals, Inc.** (214 South Broad Street, Emporium, PA 15834) for modification of a sintered powdered metal parts rust preventative dip tank operation by increasing the associated VOC emissions to a level equal to, or greater than, 2.7 tpy in Emporium Borough, **Cameron County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, William Charlton, New Source Review Chief, (412) 442-4174.*

**04-00723A: McDanel Advanced Ceramic Technologies, LLC** (510 Ninth Avenue, Beaver Falls, PA 15010) for installation of natural gas-fired kiln and gas-fired afterburner at McDanel Advanced Ceramic Technologies in Beaver Falls, **Beaver County**.

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

**24-111A: Elk Regional Health Center** (763 Johnsonburg Road, St. Mary's, PA 15857) for installation of a biomass boiler to replace two existing natural gas boilers at the Health Center site in the City of St. Mary's, **Elk County**. This is not a Title V facility.

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

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

**36-05002C: Armstrong World Industries, Inc.** (1067 Dillerville Road, Lancaster, PA 17603) for installation of a replacement wet scrubber on the no. 6 Roto Line at the flooring plant in the City of Lancaster, **Lancaster County**. PM emissions for the old scrubber were 3.0 tons in 2006 and will be substantially reduced with the installation of the modern scrubber. The plan approval will contain emission limits and work practice standards along with testing, monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality regulations.

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

**24-083K: Carbone of America Industrial Corp.** (215 Stackpole Street, St. Mary's, PA 15857) to modify plan approval 24-083H and duct their new carbon pulverizer (rated at 3,300 pounds of carbon per hour) into an existing 4,000 cfm dust collector instead of routing it a new 2,000 cfm dust collector, as described in the applicant's application of January 26, 2007, in City of St. Mary's, **Elk County**.

Under 25 Pa. Code §§ 127.44(a) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a Plan Approval—No. 24-083K for their plant located in City of St. Marys, Elk County. This plan approval will authorize the applicant to modify plan approval 24-083H and duct their new carbon pulverizer (rated at 3,300 pounds of carbon per hour) into an existing 4,000 cfm dust collector instead of routing it a new 2,000 cfm dust collector, as described in the applicant's application of January 26, 2007. The existing dust collector also controls an additional pulverizer rated at 1,700 pounds of carbon per hour. The Plan Approval will subsequently be incorporated into the company's Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Based on the information provided by the applicant and the Department's own analysis, the existing dust collector will emit and is limited to a total of 1.05 tons of PM per year. The new pulverizer is limited to 3,300 pounds of carbon per hour and will only operate when the dust collector is operating.

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, for an appointment.

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. 24-083K.
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 the 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.

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**PLAN APPROVAL**


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**PUBLIC HEARINGS**


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

Title 40 of the CFR Part 58 (relating to ambient air quality surveillance) requires the local air pollution control agency for Philadelphia, beginning July 1, 2007, to adopt and submit to the Environmental Protection Agency (EPA) Regional Administrator an Annual Monitoring Network Plan (AMNP). The AMNP provides for the establishment and maintenance of an air quality surveillance



system that consists of a network of monitoring stations. A proposed AMNP must be made available for public inspection for at least 30 days prior to submission to EPA.

Air Management Services (AMS) is the local air pollution control agency for the City of Philadelphia under the Department of Public Health. Philadelphia has an air monitoring network of 12 air monitoring stations that house instruments that measure ambient levels of air pollutants.

The proposed AMNP is available for public inspection on the City's website at: [www.phila.gov/health/units/ams/index.html](http://www.phila.gov/health/units/ams/index.html) and at the office of Air Management Services, 321 University Avenue, 2nd Floor, Philadelphia, PA 19104, during normal business hours. For further information, contact Hallie Weiss, Program Services Engineering Supervisor at (215) 685-9436.

Written comments on the proposed AMNP should be sent to Hallie Weiss, Program Services Engineering Supervisor, Air Management Services, 321 University Avenue, 2nd Floor, Philadelphia, PA 19104 or e-mail them to [hallie.weiss@phila.gov](mailto:hallie.weiss@phila.gov). Only written comments will be accepted. Comments received by facsimile will not be accepted. Persons wishing to file comments on the proposed AMNP must submit the comments within 30 days from the date of this notice.

#### 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.

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

**63-00014: Orion Power MidWest, LP** (121 Champion Way, Suite 200, Canonsburg, PA 15317) for Operating Permit renewal for their Elrama Plant in Union Township, **Washington County**. The plant's major sources of emissions are four coal fire electric utilities boilers, which emit major quantities of NO<sub>x</sub>, SO<sub>2</sub> and Particulate. Proposed OP contains applicable emission limits, as well as testing, monitoring, recordkeeping and reporting requirements. This is a Title V Operating Permit Renewal.

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

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

**54-00027: Titanium Wire Corp.** (235 Industrial Park Road, Frackville, PA 17931) for operation of a Facility State-only Synthetic Minor Operating Permit for operation of a natural gas fired furnace in West Mahanoy Township, **Schuylkill County**.

**39-00042: Chelsea Sandwich, LLC** (Box 459, Shippers Road, Macungie, PA 18062) for operation of a Facility State-only Synthetic Minor Operating Permit for operation of Gasoline Loading Rack in Lower Macungie Township, **Lehigh County**.

**58-00003: Mountain View School District** (R. R. 1, Box 339-A, Kingsley, PA 18826) for operation of a Facility State-only Natural Minor Operating Permit for operation of a boiler in Hartford Township, **Susquehanna County**.

**54-00031: Good Samaritan Regional Medical Center** (700 East Norwegian Street, Pottsville, PA 17901) for

operation of a Facility State-only Natural Minor Operating Permit for operation of a Boiler in Pottsville, **Schuylkill County**.

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

**06-03140: McNeilus Trucks & Manufacturing, Inc.** (941 Hemlock Road, P. O. Box 219, Morgantown, PA 19543) for operation of a heavy duty truck coating operation controlled by dry filters in Caernarvon Township, **Berks County**. The facility is not subject to Title V (State-only operating permit). The operation has the potential to emit 20 tpy of VOC. The permit will include monitoring, work practices, recordkeeping and reporting requirements designed to keep the operation operating within all applicable air quality requirements.

**21-05051: PA State System of Higher Education—Shippensburg University of PA** (1871 Old Main Drive, Shippensburg, PA 17257) for a synthetic minor operating permit in Shippensburg Township, **Cumberland County**. The facility's major sources of emissions include coal and natural gas fired boilers for steam and heat, which primarily emit NO<sub>x</sub>. This permit is in lieu of the Title V permit No. 21-05006 with reduced emissions as a result of modification to the operations with coal combustion limit to stay below the MACT applicability (40 CFR Part 63 Subpart DDDDD). The synthetic minor operating permit will contain monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**36-05067: C & D Technologies, Inc.** (82 East Main Street, Leola, PA 17540) for operation of their lead-acid battery manufacturing facility in Upper Leacock Township, **Lancaster County**. This action is a renewal of the previous permit and all permit requirements remain in effect.

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

**17-00064: Parkwood Resources, Inc.** (511 Railroad Avenue, Homer City, PA 15748) for operation of coal stockpiling and truck loading facility at the Cherry Tree Mine in Burnside Township, **Clearfield County**.

The facility incorporates a number of conveyors, a stacking tube, a screen, various stockpiles and associated truck loading activities, a 750 kilowatt emergency diesel generator and a total of five small propane and kerosene-fired water heaters, space heaters and conveyor belt heaters. Fugitive PM control is provided by means of the inherent moisture content of the coal, the use of a water truck, the use of partial conveyor covers, the use of a screen enclosure, the use of a stacking tube with weighted doors that will not open except when in actual use, the use of a vacuum-type sweeper truck, the use of paved plant roadways and the use of various operating practices (truck tarping, onsite vehicle speed limits, minimizing the front end loader bucket-to-truck bed freefall height, and the like).

The air contaminant emissions from the facility are not expected to exceed 44.27 tons of PM (including up to 10.33 tons of PM<sub>10</sub>), 5.04 tons of SO<sub>x</sub>, 2.63 tons of NO<sub>x</sub>, .42 ton of CO and .16 ton of VOCs per year.

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

The Department proposes to incorporate into the operating permit to be issued conditions requiring compliance

with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants as well as conditions previously established in Plan Approvals 17-305-051, issued on September 21, 2004, and 17-305-051A, issued on November 8, 2006, and a plan approval exemption granted on November 4, 2004.

The conditions previously established in Plan Approvals 17-305-051 and 17-305-051A and the November 4, 2004, plan approval exemption include:

1. A condition limiting the facility's coal throughput to no more than 1,200,000 tons in any 12-consecutive month period.

2. A condition prohibiting the facility from processing coal other than that mined from the onsite underground mine.

3. A condition requiring a water truck, equipped with a pressurized spray nozzle or hose connection, and a vacuum-type sweeper truck to be kept on site and prohibiting the facility from operating if either of these trucks is inoperable.

4. A condition requiring the facility's screen to be completely enclosed, including the top inlet portion of the screen, except for the coal entrance and exit points.

5. A condition requiring all aboveground conveyors to be either partially or fully enclosed.

6. A condition requiring all 0-2" coal from the screen to be placed onto the 0-2" stockpile by means of the facility's stacking tube.

7. A condition requiring the top inlet portion of the stacking tube to be fully enclosed except for the conveyor entrance point.

8. A condition requiring the stacking tube outlet doors to be weighted so that they will not open except when the level of the stockpile is up to the respective doors.

9. A condition requiring all trucks entering or exiting the facility by means of a public roadway to be tarped or otherwise covered unless empty.

10. A condition requiring the facility's entrance road and internal roadways to have a posted speed limit of 10 mph.

11. A condition requiring the facility's entrance road and haul roads to be paved and all remaining plant roadways to be paved or surfaced with gravel or stone.

12. A condition requiring front end loader bucket-to-truck bed freefall height to be kept to a minimum during all truck loading.

13. A condition requiring the permittee to perform upwind/downwind dust fall monitoring if requested by the Department.

14. A condition requiring the installation of a water spray dust suppression system on the mine outlet conveyor if requested by the Department.

15. A condition limiting the NOx emissions from the facility's 750 kilowatt emergency diesel generator to 5.1 grams per horsepower-hour or 6.9 grams per kilowatt hour.

16. A condition limiting the fuel used in the 750 kilowatt emergency generator to virgin diesel fuel to which no recycled or waste oil or other waste materials have been added.

17. Conditions limiting the operation of the 750 kilowatt emergency generator to generator testing and the powering of mine ventilation fans on an emergency basis during power outages and to no more than 400 hours in any 12-consecutive month period.

18. Conditions requiring the maintenance, and periodic submission, of records of the amount of coal loaded out each month and the maintenance of records of the number of hours the 750 kilowatt emergency generator is operated each month.

The Department additionally proposes to incorporate several new conditions into the operating permit to be issued including:

19. A condition requiring the periodic submission of reports of the number of hours the 750 kilowatt emergency generator is operated each month.

20. Conditions limiting the fuel used in the facility's hot water heaters and space heaters to propane and the fuel used in the facility's belt heaters to kerosene.

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

**43-00152: Sharon Tube Company—Sharon Facility** (134 Mill Street, Sharon, PA) to reissue a Synthetic Minor Permit for operation of their Steel Pipe and Tubing Manufacturing Plant in the City of Sharon, **Mercer County**.

## COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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

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

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

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

water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number and a statement of sufficient detail to inform the Department on the basis of comment or objection and

relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

*Coal Applications Received*

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

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0mg/l	6.0mg/l	7.0mg/l
Manganese (total)	2.0mg/l	4.0mg/l	5.0mg/l
Suspended solids	35 mg/l	70 mg/l	90 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: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

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

**02070102 and NPDES Permit No. PA0251143. James R. Clarke** (716 Old Mill Road, Pittsburgh, PA 15238). Application for commencement, operation and reclamation of a bituminous surface mine, located in North Fayette Township, **Allegheny County** affecting 144.4 acres. Receiving streams: UNTs to North Branch, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received April 30, 2007.

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

**33860107 and NPDES Permit No. PA0107123. Terry Coal Sales, Inc.** (P. O. Box 58, Distant, PA 16223). Renewal of an existing bituminous surface strip operation in Perry and Oliver Townships, **Jefferson County** affecting 67.0 acres. Receiving streams: Big Run to Little Sandy Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received April 30, 2007.

**33070103 and NPDES Permit No. PA0258334. Reichard Contracting, Inc.** (212 Olean Trail, New Bethlehem, PA 16242). Commencement, operation and restoration of a bituminous surface strip and auger operation in Ringgold and Redbank Townships, **Jefferson and Armstrong Counties** affecting 165.5 acres. Receiving streams: Six UNTs to Painter Run and Sugar Camp Run to Painter Run, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application to include land use changes from forestland and/or commercial forestland to unmanaged natural habitat on the Howard E. Neal Property and from forestland and/or forestland (now abandoned surface mines) to unmanaged natural habitat on the Byron C. Snyder Property. Application received April 27, 2007.

**1542-33070103-E-1. Reichard Contracting, Inc.** (212 Olean Trail, New Bethlehem, PA 16242). Application for a stream encroachment for support activities within 100 feet of a UNT to Painter Run in Ringgold and Redbank Townships, **Jefferson and Armstrong Counties**. Receiving streams: Six UNTs to Painter Run and Sugar Camp Run to Painter Run, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received April 27, 2007.

*Noncoal Applications Received*

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

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

\* The parameter is applicable at all times.

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

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

**6477SM4 and NPDES Permit No. PA0612677, John F. Walter Excavating, Inc.**, P. O. Box 175, Newville, PA 17241, renewal of NPDES Permit, Middlesex Township, **Cumberland County**. Receiving streams: UNTs to Conodoguinet Creek, Conodoguinet Creek classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is PA American Water Company West, Conodoguinet Creek. NPDES renewal application received April 27, 2007.

**5074SM1 and NPDES Permit No. PA0122629, Valley Quarries, Inc.**, P. O. Box J, Chambersburg, PA 17201-0809, renewal of NPDES Permit, Guilford Township, **Franklin County**. Receiving streams: UNT to Conococheague Creek classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received May 1, 2007.

**07070301 and NPDES No. PA0262374, Glenn O. Hawbaker, Inc.**, 1952 Waddle Road, State College, PA 16803-1649, commencement, operation and restoration of a noncoal surface mine and stream encroachments for Schmucker Run and UNTs No. 1—3 and 5—8 in Woodbury Township, **Blair County**, affecting 98.7 acres. Receiving stream: Schmucker Run classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received March 22, 2007. "This is a correction to a notice that appeared in the April 28 Bulletin in which the application was incorrectly identified as being in Bedford County."

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

**16990301 and NPDES Permit No. PA0241521, Glen Gery Corporation** (P. O. Box 7001, 1166 Spring Street, Wyomissing, PA 19610). Revision to an existing large noncoal clay operation to add limestone, sandstone, and the Upper Kittanning Coal Seam in Monroe Township, **Clarion County** affecting 211.0 acres. Receiving streams: Reid's Run to Piney Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Revision to add mineral processing. Application received April 27, 2007.

**25900301 Lakeland Aggregates, Inc.** (13053 Star Route 89, Wattsburg, PA 16442). Transfer from an existing sand and gravel operation in Venango Township, **Erie County** affecting 18.0 acres. Receiving streams: UNT to West Branch French Creek, classified for the following use: WWF. There are no potable surface water supply intakes within 10 miles downstream. Transfer from Hoover Sand & Gravel Co., Inc. Application received May 3, 2007.

**25950301 Lakeland Aggregates, Inc.** (13053 Star Route 89, Wattsburg, PA 16442). Transfer from an existing sand and gravel operation in Venango Township, **Erie County** affecting 109.4 acres. Receiving streams: UNT to Bailey Brook and Bailey Brook, classified for the following use: WWF. There are no potable surface water supply

intakes within 10 miles downstream. Transfer from Hoover Sand & Gravel Co., Inc. Application received May 3, 2007.

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

**35030301C. Pioneer Aggregates, Inc.** (202 Main Street, Laflin, PA 18702), correction to an existing quarry operation to add clean fill for reclamation in Fell Township, **Lackawanna County** affecting 230 acres, receiving stream: Wilson Creek, classified for the following use: CWF. Application received April 27, 2007.

**06070301 and NPDES Permit No. PA0224588, Glen-Gery Corp.** (P. O. Box 7001, Wyomissing, PA 19610), commencement, operation and restoration of a quarry operation and NPDES Permit for discharge of treated mine drainage in Perry Township, **Berks County** affecting 184.2 acres, receiving stream: UNT to Schuylkill River, classified for the following use: WWF. Application received May 2, 2007.

**58960801 (45980301). Sonie's Mine, Inc.** (2701 Hamilton East, Stroudsburg, PA 18360), Stage I and II bond release from a quarry operation in Hamilton Township, **Monroe County** affecting 11.5 acres on property owned by Gerald Gay. Application received May 3, 2007.

## 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 Floodplain 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.*

**E45-505. Greenway Meadow, LLC**, 44-37 Douglaston Parkway, Great Neck, NY 11363, in Polk Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To place fill in 0.37 acre of PEM wetlands for the purpose of constructing a 55,775 square foot and a 6,000 square foot commercial building along with access road and parking lots. The project is located south of the Village of Gilbert adjacent to SR 0209 and is approximately 1 mile from the intersection of SR 0209 and Gilbert Road (Brodheads ville, PA Quadrangle N: 6.3 inches; W: 11.5 inches).

**E45-504. Daniel and Cathi Bittenbender**, R. R. 5, P. O. Box 5647, Saylorsburg, PA 18353, in Hamilton Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a 4-inch diameter PVC outfall structure in a tributary to Lake Creek (HQ-CWF) for the purpose of conveying treated sewage effluent from the residential property directly to the stream. The project is located at the northwest corner of the intersection of Bosserville and Haney Roads (Saylorsburg, PA Quadrangle N: 9.2 inches; W: 6.3 inches).

**E54-327. Eagle Rock Community Association**, 1031 Valley of Lakes, Hazleton, PA 18202-9714, in North Union Township, **Schuylkill County**, United States Army Corps of Engineers, Baltimore District.

To place fill in a de minimis area of PSS wetlands equal to 0.035 acre for the purpose of constructing three pedestrian crossings and to construct and maintain five pedestrian bridges in Sugarloaf Creek and tributaries thereto. This work is associated with a proposed mulch walking/jogging trail in the western section of the Eagle Rock Resort located between Arapahoe Lane and Algonquin Drive (Nuremberg, PA Quadrangle N: 9.5 inches; W: 1.7 inches).

**E35-404. Carol Drive Realty, LLC**, 2020 Maple Road, Dalton, PA 18414, in LaPlume Township, **Lackawanna County**, United States Army Corps of Engineers, Baltimore District.

To authorize a 34-foot wide, 160-foot long driveway crossing through 0.12 acre of wetlands within the South Branch Tunkhannock Creek Watershed (TSF). The project is located on the east side of Maple Road approximately 0.2 mile north of North Turnpike Road (Dalton, PA Quadrangle N: 9.5 inches; W: 16.2 inches).

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

**E18-420. Department of Conservation and Natural Resources**, Forestry District No. 10, 15187 Renovo Road, Renovo, PA 17764. East Branch, Big Run Pedestrian Bridge Project, in the Sproul State Forest, Beech Creek

Township, **Clinton County**, ACOE Baltimore District (Snowshoe NE, PA Quadrangle Latitude: 41° 13' 12"; Longitude: 77° 45' 29").

To construct, operate and maintain a single-span pedestrian bridge across East Branch, Big Run that will provide public access to the Chuck Keiper Trail in the Sproul State Forest. The project is located in a reach of East Branch, Big Run that is designated as Exceptional Value. The pedestrian bridge shall be constructed with three aluminum I-beams having a minimum span of 30-feet and underclearance of 4-feet. As proposed, construction of the pedestrian bridge shall have no in-stream abutments or structures or wetland impacts and no direct, permanent wetland or stream impacts will be incurred. The project is located approximately 0.77 stream miles south from where Coon Run Road crosses East Branch, Big Run in the Sproul State Forest.

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

**E30-219. Greene County Watershed Alliance**, P. O. Box 52, Holbrook, PA 15341. To construct and maintain channel restoration and realignment in Washington Township, **Greene County**, Pittsburgh ACOE District (Waynesburg, PA Quadrangle, N: 19.2 inches; W: 11.3 inches, Latitude: 39° 58' 52"; Longitude: 80° 12' 20"). The applicant proposes to construct and maintain channel restoration and realignment of Ruff Creek (WWF) for a total length of 2,500 linear feet consisting of 740 linear feet channel reconstruction, 8 J-Hook Vanes, and 4 Cross Vanes. The project is a Growing Greener project and is located approximately 2,200 feet upstream of Walkers Road and SR 221.

**E65-907. Dominion Exploration & Production, Inc.**, 1380 Route 286, Suite 303, Indiana, PA 15701. To construct permanent stream crossing to access the gas well in Murrysville Borough, **Westmoreland County**, Pittsburgh ACOE District (Murrysville, PA Quadrangle N: 8.1 inches; W: 16.7 inches, Latitude: 40° 27' 39.1"; Longitude: 79° 38' 34.3"). The applicant proposes to remove the existing temporary plastic pipes under an access road to an existing gas well and to construct and maintain a stream crossing consisting of a 48-inch diameter (invert depressed 1 foot) and a 36-inch diameter corrugated pipes in Haymakers Run (HQ-CWF).

**E65-908. Dominion Exploration & Production, Inc.**, 1380 Route 286, Suite 303, Indiana, PA 15701. To construct and maintain structure in Washington Township, **Westmoreland County**, Pittsburgh ACOE District (Vandergrift, PA Quadrangle N: 8.1 inches; W: 16.7 inches, Latitude: 40° 32' 39.6"; Longitude: 79° 37' 15.5"). The applicant proposes to remove the existing temporary structure and to construct and maintain a structure consisting of a 48-inch diameter pipe (invert depressed 1 foot) and a 36-inch diameter pipe in a UNT to Pine Run (WWF) under an access road to a gas well.

**E65-909. Dominion Exploration & Production, Inc.**, 1380 Route 286, Suite 303, Indiana, PA 15701. To construct and maintain ford crossing in Washington Township, **Westmoreland County**, Pittsburgh ACOE District (Vandergrift, PA Quadrangle N: 7.7 inches; W: 16.0 inches, Latitude: 40° 32' 30.3"; Longitude: 79° 36' 55.1"). The applicant proposes to remove the existing temporary pipe culvert and to construct and maintain a ford crossing across Pine Run (WWF) to access a gas well.

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

**E10-432, Wain Farms, LLC**, 1629 North Main Street, Butler, PA 16001. Orchard Park Planned Residential Development, in Cranberry Township, **Butler County**, ACOE Pittsburgh District (Baden, PA Quadrangle N: 40° 41' 25"; W: 80° 08' 32").

To construct and maintain the following impacts to a tributary to Brush Creek (WWF) and adjacent wetlands associated with construction of Strawberry Circle, a roadway within Phases 2 and 3 of Orchard Park Residential Development located on an approximately 61 acre parcel along the west side of Powell Road approximately 0.5 mile south of Rochester Road:

1. Crossing 1 impacting a total of approximately 140 feet of the tributary including 103 feet of 60-inch diameter HDPE pipe stream enclosure and 37 feet of rock riprap scour protection approximately 350 feet upstream of Powell Road in Phase 2 of the development.

2. Crossing 2 impacting a total of approximately 130 feet of the tributary having a drainage area less than 100 acres including 110 feet of 30-inch diameter HDPE pipe stream enclosure and 20 feet of rock riprap scour protection.

3. Crossing 3 impacting a total of approximately 140 feet of the south branch of the tributary having a drainage.

4. Area less than 100 acres including 113 feet of 30-inch diameter HDPE pipe stream enclosure and 27 feet of rock riprap scour protection.

5. Crossing 4 impacting a total of approximately 125 feet of the west branch of the tributary having a drainage area less than 100 acres including 75 feet of 42-inch diameter HDPE pipe culvert, 40 feet of rock riprap scour protection and fill within 0.2 acre of adjoining wetland (PEM).

Project proposes construction of 0.3 acre of replacement wetland within the development along the east side of the tributary to Brush Creek and existing wetland upstream of Crossing 1.

**E62-412, Oak Hill Timber Holdings, LLC**, 3556 Lakeshore Road, Suite 620, Buffalo, NY 14219. Bridge across Sixmile Run, in Mead Township, **Warren County**, ACOE Pittsburgh District (Clarendon, PA Quadrangle N: 1.95 inches; W: 6.95 inches).

To construct and maintain a steel bridge having a clear span of 16 feet and a maximum underclearance of 4.5 feet across Sixmile Run on a forestry road approximately miles NE of the intersection of SR 6 and TR 387 (Sixmile Road) to provide access to private timber holdings. Sixmile Run is a perennial stream classified as a HQ-CWF and wild trout stream. The project proposes to directly impact approximately 50 feet of stream.

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## ACTIONS

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

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

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

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

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

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of

practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

### I. NPDES Renewal Permit Actions

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0027235	Easton Area Joint Sewer Authority 50-A South Delaware Drive Easton, PA 18042	Northampton County City of Easton	Delaware River 1F	N

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N
PA0024864 Sewage	Ligonier Borough 120 East Main Street Ligonier, PA 15658	Westmoreland County Ligonier Borough	Mill Creek	Y
PA0028452 Sewage	Dunkard-Bobtown Municipal Authority P. O. Box 352 Bobtown, PA 15315	Greene County Dunkard Township	Dunkard Creek	Y
PA0038792 Sewage	Adams Township Municipal Authority P. O. Box 265 Sidman, PA 15955-0265	Cambria County Adams Township	UNT of Paint Creek	Y
PA0204340 Sewage	Brett Weimer 181 Newhouse Road New Alexandria, PA 15670	Westmoreland County Derry Township	Loyalhanna Creek	Y
PA0205338 Sewage	Donald W. Walch 204 Brallier Drive Ligonier, PA 15658-9268	Westmoreland County Ligonier Township	UNT of Loyalhanna Creek	Y
PA0217506 Sewage	Mary A. Turner-Parish 38 Shorty Lane Rochester, PA 15074-2658	Beaver County New Sewickley Township	UNT to Brush Creek	Y

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

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0100986	PHB Machining Division STP 8150 West Ridge Road Fairview, PA 16415	Fairview Township Erie County	UNT to Trout Run 15-TR	Y
PA0221996	North Brook Subdivision Home Owner's Association 103 McDonnell Lane Butler, PA 16002	Middlesex Township Butler County	UNT to Glade Run 20-C	Y

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

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

**NPDES Permit No. PA0093050-A1**, Sewage, **Burrell Township Sewer Authority**, P. O. Box 454, Blacklick, PA 15716. This existing facility is located in Burrell Township, **Indiana County**.

Description of Proposed Action/Activity: Permit amendment issuance.

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

**NPDES Permit No. PA0038369**, Industrial Waste, **Borough of Sharpsville**, 1 South Walnut Street, Sharpsville, PA 16150-1258. This proposed facility is located in Borough of Sharpsville, **Mercer County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to the Shenango River in Watershed 20-A.

### III. WQM Industrial Waste and Sewerage Actions 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. WQG02090706**, Sewerage, **Lower Makefield Township Sewer Authority**, 1100 Edgewood Road, Yardley, PA 19067. This proposed facility is located in Lower Makefield Township, **Bucks County**.

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

**WQM Permit No. 1507403**, Sewerage, **Pennsylvania American Water Company**, 4 Wellington Boulevard, Wyomissing, PA 19610. This proposed facility is located in Coatesville City, **Chester County**.

Description of Action/Activity: Replacement of sewer main and manholes with upsized 15" PVC main.

**WQM Permit No. 1507401**, Sewerage, **West Brandywine Township Municipal Authority**, 198 Lafayette Road, Coatesville, PA 19320. This proposed facility is located in West Brandywine Township, **Chester County**.

Description of Action/Activity: Construction of sanitary sewers and four new pump stations.

**WQM Permit No. 2307401**, Sewerage, **Knights Bridge Corporation**, 112 Chesley Drive, Suite 200, Media, PA 19063. This proposed facility is located in Chadds Ford Township, **Delaware County**.

Description of Action/Activity: Chemical Addition feed system.

**WQM Permit No. WQG02150707**, Sewerage, **Pocopson Township**, P. O. Box 1, Pocopson, PA 19366. This proposed facility is located in Pocopson Township, **Chester County**.

Description of Action/Activity: Construction and operation of a sewer extension.

**WQM Permit No. WQG02150705**, Sewerage, **Atglen Borough**, P. O. Box 250, Atglen, PA 19310. This proposed facility is located in Atglen Borough, **Chester County**.

Description of Action/Activity: Expansion of West End PS to serve an additional 50 single-family residential lots.

**WQM Permit No. WQG02460704**, Sewerage, **Montgomery Township Municipal Sewer Authority**, 1001 Stump Road, Montgomeryville, PA 18936-9605. This proposed facility is located in Montgomery Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a pumping station and force main to serve a proposed age restricted community.

**WQM Permit No. 0906404**, Sewerage, **Buckingham Township**, P. O. Box 413, Buckingham, PA 18912. This proposed facility is located in Buckingham Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a sewage treatment plant for a 73 single-family unit.

**WQM Permit No. 2307402**, Sewerage, **DELCORA**, 100 East Fifth Street, Chester, PA 19016-0999. This proposed facility is located in Trainer Borough, **Delaware County**.

Description of Action/Activity: Replacement and extension of a force main and replacement of a pump station in the Trainer Borough Sew System.

**WQM Permit No. 1507201**, Industrial, **Sunoco Inc.** (R & M), 350 Eagleview Boulevard, Suite 300, Exton, PA 19341. This proposed facility is located in Franklin Township, **Montgomery County**.

Description of Action/Activity: Installation of a groundwater remediation system.

**WQM Permit No. 4673423**, Sewerage, Transfer, **Masons Mill Partners, LP**, 1800 Byberry Road, Suite 1410, Huntingdon Valley, PA 19006-3526. This proposed facility is located in Bryn Athyn Borough, **Montgomery County**.

Description of Action/Activity: Gravity collection system and two pump stations.

**WQM Permit No. WQG02150708**, Sewerage, **Valley Township**, 890 West Lincoln Highway, Coatesville, PA 19320. This proposed facility is located in Valley Township, **Chester County**.

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

**WQM Permit No. 0906411**, Sewerage, **Warwick Township Water and Sewer Authority**, P. O. Box 315, Jamison, PA 18929. This proposed facility is located in Warwick Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a effluent pump station to convey treated effluent to discharge.

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

**WQM Permit No. 4607201**, Industrial, **Sunoco Inc.**, R & M, 350 Eagleview Boulevard, Suite 300, Exton, PA 19341. This proposed facility is located in Franklin Township, **Montgomery County**.

Description of Action/Activity: Installation of a groundwater remediation system.

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

**WQM Permit No. 0287401-A1**, Sewerage, **South Versailles Township**, P. O. Box 66, Coulter, PA 15028. This existing facility is located in South Versailles Township, **Allegheny County**.



Description of Proposed Action/Activity: Permit amendment issuance to reflect the elimination of comminutor and bar screen.

**WQM Permit No. 3277405-A1**, Sewerage, **Pennsylvania Conference Association of 7-Day Adventist, Inc.**, 720 Museum Road, Reading, PA 19611. This existing facility is located in Banks Township, **Indiana County**.

Description of Proposed Action/Activity: Permit amendment issuance for the replacement of an existing 10,500 gpd extended aeration STP.

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

**WQM Permit No. WQG018529**, Sewerage, **Mary Ellyn A. and Thomas J. Bonanti**, 10643 Springboro Road, Springboro, PA 16435. This proposed facility is located in Spring Township, **Crawford County**.

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

**WQM Permit No. 6286201**, Industrial Waste Amendment No. 4, **Waste Treatment Corporation**, 1 Harmar Street, Warren, PA 16365. This proposed facility is located in City of Warren, **Warren County**.

Description of Proposed Action/Activity: This project is to modify their waste treatment system by adding a rapid sand filtration unit to their effluent stream.

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

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011506083	The Richard James Group 48 General Warren Boulevard Malvern, PA 19355	Chester	West Goshen and West Whiteland Townships	Broad Run HQ
PAI011506096	West Brandywine Township Municipal Authority 195 Lafayette Road Coatesville, PA 19320	Chester	West Brandywine Township	Culbertson Run and Beaver Creek HQ-TSF-MF

*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>
PAI023507005	PA American Water Co. 852 Wesley Drive Mechanicsburg, PA 17055	Lackawanna	Springbrook Township	Spring Brook HQ-CWF
PAI023907001	Muhlenberg College 2400 Chew Street Allentown, PA 18104	Lehigh	Allentown City	Cedar Creek HQ-CWF
PAI023906010	Vincent Fantozzi 5050 Route 309 South Center Valley, PA 18034	Lehigh	Upper Macungie Township	Little Lehigh Creek HQ-CWF
PAI024505023	S.I.D.E. Corp. P. O. Box 1050 Blakeslee, PA 18610	Monroe	Tobyhanna Township	Tobyhanna 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>
PAI033106005	John Gilliland 1 War Path Warriors Mark, PA 16877	Huntingdon	Warriors Mark Township	Warriors mark Run-Spruce Creek HQ-CWF

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

*Westmoreland County Conservation District, Center for Conservation Education, 211 Donohoe Road, Greensburg, PA 15601, (724) 837-5271.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056506002	Thomas and Sandra Usher Usher Youth Camp 400 Manordale Road Pittsburgh, PA 15241	Westmoreland	Cook and Ligonier Townships	Loyalhanna Creek HQ/CWF

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

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

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

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Groundwater Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Non-Exceptional 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-02

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Plumstead Township Bucks County	PAG2000907020	Fieldstone Farm of Sladek Road 2500 York Road Jamison, PA 18920	Hickory Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Middletown Township Bucks County	PAG2000906178	Bucks County Department of Parks and Recreation 901 East Bridgetown Pike Langhorne, PA 19407	Core Creek and Lake Luxembourg WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bristol Township Bucks County	PAG2000907019	Bristol Junior and Senior High School 1801 Wilson Avenue Bristol, PA 19007	Delaware River South WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Newtown Township Bucks County	PAG2000906052	660 Tudor Square, LP Suite 201A Oxford Valley Road Yardley, PA 19067	Tributary Core Creek CWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Warminster Township Bucks County	PAG2000906085	Christ's Home 800 New York Road Warminster, PA 18974	UNT Little Neshaminy Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Northampton Township Bucks County	PAG2000906099	County of Bucks 501 Churchville Lane Churchville, PA 18966	Mill Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
East Rockhill Township Bucks County	PAG2000904192	Nockamixon, LLC P. O. Box 1421 Kulpsville, PA 19443	Lake Nockamixon— Tohickon Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Rockhill Township Bucks County	PAG2000907006	Telvil Corporation 527 Main Street Harleysville, PA 19438	East Branch Perkiomen Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Newtown Township Bucks County	PAG2000906130	DeLuca Homes 107 Floral Vale Boulevard Yardley, PA 19067	Newtown Creek CWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Perkasie Borough Bucks County	PAG2000907028	CVS Realty Company One Berry Drive P. O. Box 560 Lumberton, PA 08048	East Branch Perkiomen Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Richland Township Bucks County	PAG2000906162	Pumping Station Road, LP 5925 Tighman Street Allentown, PA 18104	Tohickon Creek—Delaware River TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Warminster Township Bucks County	PAG2000907005	Altman Group of Companies 115 New Street Glenside, PA 19038-4511	Pennypack Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Makefield Township Bucks County	PAG2000906083	Mack & Roedel Custom Builders, LLC 5910 Stover Mill Road Doylestown, PA 18901	Jericho Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Rockhill and Hilltown Townships Bucks County	PAG2000906184	Penn Foundation, Inc. 807 Lawn Avenue Sellersville, PA 18960	UNT East Branch Perkiomen Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Kennett Township Chester County	PAG2001507008	Carrollton Development Group, Inc. 521 West Lancaster Avenue 2nd Floor Haverford, PA 19041	Red Clay Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Sadsbury Township Chester County	PAG2001507003	Geanette Parker Thompson 103 South Bridge Street Apt. F Christiana, PA 17509	Officers Run TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Whiteland Township Chester County	PAG2001507013	The Hankin Group 707 Eagleview Boulevard Box 1562 Exton, PA 19341	Lionville Run CWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Sadsbury and Valley Townships Chester County	PAG2001507021	All County Partnership 2500 East High Street Suite 610 Pottstown, PA 19464	Sucker Run WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Newtown Township Delaware County	PAG2002307004	SAP America, Inc. 3999 West Chester Pike Newtown Square, PA 19073	Crum Creek CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Gwynedd Township Montgomery County	PAG2004606141	Waverly Crossing, LLC 301 North Broad Street Lansdale, PA 19446	Wissahickon Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

## NOTICES

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<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Lower Providence Township Montgomery County	PAG2004606116	Audubon Road Land Associates, LLC 1741 Valley Forge Road Worcester, PA 19490	Skippack Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Conshohocken Township Montgomery County	PAG2004607026	Department of Transportation—6-0 7000 Geerdes Boulevard King of Prussia, PA 19406	Gulph Creek—Schuylkill River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Providence Township Montgomery County	PAG2004607034	Methacton Wolverines Youth Assoc. P. O. Box 85 Eagleville, PA 19408	UNT Skippack Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Whitemarsh Township Montgomery County	PAG2004607025	Whitemarsh Villas, LP 4060 Butler Pike Suite 100 Plymouth Meeting, PA 19462	Schuylkill River CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Gwynedd Township Montgomery County	PAG2004607029	Danella Realty 407 Norristown Road Blue Bell, PA 19422	Wissahickon Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Cheltenham Township Montgomery County	PAG2004607030	American Cancer Society of PA Route 442 and Sipe Avenue P. O. Box 897 Hershey, PA 17033	Tacony/ Tookany Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Merion Township Montgomery County	PAG2004606132	Traditional Properties, LP P. O. Box 507 4 Greenstone Way Haverford, PA 19041	Lower Merion Township Storm Sewer	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Franconia Township Montgomery County	PAG2004606105	Donald S. and Linda M. Hagey 711 Godshall Road Telford, PA 18969	Beaver Run Skippack Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Salford Township Montgomery County	PAG2004605076	Prospect Acquisitions, LP 404 Sumneytown Pike North Wales, PA 19454	East Perkiomen Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Limerick Township Montgomery County	PAG2004605233	Gambone Development Company 1030 West Germantown Pike Fairview Village, PA 19409	Schuylkill River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hatboro Township Montgomery County	PAG2004607036	Victorian Village at Loller Academy 1111 Easton Road Suite 27 Warrington, PA 18976	Pennypack Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Norristown Borough Montgomery County	PAG2004607042	Moreland Development, LLC 111 Presidential Boulevard Suite 209 Bala Cynwyd, PA 19004	Schuylkill River CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Douglas Township Montgomery County	PAG2004607002	Berks-Montgomery Municipal Authority 136 Municipal Drive P. O. Box 30 Gilbertsville, PA 19525	Swamp Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Whitemarsh Township Montgomery County	PAG2004607004	Thomas Taft 7181 Lafayette Avenue Fort Washington, PA 19034	Wissahickon Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Cheltenham Township Montgomery County	PAG2004607007	PECO and Elelon Company 2301 Market Street, S9-1 Philadelphia, PA 19101	Tacony/ Frankford Creeks WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015103017	National Greyhound Adoption Center 4701 Bath Street Philadelphia, PA 19137	Delaware River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Wilkes-Barre Township Wilkes-Barre City Luzerne County	PAG2004007006	Dan Pieretti 289 Pine Street Larksville, PA 18651	Tributary to Spring Run CWF	Luzerne Co. Cons. Dist. (570) 674-7991
South Whitehall Township Lehigh County	PAG2003906036	SKR Orefield Dave Serfass 1132 Hamilton Boulevard Suite 303 Allentown, PA 18101	Jordan Creek TSF, MF	Lehigh Co. Cons. Dist. (610) 391-9583
Dickson City Borough. Lackawanna County	PAG2003506011	Daniel Siniawa 851 Commerce Boulevard Suite 207 Dickson City, PA 18519	Tributary to Lackawanna River CWF	Lackawanna Co. Cons. Dist. (570) 281-9495
Hampden Township Cumberland County	PAG2002107007	Fair Hill Charter Homes and Neighborhoods 114 Foxfire Drive Lancaster, PA 17601	UNT Conodoguinet Creek WWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 (717) 240-7812
East Pennsboro Township Cumberland County	PAG2002107012	Enola Yard—Locomotive Fueling Facility Norfolk Southern Railway Co. 110 Franklin Road Box 13 Roanoke, VA 24042-0013	Susquehanna River WWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 (717) 240-7812
Monroe Township Cumberland County	PAG20021070241	Trindle Station Trindle Station, LLC 3223 Market Street Camp Hill, PA 17011	Trindle Spring Run CWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 (717) 240-7812
Middlesex Township Cumberland County	PAG2002106056	Heavy Duty Tires and Treads, Inc. Zane R. Highlands 1140 Claremont Road Carlisle, PA 17013	Letort Spring Run CWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 (717) 240-7812
Carroll Township York County	PAG2006706043	Robert Myers, III JBM Dillsburg, LP 2200 Monroe Street York, PA 17404	UNT to North Branch Bermudian Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430

## NOTICES

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<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Manchester Township York County	PAG2006707008	Keith Noll Apple Hill Properties, Inc. 1001 South George Street York, PA 17403	UNT to Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Jefferson Borough York County	PAG2006707023	CFR Partners 3969 Two Springs Farm Lane Glen Rock, PA 17327	Buffalo Valley Run WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Heidelberg Township York County	PAG2006706096	Allen F. and Donna M. Haar 689 Washington Avenue Apt. 20 Hanover, PA 17331	Gitts Run WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Monaghan Township York County	PAG2006706094	Barbara M. Mumma 129 South Lewisberry Road Mechanicsburg, PA 17055	UNT to Yellow Breeches Creek—Pippins Run CWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
York Township York County	PAG2006706085	Timothy Smith TTMT, LLC 3065 Honey Valley Road Dallastown, PA 17313	Mill Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Warrington Township York County	PAG2006706072	Don Haubert Haubert Homes, Inc. 15 Central Boulevard Camp Hill, PA 17011	UNT to Beaver Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Fairview Township York County	PAG2006706060	Richard Martin Silver Fox Partners, LLC 447 Granite Run Drive Lancaster, PA 17601	UNT to Yellow Breeches Creek CWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Martinsburg Borough North Woodbury Township Blair County	PAG2000707012	Corey Jones Morrison's Cove Home 429 South Market Street Martinsburg, PA 16662	Plum Creek WWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Derry Township Dauphin County	PAG2002207013	Grace United Methodist Church 443 E. Main Street Hummelstown, PA 17036	Susquehanna River WWF and Swatara Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018
Centre County Patton Township	PAG2001407005	Robert Poole Patton Forest Corporate Park 2121 Old Gatesburg Road State College, PA 16803	UNT to Spring Creek CWF	Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817
Columbia County Town of Bloomsburg	PAG2001907005	Conrad McKinley, N. D., LLC P. O. Box 158 Smyrna, DE 29977-0158	Fishing Creek WWF	Columbia County Conservation District 702 Sawmill Road, Suite 204 Bloomsburg, PA 17815 (570) 784-1310, Ext. 102

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Lycoming County Muncy Creek Township	PAG2004107005	William C. Brown 94 Tree Farm Road Muncy, PA 17756	UNT Muncy Creek CWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Armstrong County East Franklin Township	PAG2000306008	Charles Dobson 209 Pine Street Punxsutawney, PA 15767	UNT of Glade Run TSF	Armstrong County CD (724) 548-3425
Greene County Franklin Township	PAG2003007004	Cornerstone Care, Inc. Attn: Gary Mucho 7 Glassworks Road Greensboro, PA 15338	Tollgate Run WWF	Greene County CD (724) 852-5278
Washington County Peters Township	PAG2006307026	Wadwell Group 122 Cedar Lane McMurray, PA 15317	Tributary to Brush Run WWF	Washington County CD (724) 228-6774
<i>General Permit Type—PAG-3</i>				
<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>
Whitehall Township Lehigh County	PAR112206	John Medernach & Co., Inc. 117 Franklin Street P. O. Box 24 Whitehall, PA 18052	Lehigh River	DEP—NERO Water Mgmt. Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
Lebanon County Lebanon City	PAR803540	New Penn Motor Express, Inc.—Lebanon Terminal 625 South Fifth Street Lebanon, PA 17042	UNT to Quittapahilla Creek TSF 7-D	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Berks County Muhlenberg Township	PAR803505	New Penn Motor Express—Reading Terminal 625 South Fifth Street Lebanon, PA 17042	Laurel Run WWF 3-C	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Conewango Township Warren County	PAR708313	IA Construction Corporation P. O. Box 290 Homer City, PA 15748	Allegheny River	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Ellwood City Borough Lawrence County	PAR208329	INMETCO, Inc. INMETCO One Inmetco Drive Ellwood City, PA 16117	Connoquenessing Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Slippery Rock Township Butler County	PAR608340	Kennedy Diversified, Inc. Kennedy Diversified Auto Recycling 3844 William Flynn Highway Slippery Rock, PA 16057	Dry/Intermittent Tributary to Long Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
City of Erie Erie County	PAR208310	Custom Engineering Company 2800 McClelland Avenue Erie, PA 16510-2598	Municipal Stormwater Sewers to Lake Erie	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*Facility Location:  
Municipality &  
County*

<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>
Slippery Rock Township Butler County	PAR608315	Slippery Rock Salvage P. O. Box 310 Slippery Rock, PA 16057-0310	UNT to Slippery Rock Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
City of Erie Erie County	PAR218306	A. Duchini, Inc. P. O. Box 10005 Erie, PA 16514	City of Erie Storm Sewers to Garrison Run and Lake Erie; Outer Harbor	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Wetmore Township McKean County	PAR228335	Highland Forest Resources, Inc. HC3, Box 40 Marienville, PA 16239	UNT to Hubert Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-4**Facility Location:  
Municipality &  
County*

<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>
West Rockhill Township Bucks County	PAG040068	Christian and Melanie Derstine 2690 Old Bethlehem Pike Sellersville, PA 18960	UNT to Tohickon Creek	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Spring Township Crawford County	PAG049326	Mary Ellyn A. and Thomas J. Bonanti 10643 Springboro Road Springboro, PA 16435	UNT to Carr Run 16-D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Washington Township Erie County	PAG048707	Paula Geary 5850 Gibson Hill Road Edinboro, PA 16412	UNT to Boles Run 16-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Monroe Township Clarion County	PAG048498	Herbert Vance 834 Bodenhorn Road Sligo, PA 16255-4406	UNT to Piney Creek 17-B	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Union Township Crawford County	PAG048847	Cynthia A. and Webster A. Jones 7973 Perry Highway Meadville, PA 16335	UNT to Conneaut Outlet 16-D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Randolph Township Crawford County	PAG049336	Don Moser 26887 State Highway 27 Guys Mills, PA 16327	UNT to Little Sugar Creek 16D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Glade Township Warren County	PAG048868	Joseph A. Moski 3726 Melrose Avenue Erie, PA 16508	UNT to the Allegheny River 16B	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942



*General Permit Type—PAG-9 (SSN)**Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
Juniata County Susquehanna Township	PAG093549	Countryside Pumping Service 183 Riverview Road Liverpool, PA 17045	Stephens Farm No. 2	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Perry County Liverpool Township	PAG093549	Countryside Pumping Station 183 Riverview Road Liverpool, PA 17045	Stephens Farm No. 4	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

*General Permit Type—PAG-10*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Lebanon County Swatara Township	PAG103530	Texas Eastern Transmission, LP (2007 DOT Pipeline Replacement, Grantville Discharge) 5400 Westheimer Court 50-40-2 Houston, TX 77056	UNT Swatara Creek WWF 7-D	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

## PUBLIC WATER SUPPLY (PWS) PERMITS

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

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

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

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

## SAFE DRINKING WATER

### Actions taken under the Pennsylvania Safe Drinking Water Act

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

<b>Permit No. 6706504</b> , Public Water Supply.	
Applicant	<b>Delta Borough</b>
Municipality	Peach Bottom Township
County	<b>York</b>
Type of Facility	This PWS permit approves construction of Well DR-3, treatment facilities and distribution system to serve the Delta Ridge subdivision in Peach Bottom Township.
Consulting Engineer	Charles A. Kehew, II, P. E. James R. Holley & Assoc., Inc. 18 South George Street York, PA 17401
Permit to Construct Issued:	4/23/2007

<b>Permit No. 2206507</b> , Public Water Supply.	
Applicant	<b>Lower Dauphin School District</b>
Municipality	Londonderry Township
County	<b>Dauphin</b>
Type of Facility	Installation of a nitrate treatment system.

Consulting Engineer	William Sponaugle, P. E. GR Sponaugle and Sons 4391 Chambers Hill Road Harrisburg, PA 17111	Responsible Official	Dwight Orndorf, Chairperson Haines-Woodward Municipal Authority P. O. Box 147 Woodward, PA 16822
Permit to Construct Issued:	4/26/2007	Type of Facility	Public Water Supply—Operation
<b>Permit No. 0107501 MA, Minor Amendment</b> , Public Water Supply.		Consulting Engineer	David Swisher, P. E. HRG, Inc. 474 Windmere Drive State College, PA 16801
Applicant	<b>The Carlyle Group</b>	Permit Issued Date	May 4, 2007
Municipality	Mount Pleasant Township	Description of Action	Transfer of existing water system from East Haines Township Water Company to Haines-Woodward Municipal Authority. Permit originally issued October 29, 1963, approved Spring No. 1, a water powered hypochlorinator (retained as back-up system), 7,000 gallon raw water vault, and distribution system.
County	<b>Adams</b>		
Type of Facility	Well transmission piping changes and replacement of existing booster pumps.		
Consulting Engineer	David A. Brinjac, P. E. Brinjac, Kambic & Assoc., Inc. 114 North 2nd Street Harrisburg, PA 17101		
Permit to Construct Issued:	5/1/2007	<b>Permit No. M.A.-T1—Operation</b> , Public Water Sup- ply.	
<b>Permit No. 2207501 MA, Minor Amendment</b> , Public Water Supply.		Applicant	<b>Haines-Woodward Municipal Authority</b>
Applicant	<b>United Water Pennsylvania</b>	Township or Borough	Haines Township
Municipality	Susquahanna Township	County	<b>Centre</b>
County	<b>Dauphin</b>	Responsible Official	Dwight Orndorf, Chairperson Haines-Woodward Municipal Authority P. O. Box 147 Woodward, PA 16822
Type of Facility	Replacement of the raw water pumps at the Rockville pumping station.	Type of Facility	Public Water Supply—Operation
Consulting Engineer	Arthur Saunders, P. E. United Water Pennsylvania 4211 East Park Circle Harrisburg, PA 17111	Consulting Engineer	David Swisher, P. E. HRG, Inc. 474 Windmere Drive State College, PA 16801
Permit to Construct Issued:	4/18/2007	Permit Issued Date	May 4, 2007
<b>Permit No. 2207502 MA, Minor Amendment</b> , Public Water Supply.		Description of Action	Transfer of existing water system from East Haines Township Water Company to Haines-Woodward Municipal Authority. Permit originally issued February 3, 2000, approved operation of an electric powered sodium hypochlorinator, flow meter, flow proportioning system and chlorine residual analyzer.
Applicant	<b>United Water Pennsylvania</b>		
Municipality	Susquahanna Township	<b>Permit No. M. A.-5998501—Construction</b> , Public Water Supply.	
County	<b>Dauphin</b>	Applicant	<b>Wellsboro Municipal Authority</b>
Type of Facility	Replacement of the High Service Pump No. 3 at the 6th Street filtration plant.	Township or Borough	Charleston Township
Consulting Engineer	Arthur Saunders, P. E. United Water Pennsylvania 4211 East Park Circle Harrisburg, PA 17111	County	<b>Tioga</b>
Permit to Construct Issued:	4/18/2007	Responsible Official	John Orr, Chairperson Wellsboro Municipal Authority 28 Crafton Street Wellsboro, PA 16901
<i>Northcentral Region: Water Supply Management Pro- gram Manager, 208 West Third Street, Williamsport, PA 17701.</i>			
<b>Permit No. 263W011—Operation</b> , Public Water Sup- ply.			
Applicant	<b>Haines-Woodward Municipal Authority</b>		
Township or Borough	Haines Township		
County	<b>Centre</b>		

Type of Facility      Public Water  
 Supply—Construction  
 Consulting Engineer    William S. Bray, P. E.  
                                  P. O. Box 535  
                                  Wellsboro, PA 16901  
 Permit Issued Date    May 4, 2007  
 Description of Action   Construction of the flow meters  
                                  and data loggers.

**Genesee Township Water Authority**, (Public Water Supply), **Potter County**. The Source Water Protection (SWP) report for the Genesee Township Water Authority has been approved on May 8, 2007. Genesee Township Water Authority personnel are to be commended for taking this proactive step to protect the source water for the community. Development of the program was funded, in part, by a SWP grant (L. Richard Adams, (570) 321-6581).

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

**Operations Permit** issued to: **PA American Water Company**, 800 Hersheypark Road, Hershey, PA 17033-2400, PWSID No. 6420019, Permit No. 4294501-MA1, Kane Borough, **McKean County**, on May 7, 2007, for the removal of a brand specific corrosion inhibitor, as approved under construction permit 4294501, dated September 26, 1994.

**Operations Permit** issued to: **PA American Water Company**, 800 Hersheypark Road, Hershey, PA 17033-2400, PWSID No. 6620020, Permit No. 6289502-MA1, Conewango Township, **Warren County**, on May 7, 2007, for the removal of a brand specific corrosion inhibitor, as approved under construction permit 6289502, dated January 18, 1990.

**WATER ALLOCATIONS**

**Actions taken on applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth**

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

**WA 7-940A**, Water Allocations. **Blair Township Water and Sewer Authority, Blair County**. The applicant was granted the right to purchase a maximum of 300,000 gpd based on a 30-day average from the Altoona City Authority at an existing interconnection in Blair Township, Blair County, Consulting Engineer: Daniel J. Carbaugh, P. E., Keller Engineers Inc. Permit Issued: 5/4/2007.

**SEWAGE FACILITIES ACT PLAN APPROVAL**

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

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Chatham Township	R. R. No. 1, Box 969A Little Marsh, PA 16950	Tioga

*Plan Description:* The approved plan calls for management of the onlot sewage systems in the Village along with a decentralized approach to repair existing malfunctions. The approved alternative proposes construction of five individual and two community onlot sewage systems. These systems will be permitted by the local sewage agency and will be operated and maintained by the Chatham Township Authority. The Authority will also operate and administer the proposed sewage management program. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Franklin Township	150 Century Lane Dillsburg, PA 17019	York County

*Plan Description:* Apple Blossom Estates, A3-67923-261-3: The approved plan provides for a 66 lot subdivision on 83 acres with 59 single-family residential building lots, four lots for stormwater detention/retention, one residual tract, one lot for placement of a water storage tank, and one access lot. Total estimated sewage flows are 23,600 gpd, and they will be tributary to the Dillsburg Area Authority Wastewater Treatment Plant. The proposed subdivision is located on the west side of South Mountain Road between Twin Hills and Rocky Ridge Roads in Franklin Township, York County. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
East Pennsboro Township	98 South Enola Drive Enola, PA 17025	Cumberland

*Plan Description:* The approved plan provides for a two-phase expansion and upgrade of the East Pennsboro WWTP and the collection and conveyance system. The Phase 1 portion will include the extension of public sewers to the Phase 1 priority areas identified in the Plan and the replacement of the Conodoguinet Pumping Station. The Plan also provides for the adoption and implementation of onlot sewage disposal system management, holding tank, and grinder pump ordinances. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

**SEWAGE FACILITIES ACT PLAN DISAPPROVAL**

**Plan Disapprovals 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:* North side of Church Road in Reading Township, Adams County.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Reading Township	50 Church Road East Berlin, PA 17316	Adams County

*Plan Description:* The Scott A. Phillips subdivision proposed three single-family residential lots on an 11.4 acre tract using onlot sewage disposal. The project code number is B3-01928-202-2. The plan was disapproved because it failed to adequately mitigate contamination from the proposed onlot systems to the groundwater.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 2

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

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

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

The Department has received the following plans and reports:

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

**905 Bristol Pike**, Bristol Township, **Bucks County**. Samuel Kucia, Env. Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401 on behalf of Robert White, Redevelopment Authority of Bucks County,

One North Wilson Avenue, Bristol, PA 19007 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standards.

**Ramalho Residence**, Lower Moreland Township, **Montgomery County**. On behalf of Lewis Ramalho, 3485 Brae Bourn Drive, Huntington Valley, PA 19006 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Site-Specific Standards.

**Hoekstra Residence**, East Vincent Township, **Chester County**. Thomas Schultz, Lewis Env. Group, P. O. Box 639, Royersford, PA 19468 on behalf of John Hoekstra, 32 Sheeder Mill Road, Birchrunville, PA 19421 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standards.

**Westtown Township, Police Barracks**, Westtown Township, **Chester County**. Mark Hawkins, BrickHouse Env., 515 S. Franklin Street, West Chester, PA 19382 on behalf of Robert Layman, Westtown Township, 1039 Wilmington Pike, West Chester, PA 19382 has submitted a Final Report concerning remediation of site soil contaminated with. The report is intended to document remediation of the site to meet the Statewide Health Standards.

**Sonoco Paper Co.**, Downingtown Borough, **Chester County**. On behalf of Craig Herr, RT Env. Svc., Inc., 215 W. Church Road, King of Prussia, PA 19406 has submitted a Final Report concerning remediation of site soil contaminated with inorganics. The report is intended to document remediation of the site to meet the Statewide Health Standards.

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

**Bud Friend, Inc.**, Emmaus Borough, **Lehigh County**. Brian Evans, B & B Diversified Enterprises, Inc., P. O. Box No. 188, Gwynedd, PA 19436 has submitted a Final Report (on behalf of his client, Arland and Judith Friend, 700 Chestnut Street, Emmaus, PA 18049) concerning the remediation of soil found to be impacted by a release of used motor oil as the result of the removal of an unregulated underground storage tank. The report was submitted to document attainment of the Residential Statewide Health Standard for soils. The proposed future use of the property will be residential use.

**Delaware Township Municipal Building**, Delaware Township, **Pike County**. James J. Chenard, P. G., S & M Management, Inc., P. O. Box No. 1429, Milford, PA 18337 has submitted a Final Report (on behalf of his client, Delaware Township, 116 Wilson Hill Road, Dingmans Ferry, PA 18328) concerning the remediation of soils and groundwater found to have been impacted by No. 2 fuel oil as the result of the removal of an unregulated underground storage tank. The report was submitted to document attainment of the Nonresidential Statewide Health Standard for both media. The proposed future use of the property will be Nonresidential use. A public notice regarding the submission of the Final Report was published in the *Pike County Dispatch* on December 21, 2006.

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

**Brickstone Development—Wyomissing**, Borough of Wyomissing, **Berks County**. Ransom Environmental, 2127 Hamilton Avenue, Hamilton, NJ 08619, on behalf of JMH, Inc., 200 North Park Road, Suite 400, Wyomissing, PA 19610; The Brickstone Companies, Mellon Independence Center, 701 Market Street, Philadelphia, PA 19106 and Bozzuto Development Company, 7850 Walker Drive, Suite 400, Greenbelt, MD 10770-3203, prospective owner and developer, submitted a Remedial Investigation Report and Cleanup Plan concerning remediation of site soils contaminated with arsenic. The report is intended to document remediation of the site to the Site-Specific Standard.

**Steven dePerrot Residence**, Lititz Borough, **Lancaster County**. GemChem, Inc., 53 North Cedar Street, P. O. Box 384, Lititz, PA 17543-0384, on behalf of Steven dePerrot, 201 South Locust Street, Lititz, PA 17543-2108, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to the Residential Statewide Health Standard. The report was submitted within 90 days of the release that occurred during a fuel oil delivery on February 8, 2007.

**Southwest Corner 2nd and Washington Streets**, Reading City, **Berks County**. Synergy Environmental, Inc., 155 Railroad Plaza, Royersford, PA 19468, on behalf of City of Reading Redevelopment Authority, 815 Washington Street, Reading, PA 19601, submitted a combined Remedial Investigation and Final Report concerning remediation of site soils contaminated with arsenic and lead. The report is intended to document remediation of the site to the Site-Specific Standard.

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

**Grace Service Station**, Troy Borough, **Bradford County**. Teeter Environmental Services, Inc., R. R. 1, Box 124B, Sayre, PA 18840 on behalf of Lynn and Joan Grace, P. O. Box 207, Troy, PA 16947 has submitted a Final Report concerning remediation of site groundwater contaminated with benzene, ethyl benzene, MTBE and naphthalene. The report is intended to document remediation of the site to meet the Statewide Health Standard for groundwater only.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 3

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

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling

methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

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

The Department has received the following plans and reports:

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

**Brinda Carvounis Residence**, Palmyra Township, **Pike County**. Keith Lupfer, ARM Group Inc., 1129 West Governor Road, Hershey, PA 17033-0797 submitted a Final Report (on behalf of his client, Brinda Carvounis, 955 Patton Street, North Brunswick NJ 08902) concerning the remediation of soils contaminated by the accidental release of heating oil from an aboveground storage tank. The report demonstrated attainment of the Residential Statewide Health Standard for soils and was approved on May 5, 2007.

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

**Myers Residence**, Tyrone Township, **Perry County**. Skelly and Loy, Inc., 2601 North Front Street, Harrisburg, PA 17110, on behalf of Carl and Nancy Myers, 609 Shaeffers Valley Road, Landisburg, PA 17040-8010, submitted a Final Report concerning the remediation of site soils contaminated with No. 2 fuel oil from an aboveground storage tank. The final report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department on May 4, 2007.

### DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

**Determination of Applicability for General Permit Approved under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to operate residual waste processing facilities and/or the beneficial use of residual waste other than coal ash.**

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

**General Permit No. WMGR081D010.** JVS Environmental, 413 Broadway Street, Rockwood, PA 15557-1008. For the recycling of various uncontaminated and source-separated electronic equipment and components electronics equipment by sorting, disassembling and mechanical processing (by sizing, shaping, separating and volume reduction only). The Department approved the determination of applicability on

Persons interested in reviewing the general permit should contact the Beneficial Use/General Permits Section, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users should contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

### AIR QUALITY

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

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

**09-310-072GP: Haines & Kibblehouse, Inc.** (2052 Lucon Road, Skippack, PA 19474) on May 8, 2007, to operate a portable nonmetallic mineral in West Rockhill Township, **Bucks County**.

**09-329-002GP: Haines & Kibblehouse, Inc.** (2052 Lucon Road, Skippack, PA 19474) on May 8, 2007, to operate a combustion engine in West Rockhill Township, **Bucks County**.

**09-329-003GP: ABC Crushed Materials, LLC** (714 Dunksferry Road, Bensalem, PA 19020) On May 8, 2007, to operate a diesel/No.2 fuel-fired internal in Falls Township, **Bucks County**.

**23-329-006GP: Centocor Research and Development, Inc.** (145 King of Prussia Road, Radnor, PA 19087) on May 8, 2007, to operate a diesel fired internal combustion in Radnor Township, **Delaware County**.

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

**39-302-191GP1: Coca-Cola Co.—Lehigh Valley Plant** (7551 Schantz Road, Allentown, PA 18106) on May 3, 2007, to construct and operate the No. 1 boiler at their facility in Upper Macungie Township, **Lehigh County**.

**39-302-192GP1: Coca-Cola Company—Lehigh Valley Plant** (7551 Schantz Road, Allentown, PA 18106) on May 3, 2007, to construct and operate the No. 2 boiler at their facility in Upper Macungie Township, **Lehigh County**.

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

**GP1-21-03050A: Dickinson College** (P. O. Box 1773, Carlisle, PA 17013) on May 1, 2007, for Small Gas and No. 2 Oil Fired Combustion Units under GP1 in Carlisle Borough, **Cumberland County**.

**GP1-36-03110: Southern Container Corp.** (500 Richardson Drive, Lancaster, PA 17603) on May 3, 2007, for Small Gas and No. 2 Oil Fired Combustion Units under GP1 in West Hempfield Township, **Lancaster County**.

**GP3-38-03050B: Haines & Kibblehouse, Inc.** (P. O. Box 196, Skippack, PA 19474) on May 2, 2007, for Portable Nonmetallic Mineral Processing Plants under GP3 in North Annville Township, **Lebanon County**.

**GP9-38-03052: Haines & Kibblehouse, Inc.** (P. O. Box 196, Skippack, PA 19474) on May 2, 2007, for Diesel or No. 2 Fuel-fired Internal Combustion Engines under GP9 in North Annville Township, **Lebanon County**.

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

**GP-25-1011: Dusckas Martin Funeral Home** (4216 Sterretania Road, Erie, PA 16506) on April 30, 2007, for a Human or Animal Crematory in Millcreek Township, **Erie County**.

**GP-33-152: Dominion Transmission—Stoney Run Station** (Route 36, Boomersville, PA 15767) on May 31, 2007, for a natural gas production facility in Gaskill Township, **Jefferson County**.

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

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

**15-0004G: Alcoa Packaging, LLC** (520 Lincoln Avenue, Downingtown, PA 19335) on May 8, 2007, to operate a new flexographic press in Downingtown Borough, **Chester County**.

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

**28-05041A: Jerr-Dan Corp.** (1080 Hykes Road, Greencastle, PA 17225-9647) on April 30, 2007, to construct two coating booths and three natural gas fired curing ovens of combined 7.5 mmBtu/hr rated heat input in Antrim Township, **Franklin County**.

**36-05014H: Alumax Mill Products, Inc.** (1480 Manheim Pike, Lancaster, PA 17601-3152) on May 3, 2007, to install a hot rolling mill strip cooling bar at the secondary aluminum processing plant in Manheim Township, **Lancaster County**.

**67-05024F: Lehigh Cement Co.** (200 Hokes Mill Road, York, PA 17404-5540) on May 2, 2007, for limited use of post-industrial plastic as fuel in the rotary kiln at the cement plant in West Manchester Township, **York County**.

**ER-67-05071A: Leggett and Platt, Inc.** (P. O. Box 757, Carthage, MO 64836-0757) on May 4, 2007, for 6.51 tpy of VOC resulting from the shutdown of their Zell Brothers wooden store fixture manufacturing facility in Red Lion Borough, **York 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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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**09-0015F: Rohm & Haas Co.** (727 Norristown Road, P. O. Box 0904, Spring House, PA 19477) on May 2, 2007, to operate four boilers in Bristol Township, **Bucks County**.

**09-0110B: Riverside Construction Materials, Inc.** (355 Newbold Road, Fairless Hills, PA 19030) on May 2, 2007, to operate a material handling system in Bristol Township, **Bucks County**.

**23-0094: CCL Label, Inc.** (1515 Garnet Mine Road, Boothwyn, PA 19061) on May 4, 2007, to operate a rotogravure printing press in Bethel Township, **Delaware County**.

**46-0069B: Highway Materials, Inc.** (1750 Walton Road, Blue Bell, PA 19422) on May 4, 2007, to operate a dryer burner in Whitemarsh Township, **Montgomery County**.

**46-313-146: Penn Color, Inc.** (2755 Bergey Road, Hatfield, PA 19440) on May 4, 2007, to operate a base pigment dispersion facility in Hatfield Township, **Montgomery County**.

**23-0047D: Degussa Corp.** (1200 West Front Street, Chester, PA 19013) on May 7, 2007, to operate a granulated dust collector baghouse in City Of Chester, **Delaware County**.

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

**36-03137A: Martin Limestone, Inc.** (P. O. Box 550, Blue Ball, PA 17506) on May 3, 2007, for addition of a new primary crushing plant circuit at the Burkholder plant in Earl Township, **Lancaster County**.

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

**17-305-051A: Parkwood Resources, Inc.** (511 Railroad Avenue, Homer City, PA 15748) on May 7, 2007, to operate a coal stockpiling and truck loading facility on a temporary basis until September 4, 2007, at the Cherry Tree Mine in Burnside Township, **Clearfield County**. The plan approval has been extended.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, William Charlton, New Source Review Chief, (412) 442-4174.*

**65-302-071: Koppers Industries, Inc.** (436 Seventh Avenue, Pittsburgh, PA 15219 ) on May 1, 2007, to allow

permittee additional time to demonstrate compliance with plan approval issued for the reactivation of two coke gas fired boilers at the Coke Works in Monessen, **Westmoreland County**. This plan approval has been extended.

**30-00148A Dana Mining Company of PA, Inc.** (P. O. Box 1209, Morgantown, WV 26507) on May 7, 2007, to operate a coal prep plant at their 4-West Deep Mine in Dunkard Township, **Greene County**.

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

**61-004C: Electralloy-A G.O. Carlson, Inc. Co.** (175 Main Street, Oil City, PA 16301) on April 30, 2007, to modify the electric arc furnace in Oil City, **Venango County**.

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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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*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Norman Frederick, Facilities Permitting Chief, (570) 826-2531.*

**54-00003: Schuylkill Energy Resources, Inc.** (P. O. Box 112, Shenandoah, PA 17976) on April 23, 2007, to operate a Facility Title V Operating Permit in Mahanoy Township, **Schuylkill County**.

**48-00076: Conective Bethlehem, LLC** (P. O. Box 6066, Newark, DE 19714-6066) on April 23, 2007, to operate a Facility Title V Operating Permit in Lower Saucon Township, **Northampton County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, Muhammad Zaman, Facilities Permitting Chief, (570) 327-3637.*

**49-00024: Sunbury Property, LLC—Knight-Celotex, LLC** (1400 Susquehanna Avenue, Sunbury, PA 17801) on April 24, 2007, to operate a low density fiberboard manufacturing facility in the City of Sunbury, **Northumberland County**. This is a renewal.

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

**35-00062: Wells Cargo, Inc.—PA Division** (50 Enterprise Drive, Carbondale, PA 18407) on April 12, 2007, for a State-only (Synthetic Minor) Operating Permit to operate a paint spray booth and associated air cleaning device at their facility in the City of Carbondale, **Lackawanna County**.

**35-00029: Mercy Hospital** (746 Jefferson Avenue, Scranton, PA, 18510) on April 23, 2007, to operate a Facility State-only Synthetic Minor Operating Permit in the City of Scranton, **Lackawanna County**.

**40-00037: T. P. Corp.** (620 Foote Avenue, P. O. Box 97, Duryea, PA 18642) on April 23, 2007, to operate a Facility State-only Synthetic Minor Operating Permit in Duryea, **Luzerne County**.

**40-00103: Harman Funeral Home & Crematory, Inc.** (P. O. Box 429, Drums, PA 18222) on April 23, 2007, to operate a Facility State-only Natural Minor Operating Permit in Butler Township, **Luzerne County**.

**54-00025: Leiby's Restaurant, Inc.** (275 East Liberty Street, Lancaster, PA 17602) on April 23, 2007, to operate a Facility State-only Natural Minor Operating Permit in West Penn Township, **Schuylkill County**.

**54-00071: Van Hoekelen Greenhouses, Inc.** (P. O. Box 88, McAdoo, PA 18237-0088) on April 23, 2007, to operate a Facility State-only Synthetic Minor Operating Permit in Kline Township, **Schuylkill County**.

**64-00012: Wayne Memorial Hospital** (601 Park Street, Honesdale, PA 18431) on April 23, 2007, to operate a Facility State-only Natural Minor Operating Permit in Honesdale Borough, **Wayne County**.

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

**36-03013: Burnham Corp.** (1135 Dillerville Road, Lancaster, PA 17603) on April 30, 2007, for coating operations and commercial boilers at their Dillerville Road Boiler Plant, in the City of Lancaster, **Lancaster County**. This is a renewal of the State-only operating permit.

**36-03014: Burnham Corp.** (1237 Harrisburg Pike, Lancaster, PA 17603-2500) on April 30, 2007, for coating operations and commercial boilers at their Fruitville Pike Plant, in Manheim Township, **Lancaster County**. This is a renewal of the State-only operating permit.

**50-03003: Newport School District** (P. O. Box 9, Newport, PA 17074-0009) on May 2, 2007, for operation of two anthracite coal-fired boilers and a No. 2 oil fired boiler at their elementary school in Newport Borough, **Perry County**. This is a renewal of the State-only operating permit.

**50-05003: Newport School District** (P. O. Box 9, Newport, PA 17074-0009) on May 2, 2007, for operation of two anthracite coal-fired boilers at their high school in Newport Borough, **Perry County**. This is a renewal of the State-only operating permit.

**67-05095: Osram Sylvania Products, Inc.** (1128 Roosevelt Avenue, York, PA 17404-2348) on May 1, 2007, for operation of an electronics components manufacturing facility in West Manchester Township, **York County**. This is a renewal of the State-only operating permit.

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

**60-00021: Iddings Quarry, Inc.** (900 Chestnut Street, Mifflinburg, PA 17844) on April 3, 2007, to operate a stone crushing and screening facility in Limestone Township, **Union County**.

**17-00060: Penfield Collieries, LLC** (301 Market Street, Kittanning, PA 16201) on April 5, 2007, to operate a coal preparation facility in Huston Township, **Clearfield County**.

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

**65-00732: Excelsa Health** (One Mellon Way, Latrobe, PA 15650) for operation of two Nebraska natural gas/No.

2 fuel oil fired boilers each rated at 27.5 mmBtu/hr, four diesel-fired emergency generators, and an ethylene oxide sterilizer at Latrobe Hospital in Latrobe Borough, **Westmoreland County**.

**32-00368: TJS Mining, Inc.** (R. D. 1 Box 260D, Shelocta, PA 15774) on May 2, 2007, for a State-only operating permit to operate the Rossmoyne No. 1 Mine Coal Preparation Plant in South Mahoning Township, **Indiana County**.

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

**20-00130: Meadville Forging Company, LP** (15309 Baldwin Street Ext., Meadville, PA 16335) on May 2, 2007, to incorporate plan approval 20-130B to incorporate three sandblasting sources, three dust collectors and the removal of the scrubbers from the forging presses City of Meadville, **Crawford County**.

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

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

**21-05042: Pennsy Supply, Inc.** (1 Clear Spring Road, Annville, PA 17003-9054) on May 1, 2007, to operate their hot mix batch asphalt plant (controlled by a knockout box/fabric collector) at their Silver Spring Quarry in Silver Spring Township, **Cumberland County**. This State-only operating permit was administratively amended to incorporate Plan Approval 21-05042B. This is revision No. 1.

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

**S04-020: Philadelphia Gas Works—Passyunk Plant in Philadelphia** (3100 Passyunk Avenue, Philadelphia, PA 19145) on May 7, 2007, to change contact information. The Synthetic Minor Operating Permit was originally issued October 13, 2005.

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**De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.**

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

**65-00873: Pace Industries—Airo Die Casting** (1004 Industrial Boulevard, Loyahanna, PA 15661) on May 1, 2007, for de minimis emission increase of 0.8 ton PM per year, 0.006 ton SO<sub>x</sub> per year, 1.0 ton NO<sub>x</sub> per year, 0.06 ton VOC per year and 0.9 ton CO per year resulting from the installation of a new RGF TO 150 Wastewater Evaporator at the Main Plant located in Derry Township, **Westmoreland County**. Source is restricted to 8,333 hours of operation per year and recordkeeping is required.



## ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.31); 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); 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 such applications will also address the application permitting requirements of the following statutes; the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).**

### Coal Permits Actions

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

**Permit No. 03060701 and NPDES Permit No. PA0235661, McVile Mining Company,** (301 Market Street, Kittanning, PA 16201), to operate the McVile Refuse Disposal Area No. 2 in South Buffalo Township, **Armstrong County** a new refuse disposal site and related NPDES permit. Coal Refuse Disposal Acres Proposed 120.3. Receiving stream: UNT to Allegheny River, classified for the following use: CWF. Application received July 18, 2006. Permit issued April 30, 2007.

**Permit No. 30031301 and NPDES Permit No. PA0235610, Dana Mining Company of PA, Inc.,** (P. O. Box 1170, Morgantown, WV 26507), to revise the permit for the 4 West Mine in Dunkard and Perry Townships, **Greene County** to add subsidence control plan area acres to the underground mine permit. Subsidence Control Plan Acres Proposed 1,710.0. No additional discharges. Application received October 19, 2006. Permit issued April 30, 2007.

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

**Permit No. 32960103 and NPDES No. PA021331. Kraynak Coal Company,** (3124 Firetower Road, Mahaffey, PA 15757-9501), permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Grant and Green Townships, **Indiana County**, affecting 329.7 acres. Receiving streams: UNT to East Run and Little Mahoning Creek and UNT to North Branch of Two Lick Creek classified for the following uses: HQ-CWF and CWF. There are no potable water supply intakes within 10 miles downstream. Application received December 14, 2006. Permit issued April 30, 2007.

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

**03940110 and NPDES Permit No. PA0200999. Seven Sisters Mining Co., Inc.** (200 US Route 22, Delmont, PA 15626). Permit renewal issued for continued operation and reclamation of a bituminous surface mining site located in Wayne Township, **Armstrong County**, affecting 55.5 acres. Receiving streams: UNTs to the

North Branch of the South Fork of Pine Creek. Application received March 8, 2007. Renewal issued May 3, 2007.

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

**10060103 and NPDES Permit No. PA0258172. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001) Commencement, operation and restoration of a bituminous strip operation in Clay and Center Townships, **Butler County** affecting 218.0 acres. Receiving Streams: UNTs to Stony Run and UNTs to Muddy Creek. Application received July 3, 2006. Permit Issued May 1, 2007.

**1475-10060103-E-1. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001) Application for a stream encroachment to conduct mining activities within 100 feet of UNT No. 4 to Muddy Creek in Clay and Center Townships, **Butler County**. Receiving streams: UNTs to Stony Run and UNTs to Muddy Creek. Application received July 3, 2006. Permit Issued May 1, 2007.

**1475-10060103-E-2. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001) Application for a stream encroachment to conduct mining activities within 100 feet of UNT No. 6 to Stony Run in Clay and Center Townships, **Butler County**. Receiving streams: UNTs to Stony Run and UNTs to Muddy Creek. Application received July 3, 2006. Permit Issued May 1, 2007.

**1475-10060103-E-3. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001) Application for a stream encroachment to construct and maintain a haul road crossing over UNT No. 7 to Stony Run in Clay and Center Townships, **Butler County**. Receiving streams: UNTs to Stony Run and UNTs to Muddy Creek. Application received July 3, 2006. Permit Issued May 1, 2007.

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

**17960119 and NPDES No. PA0220469. TDK Coal Sales, Inc.** (P. O. Box 259, Brockway, PA 15824), permit renewal for the continued operation and restoration of a bituminous surface mine in Jordan Township, **Clearfield County**, affecting 154.0 acres. Receiving streams: Tributary to Comfort Run and Comfort Run to Witmer Run to Clearfield Creek to the West Branch of the Susquehanna River, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 27, 2006. Permit issued April 27, 2007.

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

**54070101. JJ & W Coal Company, Inc.,** (121 New Philadelphia Road, Kaska, PA 17959), commencement, operation and restoration of an anthracite surface mine operation in Blythe Township, **Schuylkill County** affecting 126.6 acres, receiving stream: none. Application received January 2, 2007. Permit issued April 30, 2007.

**54-305-002GP12. Wheelabrator Culm Services, Inc.,** (4 Liberty Lane West, Hampton, NH 03842), general operating permit to operate a coal preparation plant (on SMP No. 54040203) in Mahanoy Township, **Schuylkill County**. Application received March 26, 2007. Permit issued May 2, 2007.

### Noncoal Permits Actions

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

**16060808. Vince DiStefano** (96 Tylersburg Road, Leeper, PA 16233) Commencement, operation and restoration of a small noncoal shale operation in Highland

Township, **Clarion County** affecting 5.0 acres. Receiving streams: UNT to Clarion River. Application received December 12, 2006. Permit Issued May 2, 2007.

**37060303. Troy Sand & Gravel Co.** (661 Golf Course Road, Volant, PA 16156) Commencement, operation and restoration of a large noncoal topsoil and sand and gravel operation in Plain Grove Township, **Lawrence County** affecting 11.0 acres. Receiving streams: UNT to Taylor Run and UNT to Slippery Rock Creek. Application received July 14, 2006. Permit Issued May 1, 2007.

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

**08072801. Robert J. Johnson** (R. R. 4, Box 4055, Wyalusing, PA 18853). Commencement, operation and restoration of a Flagstone/Bluestone operation in Stevens Township, **Bradford County**, affecting 3.0 acres. Receiving streams: UNT, tributary to Wolf Creek. There are no potable water supply intakes within 10 miles downstream. Application received January 30, 2007. Permit issued April 24, 2007.

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

**4874SM2C2 and NPDES Permit No. PA0123544.** Old Castle Stone Products, (P. O. Box 220, Thomasville, PA 17364), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Jackson Township, **York County**, receiving stream: Little Conewago Creek. Application received August 28, 2006. Renewal issued May 1, 2007.

**67000301C and NPDES Permit No. PA0224065.** Old Castle Stone Products, (P. O. Box 220, Thomasville, PA 17364), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Jackson Township, **York County**, receiving stream: Little Conewago Creek. Application received September 22, 2006. Renewal issued May 1, 2007.

#### 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.*

**32074005. Phillips Production Company**, (29 Phillips Road, Clarksburg, PA 15725), blasting activity permit issued for gas well site located in East Mahoning Township, **Indiana County**. Duration of project is 180 days.

**32074006. Phillips Production Company**, (29 Phillips Road, Clarksburg, PA 15725), blasting activity permit issued for gas well site located in East Mahoning Township, **Indiana County**. Duration of project is 180 days.

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

**03074001. Plum Contracting** (457 Davidson Road, Pittsburgh, PA 15239). Blasting activity permit for the South Mahoning slide repair of SR 1003 Section 4S3,

located in Pine Township, **Armstrong County**. Permit expires April 30, 2008. Permit issued April 30, 2007.

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

**13074101. DC Guelich Explosives, Inc.**, (R. R. 3, Box 125A, Clearfield, PA 16830), construction blasting for Briar Creek Woods in Kidder Township, **Carbon County** with an expiration date of April 25, 2008. Permit issue April 30, 2007.

**45074128. Geological Technologies, Inc.**, (P. O. Box 70, Falling Waters, WV 25419), construction blasting for The Shops at Stroudsburg in Smithfield Township, **Monroe County** with an expiration date of December 30, 2007. Permit issued April 30, 2007.

**36074145. Keystone Blasting Service**, (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for Kissel Hill Commons in Manheim Township, **Lancaster County** with an expiration date of December 30, 2008. Permit issued May 1, 2007.

**22074110. Keystone Blasting Service**, (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for Village Glenn in West Hanover Township, **Dauphin County** with an expiration date of December 30, 2008. Permit issued May 2, 2007.

**36074143. J. Roy's, Inc.**, (Box 125, Bowmansville, PA 17507), construction blasting for Hempfield School in East Hempfield Township, **Lancaster County** with an expiration date of December 30, 2007. Permit issued May 3, 2007.

**36074144. J. Roy's, Inc.**, (Box 125, Bowmansville, PA 17507), construction blasting for Lancaster General Hospital in the City of Lancaster, **Lancaster County** with an expiration date of December 30, 2007. Permit issued May 3, 2007.

**36074146. Keystone Blasting Service**, (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for Warwick Crest Development in Warwick Township, **Lancaster County** with an expiration date of December 30, 2008. Permit issued May 3, 2007.

**38074107. Austin Powder Company**, (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Landis Deck Elco Treatment Plant in Myerstown Borough and Jackson Township, **Lebanon County** with an expiration date of May 1, 2008. Permit issued May 3, 2007.

**36074147. Keystone Blasting Service**, (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for Cedar Hollow in Rapho Township, **Lancaster County** with an expiration date of December 31, 2007. Permit issued May 4, 2007.

**39074111. Austin Powder Company**, (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Spring Ridge Crossing in Lower Macungie Township, **Lehigh County** with an expiration date of May 1, 2008. Permit issued May 4, 2007.

#### FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

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

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

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

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

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

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

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

**WATER OBSTRUCTIONS AND ENCROACHMENTS**

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

**E64-263. Pocono Springs Civic Association**, R. R. 2, Box 104, Newfoundland, PA 18445. Lehigh Township, **Wayne County**, United States Army Corps of Engineers Philadelphia District.

To construct and maintain two dry hydrants in Pocono Peak Lake (HQ-CWF) for the purpose of providing fire protection. The first hydrant is located near Perch Lane along the north shore and the second hydrant is located near Spring Lane along the south shore (Sterling, PA Quadrangle N: 5.2 inches; W: 4.3 inches).

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

**E17-425. Department of Transportation, Engineering District 2-0**, P. O. Box 342, 1924-30 Daisy Street, PA 16830. SR 0879, Section A01 Lick Run Bridge Project, Goshen and Lawrence Townships, **Clearfield County**,

ACOE Baltimore District (Clearfield, PA Quadrangle Latitude: 41° 02' 52"; Longitude: 78° 22' 57").

The applicant proposes to remove an existing structure and construct, operate and maintain a five-span prestressed concrete I-beam bridge across Lick Run and the bridge piers with associated rock fill within the Lick Run 100-year floodplain for improved highway safety. The five-span bridge shall be constructed with each span measuring 122 feet for a length of 640 feet, a minimum underclearance of 30 feet at Lick Run and skew of 90°. The project is located along the northern right-of-way of I-80 approximately 1.4 miles north of SR 0879 and I-80 intersection. This permit also authorizes temporary construction of road crossings, cofferdams, causeways and/or bridges necessary for constructing the five-span bridge. All temporary structures shall be constructed of clean stone free of fines. Upon completion of the project, all temporary structures shall be removed with all disturbed areas being fully restored to original contours, elevations and vegetative cover.

**E17-426. Department of Transportation, Engineering District 2-0**, 1924 Daisy Street Extension, Clearfield, PA 16830. Application for SR 4019 Section A01, (DuBois Street) Bridge replacement over Sandy Lick Creek, City of DuBois, **Clearfield County**, ACOE Susquehanna River Basin District, (Falls Creek, PA Quadrangle N: 0.15 inch; W: 1.94 inches).

To remove an existing three-span steel multigirder bridge having a length of approximately 97 linear feet and a hydraulic opening of 805 square feet, and construct, operate, and maintain a two-span continuous P/S spread box beam bridge having a span of approximately 98 linear feet and a hydraulic opening of 931 square feet, on a skew of 83° over Sandy Lick Creek located along SR 4019. This project proposes to have a minimal impact on Sandy Lick Creek, which is designated a CWF. This project does not propose to impact any jurisdictional wetlands. This permit also includes 401 Water Quality Certification.

**E19-259. Walter W. Wajda**, 17 Prince Road, Hyde Park, NY 12538. Pleasant Pines Grove Cottage Elevation, in Orange Township, **Columbia County**, ACOE Baltimore District (Bloomsburg, PA Quadrangle N: 16.59 inches; W: 3.69 inches).

To construct and maintain an elevated cottage on the floodplain of Fishing Creek. The existing cottage will be raised 1.5 feet above the base flood elevation for Fishing Creek. The base flood elevation for this site is 589.1 feet. This permit was issued under 25 Pa. Code § 105.13(e) "Small Projects."

**E49-297. Delaware Township**, 1815 Turbot Avenue, Watsontown, PA 17777. Athletic Complex in the Floodfringe of the West Branch of the Susquehanna River, in Delaware Township, **Northumberland County**, ACOE Baltimore District (Allenwood, PA Quadrangle N: Latitude 41° 06' 18"; W: Longitude 76° 52' 39").

To construct, operate and maintain a 7.5 acre athletic complex consisting of two baseball fields, a pavilion/concessions building, basketball court, tot lot, pathways, parking areas, stormwater management facilities and associated utilities in the floodplain of the West Branch of the Susquehanna River. This project is located just south of the intersection of SR 44 and SR 405 on SR 405. This permit was issued under 25 Pa. Code § 106.12(e) "Floodplain Management."

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

**E65-747A1. Thomas and Sandra Usher Youth Camp**, a Pennsylvania Nonprofit Corporation, 400 Manordale Road, Pittsburgh, PA 15241. To amend Permit E65-747 and enlarge the existing Lake Janet Ruth in Cook Township, **Westmoreland County**, Pittsburgh ACOE District. (Stahlstown, PA Quadrangle N: 11.00 inches; W: 0.2 inch, Latitude: 40° 11' 8"; Longitude: 79° 15' 5"). To modify the original bridge design; to enlarge and maintain the existing Lake Janet Ruth on Loyalhanna Creek (HQ-CWF) to create a water surface area of 1.5 acres for the purpose of providing additional area for the camp's activities. To construct and maintain a temporary stream crossing located downstream of the work area across Loyalhanna Creek. Approximately 50 feet of stream channel will be impacted. The project is located at the Usher Youth Camp approximately 600 feet south of SR 381.

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

**E27-080, Marion Lavern Bechtel and Sandra M. Bechtel**, HC 2, Box 21, Tionesta, PA 16353. Bechtel SFTF, in Hickory Township, **Forest County**, ACOE Pittsburgh District (West Hickory, PA Quadrangle N: 10.4 inches; W: 5.9 inches).

The applicant proposes to construct and maintain an outfall structure having a 4-inch diameter outfall pipe (for a 500 gpd single-residence sewage treatment facility) above the high water mark within the Federal Scenic River corridor of the Allegheny River approximately 200 feet W of the intersection of SR 62 and SR 3004 (Little Hickory Road). The Allegheny River is a perennial stream classified as a WWF.

**E62-410, Bruce Kelly**, 4887 Elmwood Drive, Pittsburgh, PA 15227. Bruce Kelly SFTF, in Deerfield Township, **Warren County**, ACOE Pittsburgh District (Youngsville, PA Quadrangle N: 0.25 inch; W: 7.4 inches).

The applicant proposes to construct and maintain an outfall structure having a 4-inch diameter outfall pipe (for a 400 gpd single-residence sewage treatment facility) above the high water mark within the Federal Scenic River corridor of the Allegheny River approximately 2.0 miles NE of the intersection of SR 62 and SR 3020 (Cobham Hill Road). The Allegheny River is a perennial stream classified as a warm water fishery.

**ENVIRONMENTAL ASSESSMENTS**

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

**EA1709-002. Department of Environmental Protection**, Bureau of Abandoned Mine Reclamation, Cambria Office, 286 Industrial Park Road, Ebensburg, PA 15931. Abandoned Mine Land Reclamation Project, in Woodward Township, **Clearfield County**, Baltimore ACOE District.

The applicant proposes to backfill an abandoned surface mine, which includes one dangerous highwall totaling 750 linear feet. The project will also include the backfilling of one hazardous water body (0.18 acre) that has developed within the open surface mine pit. (Glen Richey Quadrangle N: 5 inches; W: 1.9 inches).

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

**D28-124EA. Beacon of Greene, LLC**, 24 Buckingham Way, Freehold, NJ 07728. Guilford Township, **Franklin County**, ACOE Baltimore District.

Project proposes to breach and remove Beacon of Greene Dam across a tributary to Conococheague 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 225 linear feet of stream channel. The dam is located approximately 4,000 feet south west of the intersection of US 30 and SR 997. The project will also involve the replacement of the dam outlet pipe with a 36-inch polyethylene pipe, and the installation of a public water and sewer line for the proposed Beacon of Greene subdivision. The additional work is eligible for authorization under GP-11 and GP-5. The culvert replacement will temporarily impact 0.00048 acre of wetlands (Scotland, PA Quadrangle N: 3.8 inches; W: 3.6 inches).

**D35-053EA. Aqua Pennsylvania, Inc.**, 204 East Sunbury Street, Shamokin, PA 17872-4859, Covington Township, **Lackawanna County**, ACOE Baltimore District.

Project proposes to breach and remove an unnamed dam across a tributary to Roaring Brook (HQ-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 400 linear feet of stream channel. The dam is located approximately 1,000 feet east of the intersection of SR 435 and Fox Hound Road (T343) (Moscow, PA Quadrangle N: 12.90 inches; W: 0.90 inch).

**STORAGE TANKS**

**SITE-SPECIFIC INSTALLATION PERMITS**

**The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101—6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.**

<i>SSIP Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
02-67-004	Conectiv Mid-Merit, Inc. P. O. Box 6066 Newark, DE 19714-6066 Attn: Stu Widom	York	Peach Bottom Township	Two ASTs storing Low Sulfur Distillate Fuel Oil	4,000,000 gallons each
				11 ASTs storing Regulated Substances	37,700 gallons total

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## SPECIAL NOTICES

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

### Availability of Final Total Maximum Daily Loads (TMDLs)

The Department of Environmental Protection (Department) has developed Total Maximum Daily Loads (TMDLs) for the watershed listed as follows. The TMDL sets the pollutant loading amounts for impaired waters that are allocated among the sources in the watershed. This TMDL has been approved by the Environmental Protection Agency and satisfies the Department's obligations under section 303(d) of the Federal Clean Water Act.

<i>Stream Name</i>	<i>County</i>	<i>Pollutants</i>
Bernhart Creek	Berks	Metals and salinity/TDS/chlorides

To request a copy of the TMDL, contact the Watershed Protection Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4820, Joseph Adams, josepadams@state.pa.us or access the TMDL through the Department's website: [www.dep.state.pa.us/watermanagement\\_apps/tmdl/](http://www.dep.state.pa.us/watermanagement_apps/tmdl/) (choose stream under "Select By TMDL Name:").

[Pa.B. Doc. No. 07-888. Filed for public inspection May 18, 2007, 9:00 a.m.]

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### Laboratory Accreditation Advisory Committee; Meeting Cancellation

The Laboratory Accreditation Advisory Committee meeting scheduled for Tuesday, June 12, 2007, has been cancelled.

The next regularly scheduled meeting will be held on September 11, 2007, in Room 206 of the Bureau of Laboratories Building, 2575 Interstate Drive, Harrisburg, PA 17105-1467. The agenda and meeting materials will be available through the Public Participation Center on the Department of Environmental Protection's website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: Public Participation, Participate).

Questions concerning this notice may be directed to Aaren Shaffer Alger at (717) 346-8212 or [aaalgerstate.pa.us](mailto:aaalgerstate.pa.us) or Richard Sheibley at (717) 346-8215 or [rsheibley@state.pa.us](mailto:rsheibley@state.pa.us).

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 07-889. Filed for public inspection May 18, 2007, 9:00 a.m.]

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### Mining and Reclamation Advisory Board; Meeting Change

The July 12, 2007, quarterly meeting of the Mining and Reclamation Advisory Board will be held in the Delaware Room, on the 16th floor of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting will begin at 10 a.m.

Questions concerning this meeting can be directed to James Charowsky at (717) 787-7007 or [jcharowsky@state.pa.us](mailto:jcharowsky@state.pa.us).

state.pa.us. The agenda and meeting materials will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: Public Participation, Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact James Charowsky at either the telephone number or email address listed previously, or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 07-890. Filed for public inspection May 18, 2007, 9:00 a.m.]

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### Pennsylvania's Ambient Air Monitoring Network Plan Available for Public Inspection

On October 17, 2006, the United States Environmental Protection Agency (EPA) promulgated final amendments to the National ambient air monitoring requirements for criteria pollutants at 40 CFR Parts 53 and 58 (relating to ambient air monitoring reference and equivalent methods; and ambient air quality surveillance). See 71 FR 61236 (October 17, 2006). The EPA's final rule requires State and local agencies to enhance air monitoring to "improve public health protection and better inform the public about air quality in their communities." Section 58.10 of 40 CFR (relating to quality assurance) requires that monitoring agencies adopt an annual air-monitoring network plan, and make the plan available for public inspection for at least 30 days prior to final submission to the EPA Regional Administrator. The plan, which is due July 1, 2007, must include a statement of purpose for each monitor and evidence that siting and operation of each monitor meets Federal requirements. The EPA will also provide an opportunity for review and comment prior to approving or disapproving a State's Monitoring Network Plan.

The EPA's final rule also changes requirements for the minimum number of monitors for fine particulates (particles less than or equal to 2.5 micrometers in diameters, PM<sub>2.5</sub>) and ozone monitoring networks based on population and design values. States whose networks do not meet the newly promulgated requirements regarding the minimum number of monitors within a given area are required to submit a plan for installing additional monitors by July 1, 2007. The new monitors must be operational by January 1, 2008. The Department of Environmental Protection (Department) is required to install an additional ozone monitor in each of the Lancaster, York and Reading Metropolitan Statistical Areas.

On May 15, 2007, the Annual Air Monitoring Network Plan including the plan for installing the three additional ozone monitors was made available for public comment on the Department's web site at [www.dep.state.pa.us/dep/deputate/airwaste/aq/default.htm](http://www.dep.state.pa.us/dep/deputate/airwaste/aq/default.htm).

The Department must receive comments by June 18, 2007. Written comments should be sent to the attention of George Mentzer, Chief, Field Operations and Monitoring Section, Division of Air Quality Monitoring, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468 or

email to gmentzer@state.pa.us. Use "Annual Monitoring Network Plan" as the mail addressee or in the subject line.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 07-891. Filed for public inspection May 18, 2007, 9:00 a.m.]

**Proposed Revision to the State Implementation Plan for Southeastern Pennsylvania Area (Bucks, Chester, Delaware, Montgomery and Philadelphia Counties) included in the Philadelphia-Wilmington, Atlantic City, PA-DE-MD-NJ 8-Hour Ozone Nonattainment Area; Public Hearing**

Ground-level ozone concentrations above the health-based 8-hour ozone National Ambient Air Quality Standard (NAAQS) pose a serious human health threat and can also cause damage to crops, forests and wildlife. The Commonwealth is seeking public comment on a revision to the State Implementation Plan (SIP) for the Southeastern Pennsylvania area included in the Philadelphia-Wilmington-Atlantic City, PA-DE-MD-NJ 8-Hour Ozone Nonattainment Area (Philadelphia Nonattainment Area). Effective June 15, 2004, the Pennsylvania portion of this "moderate" 8-hour ozone nonattainment areas, consists of Bucks, Chester, Delaware, Montgomery and Philadelphia Counties.

The Commonwealth is seeking public comment on a revision to the SIP for this area. This document contains information on ozone trends in the area, decreases in emissions of ozone precursors and shows that the area meets all requirements necessary for an approvable SIP revision for a "moderate" nonattainment area. The plan demonstrates how the area will attain the health-based 8-hour ozone NAAQS by June 2010 by presenting evidence from photochemical modeling, ozone trends and regional transport impacts. The plan demonstrates how it will meet 2008 and 2009 reasonable further progress milestones for emission reductions through state and Federal control measures. It also contains the base year 2002 emissions inventory, a reasonably available control measure analysis, a contingency plan to bring the area back into attainment should violations of the NAAQS occur after the standard is attained and mobile source emission budgets for purposes of transportation conformity. After consideration of comments received, the SIP revision will be finalized and submitted to the EPA for approval.

This proposal is available on the Department's website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (choose "Air Topics") or through the contact persons listed.

The Department will hold a public hearing to receive comments on the proposals on Friday, June 22, at 1 p.m. at the Department of Environmental Protection's Southeast Regional Office, 2 East Main Street, Norristown, PA. Persons wishing to present testimony at the hearing should contact Yvette House, P. O. Box 8468, Harrisburg, PA 17105, (717) 787-9495 or [yhouse@state.pa.us](mailto:yhouse@state.pa.us) to reserve a time. Persons who do not reserve a time will be able to testify as time allows. Witnesses should keep testimony to 10 minutes and should provide two written copies of their statement at the hearing.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding should contact Yvette House at (717) 787-9495 or [yhouse@state.pa.us](mailto:yhouse@state.pa.us). TDD users may contact the AT&T Relay Service at (800) 654-5984 to discuss how the Department can best accommodate their needs.

The Department must receive comments no later than June 26, 2007. Written comments should be sent to the attention of Arleen Shulman, Division of Air Resource Management, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468, [ashulman@state.pa.us](mailto:ashulman@state.pa.us). Use "Philadelphia Ozone SIP" in the subject line.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 07-892. Filed for public inspection May 18, 2007, 9:00 a.m.]

**Reauthorization of the Federal Surface Mining Control and Reclamation Act; Public Meetings**

The Department of Environmental Protection, in conjunction with the Citizens Advisory Council and the Mining and Reclamation Advisory Board, is scheduling a series of public town hall meetings. The topic for the meetings is the recent reauthorization of the Federal Surface Mining Control and Reclamation Act (SMCRA). The new law provides for a significant increase in funds available to the Commonwealth for abandoned mine reclamation. It also offers the Commonwealth the opportunity to set aside up to 30% of these funds for abatement and treatment of abandoned mine drainage.

The intent of the meetings is to enable the public to provide input to help in the decision-making process for expenditure of these funds. The decision to set aside funds for mine drainage abatement and treatment, and the appropriate level, must be weighed against the need to restore sites that impact the health and safety of this Commonwealth's citizens. The public is strongly encouraged to attend and will have the opportunity to provide comments during the town hall meeting. Written comments will also be accepted at the Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, Attn. AML Comments, P. O. Box 8476, Harrisburg, PA 17105-8476.

The meetings will be held on the following dates in the following locations:

- |        |  |
|--------|--|
| May 22 | EPCAMR Office, Shavertown, PA  |
| May 23 | Schuylkill Conservation District Office,<br>Pottsville, PA               |
| May 24 | Hillside Rod & Gun Club, Blossburg, PA                                   |
| May 30 | Robertsdale Fire Hall, Robertsdale, PA                                   |
| May 31 | Department of Environmental Protection,<br>Cambria Office, Ebensburg, PA |
| June 5 | Jennings Environmental Center,<br>Slippery Rock, PA                      |
| June 6 | California University of PA, Morgan Hall,<br>California, PA              |
| June 7 | Penn State University, Dubois Campus, Hiller<br>Auditorium, Dubois, PA   |

All meetings will follow the agenda below.

- 4—5:30 p.m. Educational videos and overview of recent legislative changes to SMCRA
- 5:30—6:30 p.m. Opportunity for the public to review Commonwealth's Abandoned Mine Land inventory and maps (poster session)
- 6:30—8:30 p.m. Town hall meeting

Questions concerning the meetings can be directed to Sue Wilson, Citizens Advisory Council, at (717) 787-4527, suswilson@state.pa.us; Rich Joyce, Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, Harrisburg, (717) 787-7669, rijoyce@state.pa.us; Pam Milavec, Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, Cambria District Office, (814) 472-1800, pmilavec@state.pa.us; or Mike Ferko, Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, Wilkes-Barre District Office, (570) 826-2371, mferko@state.pa.us.

This notice and directions to the meeting locations can be found at: [www.depweb.state.pa.us/abandonedminerec/cwp/view.asp?a=1474&q=520866](http://www.depweb.state.pa.us/abandonedminerec/cwp/view.asp?a=1474&q=520866).

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act and interested in any of the meetings scheduled for May 22, May 23 or May 24 should contact Mike Ferko at the telephone number and e-mail address listed. Individuals interested in attending any of the meetings scheduled for May 30, May 31, June 5, June 6 or June 7 should contact Pam Milavec at the telephone number or e-mail address listed previously. Persons may also use the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 07-893. Filed for public inspection May 18, 2007, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Advisory Health Board Meeting; Review of Draft School Immunization Regulations

The Department of Health gives notice that the Advisory Health Board will meet on Wednesday, May 23, 2007, from 10 a.m. to 11:30 a.m., in Room 812, Health and Welfare Building to review and approve changes to the draft School Immunization Regulations.

For additional information regarding the meeting or to obtain a copy of the draft regulations interested persons may contact the Department of Health, Heather Stafford, Acting Director, Division of Immunizations, Room 1026, Health and Welfare Building, Seventh and Forster Street, Harrisburg, PA 17120 or (717) 787-5681.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille), who desire to attend the meeting, and require an auxiliary aid, service or other accommodation to do so or who require a copy of the draft regulations in an alternative format (that is large print, audio tape, Braille) should contact Heather Stafford at the previously listed telephone number or address or at V/TT (717) 783-6154 for

speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

This meeting is subject to cancellation without notice.  
CALVIN B. JOHNSON, M. D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 07-894. Filed for public inspection May 18, 2007, 9:00 a.m.]

### Application of Butler Memorial Hospital for Exception to 28 Pa. Code § 107.61

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Butler Memorial Hospital has requested an exception to the requirements of 28 Pa. Code § 107.61 (relating to written orders).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.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 the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 07-895. Filed for public inspection May 18, 2007, 9:00 a.m.]

### Application of Butler Memorial Hospital for Exception to 28 Pa. Code § 153.1

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Butler Memorial Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 2.3.4.1, 2.3.1, 2.3.5.1, 2.3.6.1, 2.3.7.1, 2.3.8.1 and 2.3.10.1 (relating to obstetrical units).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and

Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, 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 the Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 07-896. Filed for public inspection May 18, 2007, 9:00 a.m.]

### Applications for Request for Exception to 28 Pa. Code § 123.25(2)

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 § 123.25(2) (relating to regulations for control of anesthetic explosion hazards):

Windber Hospital  
Highlands Hospital  
Meyersdale Medical Center

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.

The facilities are requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

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

*(Editor's Note:* This notice was printed with an incorrect document number at 37 Pa.B. 2256 (May 12, 2007). It is being reprinted with the correct document number.)

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

[Pa.B. Doc. No. 07-897. Filed for public inspection May 18, 2007, 9:00 a.m.]

### Applications for Request for Exception to 28 Pa. Code § 123.25(2)

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives

notice that the following health care facilities have requested an exception to the requirements of 28 Pa. Code § 123.25(2) (relating to regulations for control of anesthetic explosion hazards).

Memorial Hospital  
Westmoreland Hospital  
Altoona Regional Health System  
Central Montgomery Medical Center  
Temple University Hospital  
Pinnacle Health Hospitals  
Frick Hospital  
Latrobe Hospital

The 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.

Each 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 Services at (800) 654-5984.

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

[Pa.B. Doc. No. 07-898. Filed for public inspection May 18, 2007, 9:00 a.m.]

### Application of Select Specialty Hospital—Erie for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Select Specialty Hospital—Erie has requested an exception to the requirements of 28 Pa. Code § 107.62(b) (relating to oral orders).

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



listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 07-899. Filed for public inspection May 18, 2007, 9:00 a.m.]

### Application of UPMC Horizon for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UPMC Horizon 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: 3.2.2.2 (relating to isolation room).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, 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 the Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 07-900. Filed for public inspection May 18, 2007, 9:00 a.m.]

### Application of UPMC Presbyterian Shadyside for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UPMC Presbyterian Shadyside has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 3.4.2.1(a), 3.4.2.1(3) and 3.4.2.2(1) (relating to critical care unit).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of

Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, 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 the Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 07-901. Filed for public inspection May 18, 2007, 9:00 a.m.]

### Traumatic Brain Injury Advisory Board Meeting

The Traumatic Brain Injury Advisory Board, established under the Federal Traumatic Brain Injury Act of 1996 (42 U.S.C.A. § 300d-52) will hold a public meeting on Thursday, June 7, 2007, from 10 a.m. to 3 p.m., in Richards Hall, Recital Room at the Dixon University Center, 2986 North Second Street, Harrisburg, PA 17110.

For additional information or if you are a person with a disability and wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so contact Danielle M. Tedesco, Public Health Program Administrator, Division of Child and Adult Health Services at (717) 772-2762 or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

This meeting is subject to cancellation without notice.

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

[Pa.B. Doc. No. 07-902. Filed for public inspection May 18, 2007, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Income Limits for the Categorically Needy Non-money Payment Medicaid Program

The Department of Public Welfare (Department) increased the income limits codified in 55 Pa. Code § 181.1(f)(1), (2) and (4) (relating to general policy on MA income common to all categories of MA) effective January 1, 2007.

The regulations in 55 Pa. Code § 181.1(f)(1), (2) and (4) establish that the income limits for the Categorically Needy Nonmoney Payment Medical Assistance Program (program) for aged, blind and disabled persons are based on the Federal benefit rate payable under Title XVI of the

Social Security Act (42 U.S.C.A §§ 1381—1383c). Effective January 1, 2007, the Federal benefit rate was increased due to the Federal cost-of-living increase.

As required under 55 Pa. Code § 181.1(f), the Department revised the income limits for the program for aged, blind and disabled persons effective January 1, 2007. Those limits are set forth in Appendices A, B and D, which are recommended for codification in 55 Pa. Code Chapter 181 (relating to income provisions for categorically needy NMP-MA and MNO-MA). Appendix A is the

Federal benefit rate plus the State supplement payable under Title XVI. Appendix B is 300% of the Federal benefit rate payable under Title XVI. Appendix D is the Federal benefit rate payable under Title XVI. Item 1 of Appendix D is 1/2 of the Federal benefit rate for one person. Item 2 of Appendix D is 1/2 of the Federal benefit rate for two persons.

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-509. (1) General Fund:

	<i>A-Inpatient</i>	<i>MA Outpatient</i>	<i>A Capitation</i>
(2) Implementing Year 2006-07 is	\$14,000	\$24,000	\$123,000
(3) 1st Succeeding Year 2007-08 is	\$42,000	\$77,000	\$262,000
2nd Succeeding Year 2008-09 is	\$44,000	\$83,000	\$279,000
3rd Succeeding Year 2009-10 is	\$45,000	\$89,000	\$297,000
4th Succeeding Year 2010-11 is	\$46,000	\$96,000	\$316,000
5th Succeeding Year 2011-12 is	\$47,000	\$103,000	\$337,000
(4) 2005-06 Program—	\$474,673,000	\$945,950,000	\$2,500,992,000
2004-05 Program—	\$531,785,000	\$842,991,000	\$2,312,457,000
2003-04 Program—	\$411,042,000	\$677,979,000	\$2,222,278,000
(7) Medical Assistance (MA) Inpatient and MA Outpatient; (8) recommends adoption. Funds have been included in the budget to cover these increases.			

**APPENDIX A**

**CATEGORICALLY NEEDY NONMONEY PAYMENT MONTHLY INCOME LIMITS FOR THE AGED, BLIND AND DISABLED CATEGORIES EFFECTIVE JANUARY 1, 2007**

1 PERSON	\$650.40
2 PERSONS	\$977.70

**APPENDIX B**

**CATEGORICALLY NEEDY NONMONEY PAYMENT MONTHLY INCOME LIMITS FOR THE AGED, BLIND AND DISABLED CATEGORIES RECEIVING SKILLED CARE, HEAVY CARE/INTERMEDIATE SERVICES OR INTERMEDIATE CARE EFFECTIVE JANUARY 1, 2007**

1 PERSON	\$1,869
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**APPENDIX D**

**MONTHLY FEDERAL BENEFIT RATE EFFECTIVE JANUARY 1, 2007**

1 PERSON	\$623
2 PERSONS	\$934

**PERCENTAGES OF MONTHLY FEDERAL BENEFIT RATE EFFECTIVE JANUARY 1, 2007**

ITEM 1) 50% of Federal Benefit Rate for 1 person = \$311.50

ITEM 2) 50% of Federal Benefit Rate for 2 persons = \$467

[Pa.B. Doc. No. 07-903. Filed for public inspection May 18, 2007, 9:00 a.m.]

**DEPARTMENT OF STATE**

**Corporation Bureau Advisory Committee Meeting**

The Corporation Bureau Advisory Committee (Committee), under 15 Pa.C.S. § 155(c) (relating to disposition of funds), has scheduled a meeting for Friday, May 25, 2007, at 10 a.m., to discuss issuance of the Committee's biennial report to the General Assembly. The meeting will be held in the 303/304 Executive Office Conference Room of the Department of State, North Office Building, 3rd Floor, Harrisburg, PA 17120. The public is invited to attend. Persons who need accommodation due to a disability and wish to attend the meetings should contact Barbara Kennedy at (717) 783-9210 so that arrangements can be made.

PEDRO A. CORTES,  
*Secretary of the Commonwealth*

[Pa.B. Doc. No. 07-904. Filed for public inspection May 18, 2007, 9:00 a.m.]

# DEPARTMENT OF TRANSPORTATION

## Finding Montgomery County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Chief Engineer, Department of Transportation (Department) makes the following written finding:

The Department plans to construct 8.6 miles of limited access roadway and Shared Use Path (SUP) on new alignment from Welsh Road (PA 63) in Montgomery County to connect with the existing PA 611 bypass and US 202 bypass in Doylestown Township, along with improving the capacity and operational efficiency of the intersections of County Line Road and Limekiln Pike (PA 152), and Bristol and Lower State Roads. This project will require the acquisition of right-of-way from the Joseph Ambler Farmstead, N. Weir, Smith and McHenry Farmsteads, which have been determined eligible for listing on the National Register of Historic Places. The effect of this project on these farmsteads will be mitigated by the measures to minimize harm as stipulated in the Environmental Evaluation Report/section 2002 Evaluation and other supporting documentation and will be implemented during construction of this project.

The environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 have been considered. It has been concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize the effect. No adverse environmental effect is likely to result from the construction of this project.

M. G. PATEL, P. E.,  
Chief Engineer

[Pa.B. Doc. No. 07-905. Filed for public inspection May 18, 2007, 9:00 a.m.]

## Request for Bids

Sealed bids for the demolition and removal of the following property located along Ridge Road in Northumberland will be accepted by the Department of Transportation, 715 Jordan Avenue, Montoursville, PA 17754 until 10 a.m. on Wednesday, June 13, 2007. An inspection of the property will be held from 11 a.m. until 1:30 p.m. on Wednesday, May 23, 2007. The property is located at 234 Ridge Road, Northumberland, PA 17857. Take 147 South 1.7 miles past the intersection of Routes 405 and 147. Turn left on Ridge Road. Go 2/10 mile. The driveway is on the right. Property No. 1, Claim No. 5400069000, parcel No. 30. 2,300 square foot log home with a 25 foot x 49 foot garage (two bedroom apartments above). Prequalification of bidders is not required on bids under \$25,000. For additional information contact Lenny P. Confer, (570) 368-4337, lconfer@state.pa.us.

Not all Bidding Opportunities are advertised in the *Pennsylvania Bulletin* for State government agencies. Generally, Bidding Opportunities over \$20,000 for materials and \$250,000 for services are advertised on the Department of General Services (Department) Bureau of

Procurement website at [www.dgsweb.state.pa.us//comod/main.asp](http://www.dgsweb.state.pa.us//comod/main.asp). The Bidding Opportunities website is updated on a daily basis.

Suppliers interested in doing business with Commonwealth agencies are strongly encouraged to register as a portal supplier at [www.pasupplierportal.state.pa.us](http://www.pasupplierportal.state.pa.us).

For more information, contact the Department Supplier Services and Support, (717) 346-2676, (877) 435-7363 (toll free), [rasrmhelp@state.pa.us](mailto:rasrmhelp@state.pa.us).

ALLEN D. BIEHLER, P. E.,  
Secretary

[Pa.B. Doc. No. 07-906. Filed for public inspection May 18, 2007, 9:00 a.m.]

# HISTORICAL AND MUSEUM COMMISSION

## National Register Nominations to be Reviewed by the Historic Preservation Board

The Historic Preservation Board (Board) will hold a meeting on June 12, 2007, at 9:45 a.m. in the library of the Walt Disney Elementary School, 200 Lakeside Drive, Levittown, PA. Persons with a disability who wish to attend the meeting, and require an auxiliary aid, service or other accommodation to participate should contact Helena Johnson at (717) 783-2698 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Board can accommodate their needs. Persons with questions or comments should contact the Bureau for Historic Preservation at (717) 783-8946.

### Southwestern Pennsylvania

1. *Highland Park Historic District*, Roughly bounded by Highland Park, Heth's Run and Heth's Avenue, Chislett Street, Stanton Avenue and Jackson Street, Pittsburgh, Allegheny County.

2. *Dick Building*, West Newton, Westmoreland County.

### Allegheny Plateau

3. *Connely-Holeman House*, Pleasantville, Venango County.

### Ridge and Valley

4. *Houseknecht Farm*, 812 J Houseknecht Road, Moreland Township, Lycoming County.

### Great Valley and Piedmont Region

5. *Walt Disney School*, Tullytown Borough, Bucks County.

6. *Uneek Havanna Cigar Company*, Hilltown Township, Bucks County.

7. *Springhouse Farm*, Springfield Township, Bucks County.

8. *Craven Hall*, Warminster Township, Bucks County.

9. *Budd, Edward G., Manufacturing Company*, 2450 Hunting Park Avenue, Philadelphia.

10. *Rodeph Shalom*, 607-615 North Broad Street, Philadelphia.

11. *Biberman Building*, 611—619 North 15th Street, Philadelphia.

### Anthracite Region and Poconos

No nominations.

BARBARA FRANCO,  
*Executive Director*

[Pa.B. Doc. No. 07-907. Filed for public inspection May 18, 2007, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, May 3, 2007, and announced the following:

*Regulation Deemed Approved Under Section 5(g) of the Regulatory Review Act—Effective May 2, 2007:*

State Board of Vehicle Manufacturers, Dealers and Salespersons #16A-6010: Biennial Renewal Fees (amends 49 Pa. Code Chapter 19)

*Regulations Approved:*

State Real Estate Commission #16A-5617: Consumer Notice—Commercial Property Exception (amends 49 Pa. Code § 35.284)

State Board of Accountancy #16A-559: Revisions of and Deletion of Existing Regulations (amends 49 Pa. Code Chapter 11)

Department of Labor and Industry #12-68: Qualifications for Vocational Experts (amends 34 Pa. Code Chapter 123)

### Approval Order

Public Meeting held  
May 3, 2007

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; Alvin C. Bush, Vice Chairperson; David M. Barasch, Esq.; David J. DeVries, Esq.; John F. Mizner, Esq.

*Consumer Notice—Commercial Property Exception; Regulation No. 16A-5617 (#2602)*

On March 30, 2007, the Independent Regulatory Review Commission (Commission) received this regulation from the State Real Estate Commission (SREC). This rulemaking amends 49 Pa. Code § 35.284. Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

This rulemaking adds a statutory exception for commercial properties to the existing regulations governing consumer notice and disclosure by real estate licensees. Act 125 of 2006 created an exception for commercial property transactions.

We have determined this regulation is consistent with the statutory authority of the SREC (63 P. S. §§ 455.404 and 455.608) and the intention of the General Assembly.

Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

### Approval Order

Public Meeting held  
May 3, 2007

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; Alvin C. Bush, Vice Chairperson; David M. Barasch, Esq.; David J. DeVries, Esq.; John F. Mizner, Esq.

*State Board of Accountancy—Revision of and Deletion of Existing Regulations; Regulation No. 16A-559 (#2465)*

On February 23, 2005, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Accountancy (Board). This rulemaking amends 49 Pa. Code Chapter 11. The proposed regulation was published in the March 5, 2005, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on March 30, 2007.

The amendments in this rulemaking bring existing regulations into greater consistency with amendments to the CPA Law and current standards and practices in the profession.

We have determined this regulation is consistent with the statutory authority of the Board (63 P. S. §§ 3(a)(11) and (12)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

### Approval Order

Public Meeting held  
May 3, 2007

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; Alvin C. Bush, Vice Chairperson; David M. Barasch, Esq.; David J. DeVries, Esq.; John F. Mizner, Esq.

*Department of Labor and Industry—Qualifications for Vocational Experts; Regulation No. 12-68*

On June 27, 2005, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Labor and Industry (Department). This rulemaking amends 34 Pa. Code Chapter 123. The proposed regulation was published in the July 9, 2005, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on March 23, 2007.

This regulation amends the minimum qualifications for vocational experts and establishes ethics rules and financial interest disclosure standards for them.

We have determined this regulation is consistent with the statutory authority of the Department (77 P. S. §§ 512(2) and 991(a)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 07-908. Filed for public inspection May 18, 2007, 9:00 a.m.]

### Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations. They are scheduled to be considered on the dates noted. The Commission's public meetings are held at 333 Market Street, 14th Floor, in Harrisburg at 10:30 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy.

This schedule is tentative. Contact the Commission at (717) 783-5417 or check our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us) for updates.

#### *Final-Form*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
16A-5719	State Board of Veterinary Medicine Recordkeeping	5/3/07	6/7/07
16A-7014	State Board of Certified Real Estate Appraisers Federally Mandated Education Criteria	5/3/07	6/7/07
16A-5716	State Board of Veterinary Medicine Certified Veterinary Technician Specialist	5/3/07	6/7/07
16A-4915	State Board of Medicine Athletic Trainers	5/3/07	6/7/07

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 07-909. Filed for public inspection May 18, 2007, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Capital BlueCross; Community-Rated and Association Groups; Demographic Rating Methodology for Basic Hospitalization; Applicability—Group Size 2+; Filing 07-L and 07-N; Rate Filing

On May 3, 2007, the Insurance Department (Department) received a filing (Filing No. 07-L) from Capital BlueCross to refine the demographic factors used in the Demographic Rating Methodology for all new and renewing Community-Rated Groups, Experience-Rated Groups and Association Groups enrolled in the Basic Hospitalization Program. The revised rating factors include industry factors and age/gender contract factors. Through filing No. 07-N Capital has also requested approval to offer Group Size Factors for Groups with less than 100 enrollees. The proposed effective date is September 1, 2007.

Unless formal administrative action is taken prior to August 1, 2007, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website at [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg office.

Interested parties are invited to submit written comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120 (e-mail at [csandersjo@state.pa.us](mailto:csandersjo@state.pa.us)) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

RANDOLPH L. ROHRBAUGH,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 07-910. Filed for public inspection May 18, 2007, 9:00 a.m.]

### Conseco Senior Health Insurance Company; 25% Rate Increase Filing for Several Long-Term Care Policy Forms; Rate Filing

Conseco Senior Health Insurance Company is requesting approval to increase the premium 25% on several long-term care policy forms issued in this Commonwealth. The company is requesting a 25% increase on the following forms which were originally issued by American Travelers: ATL-FQ-LTC, ATL-FQ-NH, ATL-FQ-HHC, ATL-NFQ-LTC, ATL-NFQ-NH and ATL-NFQ-HHC. The average premium will increase from \$1,903 to \$2,379 and will affect 1,411 Pennsylvania policyholders.

Unless formal administrative action is taken prior to August 1, 2007, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's website 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 Insurance 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 (e-mail at [jlaverty@state.pa.us](mailto:jlaverty@state.pa.us)) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

RANDOLPH L. ROHRBAUGH,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 07-911. Filed for public inspection May 18, 2007, 9:00 a.m.]

**Keystone Health Plan Central; Demographic Rating Methodology; Applicability—Group Size 2+; Filings 07-L and 07-N; Rate Filing**

On May 3, 2007, the Insurance Department (Department) received a filing (Filing No. 07-L) from Keystone Health Plan Central to refine the demographic factors used in the Demographic Rating Methodology for all new and renewing Commercial HMO Group Business. The revised rating factors include industry factors and age/gender contract factors. Through filing No. 07-N Keystone has also requested approval to offer Group Size Factors for Groups with less than 100 enrollees. The proposed effective date is September 1, 2007.

Unless formal administrative action is taken prior to August 1, 2007, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website at [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg office.

Interested parties are invited to submit written comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120 (e-mail at [csandersjo@state.pa.us](mailto:csandersjo@state.pa.us)) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

RANDOLPH L. ROHRBAUGH,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 07-912. Filed for public inspection May 18, 2007, 9:00 a.m.]

**Nationwide Mutual Fire Insurance Company; Private Passenger Automobile; Rate Revisions; Rate Filing**

On April 23, 2007, the Insurance Department (Department) received from Nationwide Mutual Fire Insurance Company a filing for rate level changes for private passenger automobile insurance.

The company requests an overall 1.8% increase amounting to \$1.284 million annually, to be effective August 27, 2007.

Unless formal administrative action is taken prior to June 22, 2007, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website at [www.ins.state.pa.us](http://www.ins.state.pa.us). To access the filing, under "Quick Links" click on "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg office.

Interested parties are invited to submit written comments, suggestions or objections to Michael P. McKenney, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harris-

burg, PA 17120 (e-mail at [mmckenney@state.pa.us](mailto:mmckenney@state.pa.us)) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

RANDOLPH L. ROHRBAUGH,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 07-913. Filed for public inspection May 18, 2007, 9:00 a.m.]

**Pennsylvania Professional Liability Joint Underwriting; Rate Filing**

On May 1, 2007, the Insurance Department (Department) received from the Pennsylvania Professional Liability Joint Underwriting Association a filing to increase rates overall by 5.4% for institutional and noninstitutional health care providers. The filing includes the following revisions:

- Changes to 14 class relativities.
- Changes to five territory relativities.

Unless formal administrative action is taken prior to June 30, 2007, the rates within the subject filing may be deemed into use upon the effective date, January 1, 2008, by operation of law.

A copy of the filing is available on the Department's website at [www.ins.state.pa.us](http://www.ins.state.pa.us). To access the filings, under "Quick Links" click on "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg office.

Interested parties are invited to submit written comments, suggestions or objections to Mike McKenney, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, [mmckenney@state.pa.us](mailto:mmckenney@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

RANDOLPH L. ROHRBAUGH,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 07-914. Filed for public inspection May 18, 2007, 9:00 a.m.]

## MILK MARKETING BOARD

### Sunshine Meeting Dates for 2007-2008

In accordance with 65 Pa.C.S. §§ 701—716 (relating to the Sunshine Act), the Milk Marketing Board has established the following meeting dates for 2007-2008:

<i>Date</i>	<i>Room</i>	<i>Time</i>
July 11, 2007	VIP Lounge Farm Show Complex Cameron Street Harrisburg, PA 17110	8 a.m. to 4 p.m.
August 1, 2007	Room 202 Agriculture Building Harrisburg, PA 17110	8 a.m. to 4 p.m.

<i>Date</i>	<i>Room</i>	<i>Time</i>
September 5, 2007	Room 202 Agriculture Building Harrisburg, PA 17110	8 a.m. to 4 p.m.
October 3, 2007	Commonwealth Technology Center 1 Technology Pike Harrisburg, PA 17110	12 p.m. to 5 p.m.
November 7, 2007	Room 309 Agriculture Building Harrisburg, PA 17110	8 a.m. to 4 p.m.
December 5, 2007	Room 202 Agriculture Building Harrisburg, PA 17110	8 a.m. to 4 p.m.
January 3, 2008	Room 202 Agriculture Building Harrisburg, PA 17110	8 a.m. to 4 p.m.
February 13, 2008	Room 202 Agriculture Building Harrisburg, PA 17110	8 a.m. to 4 p.m.
March 5, 2008	Room 202 Agriculture Building Harrisburg, PA 17110	8 a.m. to 4 p.m.
April 2, 2008	Room 202 Agriculture Building Harrisburg, PA 17110	8 a.m. to 4 p.m.
May 7, 2008	Room 202 Agriculture Building Harrisburg, PA 17110	8 a.m. to 4 p.m.
June 4, 2008	Room 202 Agriculture Building Harrisburg, PA 17110	8 a.m. to 4 p.m.

KEITH BIERLY,  
*Secretary*

[Pa.B. Doc. No. 07-915. Filed for public inspection May 18, 2007, 9:00 a.m.]

## OFFICE OF ATTORNEY GENERAL

### Public Meeting

A meeting of the Lobbying Disclosure Regulation Committee (Committee) established under act of November 1, 2006 (P. L. 1213, No. 134) (Act 134) effective January 1, 2007, will be held on Thursday, May 24, 2007, at 9 a.m. in Hearing Room 3, North Office Building, Harrisburg, PA.

The purpose of the meeting will be for the Committee to consider regulations under Act 134 and to receive public comments. Visit [www.attorneygeneral.gov](http://www.attorneygeneral.gov) for more information and to view a copy of the complete agenda.

THOMAS CORBETT,  
*Attorney General*

[Pa.B. Doc. No. 07-916. Filed for public inspection May 18, 2007, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by June 11, 2007. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

#### Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.*

**A-00113274. F2. Roadrunner Express, Inc., t/a Roadrunner Express USA** (21 Millside Drive, Wilmington, New Castle County, DE)—a corporation of the State of Delaware—persons in limousine service, between points in Pennsylvania, excluding between points in the City and County of Philadelphia. *Attorney:* James W. Patterson, Esquire, Cira Centre, 13th Floor, 2929 Arch Street, Philadelphia, PA 19104.

**A-00123716. American Corporate Limousine, LLC, t/a Airport Express** (2219 Dubonnet Drive, Macungie, PA 18062)—certificate of public convenience to begin to transport, as a common carrier, by motor vehicle, persons in limousine service, from points in the Counties of Lehigh and Northampton, to points in Pennsylvania, and return.

**A-00123717. Howard Hendrickson** (1015 Pilgrim's Pathway, Peach Bottom, Lancaster County, PA 17563)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster to points in Pennsylvania, and return.

**A-00123727. Scott F. Stout** (3029 B Lincoln Highway East, Box 368, Paradise, Lancaster County, PA 17562)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster to points in Pennsylvania, and return.

**A-00123729. Henry Lee Hill, t/a One Man One Van Passenger Service** (63 Sidorick Lane, East Stroudsburg, Monroe County, PA 18301)—persons, in paratransit service, from points in the County of Monroe, to points in Pennsylvania, and return.

**A-00123733. Ronald F. Phippen, Jr., t/a Phippen's Van Service** (859 Strasburg Road, Paradise, Lancaster County, PA 17562)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the Counties of Lancaster, York and Chester, to points in Pennsylvania, and return.

**A-00123735. Main Event Limousine, LLC** (3245 Garrett Road, Drexel Hill, Delaware County, PA 19026), a

limited liability company of the Commonwealth—persons, in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in the City and County of Philadelphia and the Counties of Delaware and Chester, to points in Pennsylvania, and return.

**A-00123736. Elegant Ride, LLC** (4443 Marywood Drive, Monroeville, Allegheny County, PA 15146), a limited liability company of the Commonwealth—persons, in limousine service, from points in the Counties of Allegheny, Westmoreland, Butler, Beaver and Washington, to points in Pennsylvania, and return. *Attorney:* Jay Arthur Gilmer, 1148 Portland Street, Pittsburgh, PA 15206.

**Application of the following for the approval of the right and privilege to *discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under the application.***

**A-00114855. Nicholas J. Reinhart, t/a Reinhart Leasing Company** (620 North Ephrata Road, Ephrata, Lancaster County, PA 17522)—for the discontinuance of service and cancellation of its certificate, as a common carrier, by motor vehicle, authorizing the transportation of persons in limousine service, between points in the County of Lancaster, and from points in said County to points in Pennsylvania, and return. *Attorney:* Scott Kerr, c/o Mattioni, 399 Market Street, Suite 200, Philadelphia, PA 19106.

### Complaint

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Custom Transportation, LLC; Doc. No. A-00121169C0701*

### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That all authority issued to Custom Transportation, LLC (respondent) is under suspension effective 01/09/2007 for failure to maintain evidence of insurance on file with this Commission.
2. That respondent maintains a principal place of business at Custom Transportation, LLC, 177 East College Avenue, Pleasant Gap, PA 16823.
3. That respondent was issued a Certificate of Public Convenience by this Commission on 12/06/2004 at Application Docket No. A-00121169.
4. That respondent has failed to maintain evidence of bodily injury and property damage liability insurance and cargo insurance on file with this Commission.
5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

*Wherefore*, unless respondent causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Transportation and Safety Prosecutory Staff will request that the Commission issue an Order

which (1) cancels the Certificate of Public Convenience held by respondent at Docket No. A-00121169 for failure to maintain evidence of current insurance on file with the Commission, (2) orders such other remedy as the Commission may deem to be appropriate, which may include a fine and the suspension of a vehicle registration and (3) imposes an additional fine on the respondent.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

### VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect 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 Division  
Bureau of Transportation and Safety

### NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty (20) days 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 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



Upon receipt of the evidence of insurance from your insurer, the Complaint proceeding shall be closed. Acord Certificates of Insurance and faxed form Es and Hs are *Unacceptable* as Evidence of Insurance.

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. 07-917. Filed for public inspection May 18, 2007, 9:00 a.m.]

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### Telecommunications

**A-311272F7001. Verizon North, Inc. and Airespring, Inc.** Joint petition of Verizon North, Inc. and Airespring, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North, Inc. and Airespring, Inc., by its counsel, filed on May 7, 2007, 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 Verizon North, Inc. and Airespring, 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. 07-918. Filed for public inspection May 18, 2007, 9:00 a.m.]

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### Telecommunications

**A-310531F7001. Verizon North, Inc. and SBC Long Distance, LLC, d/b/a SBC Long Distance, d/b/a AT&T Long Distance.** Joint petition of Verizon North, Inc. and SBC Long Distance, LLC, d/b/a SBC Long Distance, d/b/a AT&T Long Distance for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North, Inc. and SBC Long Distance, LLC, d/b/a SBC Long Distance, d/b/a AT&T Long Distance, by its

counsel, filed on April 5, 2007, 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 Verizon North, Inc. and SBC Long Distance, LLC, d/b/a SBC Long Distance, d/b/a AT&T Long Distance 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. 07-919. Filed for public inspection May 18, 2007, 9:00 a.m.]

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### Telecommunications

**A-311272F7000. Verizon Pennsylvania, Inc. and Airespring, Inc.** Joint petition of Verizon Pennsylvania, Inc. and Airespring, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and Airespring, Inc., by its counsel, filed on May 7, 2007, 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 Verizon Pennsylvania, Inc. and Airespring, 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. 07-920. Filed for public inspection May 18, 2007, 9:00 a.m.]

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### Telecommunications

**A-311188F7000. Verizon Pennsylvania, Inc. and Broadview NP Acquisition Corp.** Joint petition of Verizon Pennsylvania, Inc. and Broadview NP Acquisition Corp. for approval of amendment no. 1 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and Broadview NP Acquisition Corp., by its counsel, filed on April 26, 2007, at the Pennsylvania Public Utility 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 Pennsylvania, Inc. and Broadview NP Acquisition 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. 07-921. Filed for public inspection May 18, 2007, 9:00 a.m.]

### Telecommunications

**A-310531F7000. Verizon Pennsylvania, Inc. and SBC Long Distance, LLC, d/b/a SBC Long Distance, d/b/a AT&T Long Distance.** Joint petition of Verizon Pennsylvania, Inc. and SBC Long Distance, LLC, d/b/a SBC Long Distance, d/b/a AT&T Long Distance for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and SBC Long Distance LLC, d/b/a SBC Long Distance, d/b/a AT&T Long Distance, by its counsel, filed on April 5, 2007, 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 Verizon Pennsylvania, Inc. and SBC Long Distance, LLC,

d/b/a SBC Long Distance, d/b/a AT&T Long Distance 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. 07-922. Filed for public inspection May 18, 2007, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept bids until 2 p.m. on Wednesday, June 13, 2007, for Project #07-048.P (Cleaning Services—TAB). Bid opening will be held at 3460 N. Delaware Avenue, Philadelphia, PA 19134. The bid documents can be obtained from the Director of Procurement, 3460 N. Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available May 22, 2007. PRPA is an equal opportunity employer. Vendor will be required to comply with all applicable equal employment opportunity laws and regulations. Bidders must provide to the procurement Department in writing, the names of individuals that will be attending prebid meetings. This information is needed 24 hours prior to the meeting. Fax to (215) 426-6800, Attn.: Procurement Department.

Mandatory prebid meeting will be held Thursday, May 31, 2007, 10 a.m. at 3460 N. Delaware Avenue, Philadelphia, PA 19134. The PRPA will consider only those bids received from parties who attended the prebid meeting.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 07-923. Filed for public inspection May 18, 2007, 9:00 a.m.]



# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 121 AND 127]

#### Nonattainment New Source Review

The Environmental Quality Board (Board) amends § 121.1 (relating to definitions) and Chapter 127 (relating to construction, modification, reactivation and operation of sources) to read as set forth in Annex A. This final-form rulemaking will be submitted to the United States Environmental Protection Agency (EPA) as a revision to the Pennsylvania State Implementation Plan (SIP).

This final-form rulemaking was adopted by the Board at its meeting of February 20, 2007.

#### A. *Effective Date*

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

#### B. *Contact Persons*

For further information, contact John Slade, Chief, Division of Permits, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325; or Robert "Bo" Reiley, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060.

#### C. *Statutory Authority*

This final-form rulemaking is adopted under section 5(a)(1) of the Air Pollution Control Act (APCA) (35 P.S. § 4005(a)(1)), which grants to the Board the authority to adopt regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth.

#### D. *Background and Summary*

##### 1. *Federal Clean Air Act*

The primary goal of the Clean Air Act (CAA) (42 U.S.C.A. §§ 7401—7642) is to ensure the attainment and maintenance of air quality under the National Ambient Air Quality Standard (NAAQS) requirements under section 110 of the CAA (42 U.S.C.A. § 7410). The NAAQS are set at a level designed to protect public health and the general welfare. See section 109 of the CAA (42 U.S.C.A. § 7409). Standards have been established for the following six pollutants: sulfur oxides (SO<sub>x</sub>), nitrogen oxides (NO<sub>x</sub>), particulate matter (PM-10 and PM-2.5), carbon monoxide (CO), ozone (O<sub>3</sub>) and lead (Pb).

Section 107 of the CAA (42 U.S.C.A. § 7407) and section 110 of the CAA give each state primary responsibility for assuring that air quality within its borders is maintained at a level consistent with the NAAQS. This responsibility is achieved through the establishment of source-specific requirements in SIPs addressing the NAAQS.

A primary means of achieving the NAAQS is through the New Source Review (NSR) program, which places preconstruction review and permitting requirements on certain new and modified sources of air pollution to protect public health and air quality. The nature of the requirements depends on whether the source is to be

located in an area that attains, or does not attain, the NAAQS for the pollutant in question.

In enacting the CAA, Congress expressed a concern that the costs of retrofitting existing sources with state-of-the-art air pollution control technologies could be prohibitively expensive. Congress concluded that it would be more cost-effective to require high levels of technological performance at new and modified sources, because they have more flexibility as to the location and design of control equipment than do existing sources. As a result, new and modified sources are subject to more stringent levels of control, and hence more costly controls, under the CAA than existing sources.

There are two sets of regulatory requirements that subject new and modified sources to more stringent levels of control—the Prevention of Significant Deterioration (PSD) under Title I, Part C of the CAA (42 U.S.C.A. §§ 7470—7479) and the nonattainment NSR requirements under Title I, Part D of the CAA (42 U.S.C.A. §§ 7501—7515) under the NSR preconstruction permitting program.

The NSR program subjects major new or "modified" sources of air pollution to preconstruction review and permitting requirements. The PSD program applies to sources that have the potential to emit at least 250 tons per year (TPY) of a regulated pollutant, or at least 100 TPY of a regulated pollutant, if the source falls within a listed source category. See 40 CFR 52.21(b)(1) (relating to prevention of significant deterioration of air quality). SIPs must also contain provisions to prevent significant deterioration of air quality. See 40 CFR 51.166 (relating to prevention of significant deterioration of air quality).

The nonattainment NSR program applies to sources that have the potential to emit at least 100 TPY of a regulated nonattainment pollutant. See section 302(j) of the CAA (42 U.S.C.A. § 7602(j)). These thresholds have been lowered for areas with more acute nonattainment problems—for instance, to 50 TPY for volatile organic compounds (VOCs) and 100 TPY for NO<sub>x</sub> in moderate areas, to 50 TPY for VOCs and NO<sub>x</sub> in serious ozone nonattainment areas, to 25 TPY for VOCs and NO<sub>x</sub> for severe areas and 10 TPY for VOCs and NO<sub>x</sub> for extreme areas. See section 182 of the CAA (42 U.S.C.A. § 7511a).

The purpose of the NSR program is to ensure that the proposed source meets all applicable air quality requirements before it is constructed. The nature of the NSR preconstruction requirements depends upon whether the source is to be located in an area that meets or fails to meet the applicable ambient air quality standards.

Major stationary sources located in attainment areas are subject to the PSD permit program. Before a person can construct a major source in an attainment area, that person must receive a permit under the PSD program. To receive that permit, a person must show that the proposed source will, among other things, comply with the ambient air quality levels designed to prevent air quality deterioration and will employ the "best available control technology" (BACT) for each regulated pollutant. See section 165 of the CAA (42 U.S.C.A. § 7475).

Major stationary sources located in nonattainment areas are subject to the nonattainment NSR area permit program, which the states are responsible for implementing through their SIPs. Before a person can construct a major source in a nonattainment area, that person must

receive a permit under the nonattainment permit program. To receive that permit, a person must show that the proposed source will, among other things, offset its potential to emit nonattainment pollutants by securing emission reductions from a nearby facility at a greater than 1:1 ratio and will employ the "lowest achievable emission rate" (LAER) for each regulated pollutant. See section 173 of the CAA (42 U.S.C.A. § 7503).

## 2. NSR Reform at the Federal Level

In 1996, the EPA issued a proposed NSR rule "to provide States with greater flexibility to customize their own regulations implementing the NSR program." 61 FR 38250, 38251 (July 23, 1996). The EPA also decided to ease the burden on industry of complying with NSR requirements by "significantly reduc[ing] the number and types of activities at sources that would otherwise be subject to major NSR under the existing NSR program regulations." 61 FR 38251. The EPA estimated that the changes, if finalized, would result in approximately 50% fewer sources being subject to requirements under the PSD and nonattainment NSR provisions of the CAA. 61 FR 38319. However, the EPA explained that it would not allow environmental benefits to be sacrificed to relieve the alleged burden on industry. 61 FR 38250.

Two years later, the EPA published a Notice of Availability (NOA), in which it presented its preliminary conclusions on certain aspects of the proposed rule and requested additional public comment. 63 FR 39857 (July 24, 1998). The EPA concluded that several of the reforms proposed in 1996 required additional safeguards to protect the environment and ensure accountability on the part of industry. 63 FR 39859—39862.

In June 2002, after completing a review of the NSR program directed by the President's National Energy Policy Development Group, the EPA announced that it would finalize five elements of the proposed rule: (1) a revised methodology for determining whether a change at a source will increase emissions significantly, and thereby be considered a "modification"; (2) a new way to determine the emissions baseline used in measuring whether a significant emission increase will occur; (3) a plantwide applicability limit (PAL) permit that would allow a source to avoid triggering NSR requirements if it does not exceed an emissions cap; (4) an exclusion from NSR for projects at a source designated as a "clean unit"; and (5) an exclusion from NSR for changes that are classified as pollution control projects.

On December 31, 2002, the EPA published the NSR rule in the *Federal Register* which finalized the previous five elements. 67 FR 80186. For the PSD program, the NSR rule went into effect in this Commonwealth on March 3, 2003, because the Commonwealth automatically incorporated the Federal PSD requirements by reference under Chapter 127, Subchapter D (relating to prevention of significant deterioration of air quality). Since the Commonwealth does not incorporate the Federal nonattainment NSR provisions by reference, this final-form rulemaking is to address revisions regarding the Commonwealth's NSR program under Chapter 127, Subchapter E (relating to new source review), and will be submitted to the EPA as a revision to the Pennsylvania SIP.

The final version of the EPA's December 2002 rule contained neither the flexibility for states in implementing the rule provisions advertised in its proposed rule nor the additional accountability discussed in the NOA. Moreover, the regulations were likely to lead to increased air

pollution, in turn causing harm to human health and the environment. To address these flaws, the Department of Environmental Protection (Department), together with a number of other states, filed a petition for review in the D.C. Circuit Court of Appeals challenging the rule. See *New York et al. v. EPA* (D.C. Cir.) (No. 02-1387 and consolidated cases).

On June 24, 2005, the Court of Appeals for the District of Columbia Circuit issued its opinion in *New York et al. v. EPA* which addressed the challenges of the states and other petitioners to the EPA's December 31, 2002, NSR regulations. See *New York et al. v. EPA*, 413 F.3d 3 (D.C. Cir. 2005). The Court upheld the NSR regulations in part, vacated them in part and remanded them in part. The Court upheld the EPA's revised methodology for calculating emissions increases, which determines whether those increases are significant thereby triggering the NSR requirements, by comparing prechange actual emission levels to post-change projected actual emission levels or "actual-to-projected-actual" calculation methodology. The Court upheld the EPA's 10-year "look-back" provision for calculating baseline emissions. This provision allows regulated entities to choose any 2 consecutive years in the preceding 10 (5 years for utilities) as their baseline. The Court also upheld the EPA's newly prescribed use of the 10-year look-back period for purposes of determining baseline emissions levels and for measuring contemporaneous increases and decreases in the context of setting PALs. The Court also upheld the EPA's "demand growth exclusion" which excludes from the calculation of emissions increases those increases not related to the change at the facility, but rather are attributable to growth in production as a response to increased product demand, which could have been accommodated by the facility before the change in question.

The Court vacated the clean unit exemption provision, on the grounds that the CAA requires any regulatory provision to evaluate emissions increases based on actual emissions instead of potential or allowable emissions. This provision would have exempted an emissions unit from additional control technology if state-of-the-art controls based on an NSR review had been installed within the preceding 10 years, or employed comparable state-of-the-art technology to comply with permit emission limits that would not violate other air quality requirements, even if any change in the emissions unit had increased the facility's net actual emissions.

The Court also vacated the pollution control project exclusion provision on the grounds that the CAA provided no authority to exempt modifications causing significant emissions increases of a pollutant, even if the modifications are implemented primarily to reduce emissions of other pollutants. This provision would have excluded projects from NSR review that reduced emissions of some pollutants, allowed increases in others, but had a net beneficial environmental effect.

In this same opinion, the Court remanded to the EPA for further consideration its provision that exempted facility owners or operators from recordkeeping requirements if they believed a change had no reasonable possibility of producing a significant emissions increase. The Court found that the EPA had not adequately explained how it would be able to detect and enforce against facilities improperly employing this exemption without adequate records being available.

In addition to the EPA's December 2002 NSR rule, the EPA promulgated a number of other final rules that the Board addresses in this final rule related to when a

facility is considered a major facility for the purposes of NSR. On April 30, 2004, the EPA published two final rules related to the 8-hour ozone NAAQS. The first rule is entitled "Air Quality Designations and Classifications for the 8-Hour Ozone National Ambient Air Quality Standards: Early Action Compact Areas With Deferred Effective Dates." 69 FR 23858. Among other things, this rule designated Bucks, Chester, Delaware, Montgomery and Philadelphia Counties as moderate nonattainment with the 8-hour ozone NAAQS. 69 FR 23931.

The second rule that the EPA published on April 30, 2004, is entitled "Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 1." 69 FR 23951. In that final action, the EPA addressed certain implementation issues related to the 8-hour standard, including the nonattainment major NSR program mandated by Title I, Part D of the CAA. This rule, among other things, determined that the CAA does not compel the EPA to retain the 1-hour ozone NAAQS major NSR requirements in implementing the 8-hour ozone NAAQS because, it concluded, NSR is not a control measure. The Department viewed this rule and its conclusions as a violation of the CAA's antibacksliding provisions under sections 172(e) and 193 of the CAA (42 U.S.C.A. §§ 7502(e) and 7515). Therefore, on June 29, 2004, the Commonwealth and a number of other states filed a joint petition for review challenging this rule in the Court of Appeals for the District of Columbia Circuit. See *Massachusetts v. EPA* (D.C. Cir.) (No. 04-1207). The Department believed this EPA final rule provided less air quality protection than the previous regulatory requirements in at least two ways. First, it raised the tonnage thresholds defining major new and modified sources subject to NSR, which meant that fewer sources would be subject to NSR. Second, for those sources that trigger NSR, it reduced the ratio of emission offsets required, which meant that emissions would increase. On December 22, 2006, the Court of Appeals for the District of Columbia Circuit endorsed the Department's position in this case. See *South Coast Air Quality Management District v. EPA, et al.*, 472 F.3d 882 (D.C. Cir. 2006). Specifically, the Court found that NSR is a control measure and to weaken its requirements under the SIP would constitute impermissible backsliding under the CAA. As a result, in implementing the 8-hour ozone NAAQS, all 1-hour ozone NAAQS major NSR requirements in this Commonwealth and in the five-county Philadelphia area will remain in place.

On August 3, 2005, the EPA published a final rule entitled "Identification of Ozone Areas for Which the 1-Hour Standard Has Been Revoked and Technical Correction to Phase 1 Rule." 70 FR 44470. This rule codifies the revocation of the 1-hour standard for those areas with effective 8-hour ozone designations. This rule revoked the 1-hour ozone standard effective June 15, 2005, for all areas in this Commonwealth. 70 FR 44477.

### 3. Final-Form Rulemaking Changes in Response to NSR Reform

Since the Board determined that not all of the EPA's final NSR regulatory provisions are sufficiently protective of the air quality needs of this Commonwealth, the final-form rulemaking incorporates some, but not all, of the changes which survived judicial scrutiny in *New York et al. v. EPA*. Moreover, the Board determined that to the extent any provisions of the final-form rulemaking are more stringent than those required under the CAA, they are necessary to achieve or maintain the NAAQS, and therefore permissible actions under section 4.2(b)(1) of the

APCA (35 P. S. § 4004.2(b)(1)). In addition, the final-form rulemaking is consistent with the Court's decision in the *South Coast Air Quality Management District* case and the anti-backsliding provisions of sections 172(e) and 193 of the CAA, and the Commonwealth will retain the 1-hour ozone NAAQS major NSR requirements in implementing the 8-hour ozone NAAQS.

One of the areas where this final-form rulemaking is different than the EPA's approach is the "look back" provision for calculating baseline emissions. Under the EPA's approach this provision allows regulated entities to choose any 2 consecutive years in the preceding 10 as their baseline, and in the case of utilities, any consecutive 2-year period within the preceding 5 years as their baseline, unless a different time period is more representative of normal operations. Under the Commonwealth's approach in § 127.203a (relating to applicability determination), regulated entities operating in this Commonwealth may choose any consecutive 24-month period in the preceding 5 years as their baseline. However, the Department may allow the use of a different consecutive 24-month period within the last 10 years upon a written determination that is more representative of normal source operations.

Another area where the final-form rulemaking is more protective than the EPA's approach is the installation of emission controls on new emission units under an existing PAL. Under the EPA's approach, the installation of emission controls on new emission units under an existing PAL is not necessary if a facility is able to continue to comply with its PAL. Under the Commonwealth's approach in § 127.218 (relating to PALs), the owners and operators of new emission units added under an existing PAL will need to reduce or control emissions by using the "best available technology" (BAT) as authorized under section 6.6(c) of the APCA (35 P. S. § 4006.6(c)). However, a BAT analysis will not be required where existing units are modified under a PAL.

It should be noted that the Commonwealth has an existing regulatory provision similar to a PAL under § 127.448 (relating to emissions trading at facilities with Federally enforceable emissions cap) in which the owner or operator of a facility may trade increases and decreases in emissions between sources with Federally enforceable emissions caps at a permitted facility. This existing regulatory provision may not be construed to allow an emissions cap (for example, a synthetic minor permit limit taken to avoid an applicable requirement) established in an operating permit to be a de facto PAL or interpreted by the Department in any way to circumvent the NSR requirements, except for emission caps that are expressly created to be a PAL under Chapter 127, Subchapters D and E.

Another area of difference between the EPA's approach and the Commonwealth's approach relates to the treatment of projected actual emissions related to a project. Under the EPA's approach, owners or operators of a facility must track their projected actual emissions against the facility's post-change emissions for 5 years following resumption of regular operations. The EPA presumes that any increases that occur after 5 years are not associated with the physical or operational changes. Under the Commonwealth's approach in § 127.203a(a)(5)(iii)(A), the projected actual emissions for the regulated NSR pollutant must be incorporated into the required plan approval or operating permit as an emission limit. This approach ensures that emissions from modifications are legally enforceable. Furthermore, consistent with Fed-

eral requirements, under § 127.203a(a)(5)(iii)(B), the owner or operator shall demonstrate compliance with the established total emission limit and for 5 years, or 10 years when there will be a capacity increase, shall also demonstrate compliance with the projected actual emission increase which is due solely to the project.

In addition to the differences between the EPA's approach and the Commonwealth's approach to the general NSR rule provisions, the Board also finalized a provision where facilities located in Bucks, Chester, Delaware, Montgomery or Philadelphia County that emit or have the potential to emit at least 25 TPY of VOCs or NOx will continue to be considered major facilities and will be subject to the requirements applicable to a major facility located in a "severe" nonattainment area of ozone. This means that any facility that was major for VOCs or NOx while the region was classified as "severe" nonattainment for the 1-hour ozone standard will remain major for those pollutants while the region is classified as moderate nonattainment under the 8-hour ozone standard. Under the EPA's approach, these facilities are major, and therefore subject to NSR, only if they emit 50 TPY for VOCs and 100 TPY for NOx since the area is classified as moderate nonattainment with the 8-hour ozone standard. Moreover, under the EPA's approach, offset requirements change from 1:3 to 1:1.15, while under the Commonwealth's approach, the offset requirements would remain unchanged. As previously noted, the Court in the *South Coast Air Quality Management District* case endorsed the Department's position that NSR is a control measure and to weaken its provisions under the SIP would constitute impermissible backsliding. Consequently, the finalized major source threshold and offset requirements are consistent with, and no more stringent than, the requirements under Federal law. Moreover, since the 8-hour ozone standard is more stringent than the revoked 1-hour ozone standard, and to ensure that the Philadelphia area achieves and maintains the NAAQS, the final-form rulemaking is reasonably necessary to ensure that these facilities emit no more VOCs and NOx than previously allowed for attaining the 1-hour ozone standard.

As part of this final-form rulemaking, in Chapter 127, Subchapter E, the Department added the terms and definitions "commence" and "begin actual construction." These terms and definitions are already part of Pennsylvania law under Chapter 127, Subchapter D, since the PSD requirements in 40 CFR Part 52 (relating to approval and promulgation of implementation plans), which are adopted in their entirety by the Department and incorporated by reference. "Commence" is applied to the construction or modification of a facility when the owner or operator has all necessary plan approvals and has either begun or caused to begin a continuous program of actual onsite construction, or has entered into binding contractual arrangements to undertake a program of actual construction. The term "begin actual construction" refers to, among other things, the initiation of physical onsite construction activities on an emissions unit that are of a permanent nature. These terms and definitions are in addition to the current definition of "construction" under § 121.1, which applies to physical onsite construction only.

Within the context of § 127.11 (relating to plan approval requirements), if a person wishes to lawfully construct, assemble, install or modify a stationary air contamination source in this Commonwealth, he must apply for and receive a written plan approval from the Department. While the term "construct" is not defined under the APCA, the definition of "construction" in

§ 121.1 is consistent with the term "begin actual construction." Section 127.11 does not use the term "commence." As these terms and definitions relate to § 127.11, a person would be in violation of the plan approval requirements if actual construction of a source at a nonmajor or State-only facility had taken place prior to receiving a written plan approval. Consequently, the Department does not consider whether a person entered into binding contractual arrangements prior to receiving a written plan approval to determine compliance with § 127.11 as it relates to a nonmajor or State-only facility.

Within the context of § 127.13 (relating to extensions), if construction, modification or installation of an air contamination source is not started within 18 months of the issuance of a plan approval or there is more than an 18-month lapse in construction, modification or installation, a new plan approval is required unless an extension is granted. This provision is applicable to both the nonattainment NSR program for major sources and for nonmajor or State-only facilities. As the terms "construction" and "commence" relate to § 127.13, a person would be in violation of this provision if neither actual onsite construction had begun nor binding contractual arrangements to undertake a program of actual construction had been entered into. Consequently, the Department does consider whether a person has entered into binding contractual arrangements to determine compliance with § 127.13 as it relates to both major and nonmajor sources.

As previously alluded to, § 127.13(b) has been amended to provide that the Department may extend the 18-month period to construct, modify or install an air contamination source under a valid plan approval upon a satisfactory showing that an extension is justified. This revision has been made to ensure consistency between the Pennsylvania and Federal programs. However, a project that does not commence construction, modification or installation within the original 18-month period will be reevaluated for BACT, LAER and BAT. The Department will require this reevaluation to ensure that the previously established emission rates remain appropriate for the project. When a reevaluation finds that the established emission rates should be updated, the Department will require that the change be reflected in an updated plan approval. This reevaluation is consistent with Federal guidance on this issue.

The Department worked with the Air Quality Technical Advisory Committee (AQTAC) in the development of this final-form rulemaking. The AQTAC requested that the Department consider extending the deadline for the submission of emission reduction credit (ERC) registry applications from 1 year to 3 years from the date of the initiation of the ERC generating emission reductions. The AQTAC also requested that the Department consider decreasing the time frame for the aggregation of the de minimis emission increases from 15 years to 10 years. The Department changed the submittal deadline to 2 years and has changed the aggregation period to 10 years. At its January 4, 2007, meeting, the AQTAC recommended that the Board consider the final amendments at its February 20, 2007, meeting.

#### E. Summary of Final-Form Rulemaking

The final-form rulemaking adds or amends the following definitions in § 121.1: "actual emissions," "actual PAL for a major facility," "allowable emissions," "baseline actual emissions," "begin actual construction," "CEMS—continuous emissions monitoring system," "CERMS—continuous emissions rate monitoring system,"

“CPMS—continuous parameter monitoring system,” “commence,” “creation,” “deactivation,” “de minimis emission increase,” “electric utility steam generating unit,” “emissions unit,” “Federally enforceable,” “fugitive emissions,” “generation,” “major facility,” “major modification,” “necessary preconstruction approvals or permits,” “net emissions increase,” “PAL—plantwide applicability limit,” “PAL effective date,” “PAL effective period,” “PAL major modification,” “PAL permit,” “PAL pollutant,” “PEMS—predictive emissions monitoring system,” “project,” “projected actual emissions,” “regulated NSR pollutant,” “secondary emissions,” “significant,” “significant emissions unit,” “significant net emissions increase” and “small emissions unit.”

New definitions were either added or revised between proposed and final-form rulemaking. These definitions include: “air contamination source,” “BACT—best available control technology,” “creditable emissions decrease,” “major emissions unit,” “major NOx emitting facility,” “major VOC emitting facility,” “replacement unit” and “significant emissions increase.” In addition to these changes between proposed and final-form rulemaking, proposed § 127.201a was deleted and the definitions subject to this final-form rulemaking will remain under § 121.1.

In response to comments submitted by the EPA, the Department added the phrase “enforceable as a practical matter” after the term “Federally enforceable” in certain definitions of certain terms like “allowable emissions.” A requirement is “legally enforceable” if the Department, the EPA or some authority has the right to enforce the restriction. Practical enforceability for a source-specific permit is attained if the permit provides for a technically-accurate limitation and the portions of the source subject to the limitation; the time period for the limitation (hourly, daily, monthly and annual limits such as rolling annual limits); and the method to determine compliance, including appropriate monitoring, recordkeeping and reporting. See 67 FR 80191. Consequently, “enforceable as a practical matter” is achieved if a requirement is both legally and practically enforceable. See 67 FR 80191.

Section 127.13 has been amended to provide that the Department may extend the 18-month period to construct, modify or install an air contamination source under a valid plan approval upon a satisfactory showing that an extension is justified. This revision has been made to ensure consistency between the Pennsylvania and Federal program. However, the Department will reevaluate a project that does not commence construction, modification or installation within the original 18-month period for BACT, LAER and BAT to ensure that emission rates remain appropriate for the project. This reevaluation is consistent with Federal guidance on this issue.

Section 127.201 (relating to general requirements), which applies to an owner or operator of a facility when an emission increase that is significant would occur, is revised. An additional revision under this section provides that facilities located in Bucks, Chester, Delaware, Montgomery or Philadelphia County that emit or have the potential to emit at least 25 TPY of VOCs or NOx will be considered a major facility and be subject to the requirements applicable to a major facility located in a “severe” nonattainment area of ozone. No changes were made to this section between proposed and final-form rulemaking.

Section 127.201a (relating to measurements, abbreviations and acronyms) adds measurements, abbreviations and acronyms. These include “BAT—best available technology,” “CO—carbon monoxide,” “lb—pounds,” “µg/m<sup>3</sup>—

micrograms per cubic meter,” “mg/m<sup>3</sup>—milligrams per cubic meter,” “O<sub>2</sub>—oxygen,” “SOx—sulfur oxides” and “TPY—tons per year.”

Section 127.201a was revised between proposed and final-form rulemaking to delete “CO<sub>2</sub>—carbon dioxide,” “Hg—mercury” and “KWH—kilowatt hour (based on electric generation.” Moreover, this section was renumbered from § 127.201b to § 127.201a because proposed § 127.201a was deleted since the definitions were moved to § 121.1.

Section 127.202 (relating to effective date) was revised between proposed and final-form rulemaking to amend the effective date and to delete, among other things, PM-2.5 and its precursors as pollutants. Minor changes were made to this section between proposed and final-form rulemaking. For instance, PM-2.5 precursors and PM-2.5 were deleted.

Section 127.203 (relating to facilities subject to special permit requirements) was revised and applies to the construction of a new major facility or modification at an existing facility located in a nonattainment area or located in an attainment or unclassified area, which impacts a nonattainment area in excess of certain significance levels. This section also includes provisions that would apply to an owner or operator of a facility located in Bucks, Chester, Delaware, Montgomery or Philadelphia County or an area classified as a serious or severe ozone nonattainment area. Additionally, this section identifies when the NSR requirements apply and do not apply to owners and operators of facilities.

Section 127.203 was revised between proposed and final-form rulemaking to clarify that if the aggregated emissions increase calculated using subsection (b)(1)(ii) meets or exceeds the emission rate that is significant, only the emission offset requirements in § 127.205(3) (relating to special permit requirements) apply to the aggregated emissions. In addition, minor editorial changes were also made to this section between proposed and final-form rulemaking.

Section 127.203a was revised and identifies the provisions to be used by the owner or operator of a facility during the plan approval application process for the construction of a new major facility or modification at an existing major facility to determine if the NSR requirements are applicable to that major facility. The revisions under this section include provisions to determine net emission increases, baseline actual emissions and projected actual emissions.

Section 127.203a was significantly revised between proposed and final-form rulemaking as to form, but not substance. This section still identifies the provisions to be used by the owner or operator of a facility during the plan approval application process, but these provisions have been clarified in response to comments on the readability of this section. Clarifications were also made to those provisions regarding net emission increases, baseline actual emissions and projected actual emissions. Nevertheless, the substance of the applicability determination remains the same. That is, as part of the plan approval application, the owner or operator of the facility shall calculate whether a significant emissions increase and a significant net emissions increase will occur as a result of a physical change or change in the method of operation. The owner or operator of the facility will use the procedures in subsection (a)(1)(i) to calculate the emissions increase in a regulated NSR pollutant due to the project, and the procedures in subsection (a)(2)(ii) to calculate the



net emissions increase in a regulated NSR pollutant. A project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases—a significant emissions increase and a significant net emissions increase. If the project causes a significant emissions increase, then the project is a major modification if it also results in a significant net emissions increase.

For instance, to determine emissions increases due to the project for existing units, use § 127.203a(a)(1)(i)(A) when the emissions increases equals projected actual emissions minus baseline actual emissions. To determine emissions increases due to the project for new emissions units, use § 127.203a(a)(1)(i)(B) when emissions increases equal the potential to emit from each new emissions unit. Then compare the emissions increases due to the project with the applicable emissions rate listed in the definition of the term “significant” in § 121.1. If the emissions increase due to the project exceeds the applicable emissions rate, then use § 127.203a(a)(1)(ii) to calculate the net emissions increase. If the emissions increase due to the project does not exceed the listed applicable emissions rate, then use § 127.203a(a)(2) to calculate the net emissions increase.

Under § 127.203a(a)(1)(ii), a net emissions increase equals the increase in emissions due to the project, plus other increases in actual emissions occurring within the 5-year period, minus other decreases in actual emissions occurring within the 5-year period. Then compare the net emissions increases with the applicable emissions rate listed in the definition of “significant” in § 121.1. If the net emissions increase is equal to or exceeds the applicable emission rate that is significant, the proposal is subject to all of the nonattainment NSR requirements in § 127.205 (relating to special permit requirements).

Under § 127.203a(a)(2), a net emissions increase equals the proposed de minimis emissions increase due to the project, plus other previously determined increases that occurred within 10 years prior to the date of a complete plan approval application, minus other decreases in actual emissions that occurred within 10 years prior to the date of a complete plan approval application. Then compare the aggregated net emissions increase with the applicable emissions rate listed in the definition of “significant.” If the net emissions increase equals or exceeds the applicable emissions rate that is significant, only the emissions offset requirements in § 127.205(3) apply to the aggregated emissions. The proposed project is not subject to the LAER requirements.

It should be noted that between proposed and final-form rulemaking, the aggregation period under this section was changed from 15 years to 10 years. As a result, the proposed increases and decreases in emissions are aggregated with other increases and decreases which occurred within 10 years prior to the date of the submission of a complete plan approval application.

Under § 127.203a(a)(5), projected actual emissions is the maximum annual rate in TPY at which an existing emissions unit is projected to emit a regulated NSR pollutant in any of the 5 years following the date the unit resumes regular operations after the project, or in any of the 10 years following that date, if the project involves increasing the emissions unit’s design capacity or its potential to emit of that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major facility.

Under § 127.203a(a)(5)(iii), if the projected actual emissions for a regulated NSR pollutant are in excess of the

baseline actual emissions, among other things, the projected actual emissions for the regulated NSR pollutant must be incorporated into the required plan approval or operating permit as an emission limit.

Section 127.204 (relating to emissions subject to this subchapter) is revised to make minor clarifications to ensure that it is consistent with the other changes made to Chapter 127, Subchapter E. No additional changes were made to this section between proposed and final-form rulemaking.

Section 127.205 was revised to add additional provisions as to when LAER applies to a proposed modification within the contemporaneous period of a proposed emission increase and when emission offsets are required for the entire net emission increase that occurred over the contemporaneous period.

Section 127.205 was revised between proposed and final-form rulemaking. Paragraph (7) was added to provide that the Department may determine that the BAT requirements in Chapter 127 are equivalent to BACT or LAER. This provision has been added to allow the Department the discretion to make this determination only when it has conducted a vigorous and documented BACT or LAER analysis that contains enough information to make a BAT determination. Consequently, the intent of this provision is not to allow the Department to automatically make this determination on each and every BACT or LAER analysis or to treat BACT or LAER as equivalent to BAT. No additional changes were made to this section between proposed and final-form rulemaking.

Section 127.206 (relating to ERC general requirements) was revised to make minor clarifications to ensure that it is consistent with the other changes made to Chapter 127, Subchapter E. This section was revised between proposed and final-form rulemaking to provide that emission reductions occurring at a facility after January 1, 2002, but prior to the effective date of this final-form rulemaking may be used to generate ERCs in accordance with Chapter 127, Subchapter E, if a complete ERC registry application is submitted to the Department within 12 months of the effective date of this final-form rulemaking.

Section 127.207 (relating to creditable emissions decrease or ERC generation and creation) was revised to include that emission reductions necessary to meet BAT and allowance-based programs required by the CAA or APCA may not be used to generate creditable emission decreases or ERCs.

Section 127.207 was revised between proposed and final-form rulemaking to provide that the ERC Registry application deadline may be extended to 2 years from the initiation of an emissions reduction used to generate ERCs if the owner or operator of the source or facility either submits to the Department a maintenance plan in accordance with § 127.11a (relating to reactivation of sources) or a written request within 1 year of deactivation of the source or facility to request preservation of the emissions in the inventory. While the Department has always used the provisions of this section to determine creditable emissions decreases, the term “creditable emissions decrease” was added to make this clarification. Other minor clarifying changes were made to this section between proposed and final-form rulemaking.

Section 127.208 (relating to ERC use and transfer requirements) was revised to make minor clarifications to ensure that it is consistent with the other changes made

to Chapter 127, Subchapter E. This section was revised between proposed and final-form rulemaking to provide that an owner or operator of a facility that is subject to allowance-based programs may generate, create, transfer and use ERCs in accordance with Chapter 127, Subchapter E and the applicable provisions of Chapter 145 (relating to interstate pollution transport reduction). Moreover, an owner or operator of a facility shall acquire ERCs for use as offsets from an ERC generating facility located within the same nonattainment area, except that the Department may allow the owner or operator to obtain ERCs generated in another nonattainment area if the other area has an equal or higher nonattainment classification than the area in which the facility is located and the emissions from the other area contribute to a violation of the NAAQS in the nonattainment area in which the facility is located.

Section 127.209 (relating to ERC registry system) was revised to make minor clarifications to ensure that it is consistent with the other changes made to Chapter 127, Subchapter E. Additional minor clarifying changes were made to this section between proposed and final-form rulemaking.

Section 127.210 (relating to offset ratios) was revised to make minor clarifications to ensure that it is consistent with the other changes made to Chapter 127, Subchapter E. Minor changes were made to this section between proposed and final-form rulemaking.

Section 127.211 was rescinded and remaining applicable provisions were moved to § 127.203a.

Section 127.212 (relating to portable facilities) was revised to include PM-2.5 and its precursors as pollutants and to make minor clarifications to ensure that it is consistent with the other changes made to Chapter 127, Subchapter E. This section was revised between proposed and final-form rulemaking. References to particulate matter, PM-10 precursors, PM-2.5 precursors and PM-2.5 were deleted.

Section 127.213 (relating to construction and demolition) was revised to make minor clarifications to ensure that it is consistent with the other changes made to Chapter 127, Subchapter E. No additional changes were made to this section between proposed and final-form rulemaking.

Section 127.214 was rescinded.

Proposed § 127.214a would have applied to an owner or operator of a project that uses advanced clean coal generation technology in a new electric utility steam generating unit or to retrofit or repower an existing electric utility steam generation unit. The qualifying electric utility steam generation unit will be deemed to meet the LAER control technology requirements of § 127.205 unless the Department determines that the performance requirements specified are less stringent than LAER.

Proposed § 127.214a was deleted between proposed and final-form rulemaking. As noted in the comment and response section of this preamble, the EPA cannot, under any circumstance, approve any provision regarding a presumptive LAER limit.

Section 127.215 (relating to reactivation) was modified between proposed and final-form rulemaking to provide that a facility, which is deactivated in accordance with subsection (a), may create ERCs only if an ERC registry application is filed within 2 years of deactivation. No

additional changes were made to this section between proposed and final-form rulemaking.

Section 127.217 (relating to Clean Air Act Titles III—V applicability) was revised to make minor clarifications to ensure that it is consistent with the other proposed changes made to Chapter 127, Subchapter E. No additional changes were made to this section between proposed and final-form rulemaking.

Section 127.218 was added to include PALs. If a facility follows this section and emissions are kept below a plantwide actual emissions cap, then the regulations allow the facility to avoid the major NSR permitting process when making changes to the facility or individual emissions units. The PAL will impose an annual emissions limitation in TPY for the entire major facility. Each PAL must regulate emissions of only one pollutant. Each PAL will have an effective period of 10 years.

Section 127.218 was revised between proposed and final-form rulemaking. For instance, in setting the 10-year actual PAL level under subsection (f)(2), the owner or operator may use a different consecutive 24-month period for each different PAL pollutant. Similarly, in setting the 10-year actual PAL level under subsection (f)(4) for newly constructed emission units on which actual construction began after the 24-month period, the emissions must be added to the PAL level in the amount equal to the potential to emit of the emission units. Moreover, under subsection (f)(10), only new units would be subject to a BAT review. In addition, minor editorial changes were also made to this section.

#### F. *Comments and Responses*

One commentator stated that the Board strikes the appropriate balance to the extent that the Board developed an NSR proposal that differs from the Federal requirements. The Board agrees and believes that the final-form rulemaking strikes the proper balance between environmental protection and economic growth. In the recent decision by the U.S. Court of Appeals for the D.C. Circuit in *South Coast Air Quality Management District v. EPA*, the court indicated that requirements in place for the 1-hour ozone standard must be retained in accordance with the anti-backsliding provisions of section 172(e) of the CAA. Consequently, the 1-hour NSR applicability thresholds (25 TPY for VOCs/NOx) and emission offset requirements for 1-hour ozone nonattainment areas must continue to be imposed under Federal law. The Court determined that NSR is a “control” measure—not a “growth measure.”

Commentators believed that the Commonwealth should adopt the Federal NSR proposal to ensure that the Commonwealth is not at a disadvantage to surrounding states. The Board does not believe that adoption of the State-specific NSR regulation will put this Commonwealth at an economic disadvantage. Many states in the Ozone Transport Region including Delaware, Maryland, New Jersey, New York and Virginia have chosen to adopt state-specific NSR regulations. It is evident that the Commonwealth is not alone in its belief that the Federal NSR rule is not adequate to protect its citizens. The final-form rulemaking incorporates some, but not all, of the EPA's NSR program changes. The Board believes the final-form rulemaking strikes an appropriate balance that meets the EPA's required NSR program elements while retaining important elements of the existing NSR program.

A commentator found that the term “significant emissions increase” is missing from the Commonwealth's

definitions, presumably because the Commonwealth is not proposing a two-part applicability test as outlined in 40 CFR 51.165(a)(2) (relating to permit requirements). The Commonwealth must offer information to the EPA describing how a program that omits this minimum program element should be considered equivalent to Federal regulations. The Board agrees and inserted this term into the final-form rulemaking.

A commentator noted that the Commonwealth's definition of "allowable emissions" differs from the PAL-specific Federal definition in that it does not reflect the use of potential-to-emit to define allowable emissions. The Federal definition is broader in scope than the Commonwealth's definition. As noted in 40 CFR 51.165(f)(2), the Commonwealth's regulations must use the same definitions in the development of a PAL. Therefore, the EPA recommended that the Commonwealth revise its regulation to be consistent with the Federal definition of "allowable emissions." The Board agrees and has revised this term.

Commentators stated that the proposed rulemaking moved many definitions from § 121.1 to proposed § 127.201a. New definitions were also added to § 127.201a. It is quite convenient and efficient to have all the definitions regarding the air programs in one location, rather than having to switch back and forth looking for definitions throughout various chapters. The Board agreed and all definitions from proposed § 127.201a were moved to § 121.1.

Commentators complained that the lbs/hr and lbs/day emissions rate triggers are burdensome if not impossible to estimate for some processes. Further, these triggers are in addition to the annual triggers that are specified in the Federal program. The Board determined that the retention of the hourly and daily applicability thresholds would require a complex analysis under actual to projected actual emissions test. Therefore, the Board removed lbs/hr and lbs/day requirements from the NSR regulation.

The EPA commented that the Federal term "stationary source and building, structure, facility or installation" corresponds with the Department's terms "facility" and "source." It would appear that the Department's definition of "facility" is more inclusive in terms of defining the boundary of a source because it does not require any demonstration that pollutant-emitting activities be linked by SIC code. However, the Department's definition of "source" implies that there have to be actual air contaminant emissions to be considered a "source," whereas the Federal definition of "stationary source" includes buildings, structures, facilities or installations that emit, or may emit, any air pollutant regulated by the CAA. The EPA recommended that the Department revise the regulations to include the Federal definitions of "stationary source" and "building, structure, facility or installation" so that these terms are consistently applied to both nonattainment NSR and PSD. Clarifying language in the preamble to the final-form rulemaking is also recommended.

The Board disagreed about the suggested revisions. The Department added the term "air contamination source" and a definition in § 121.1. Modification of the definition, which is identical to the definition of the term "air contamination source" in section 3 of the APCA (35 P. S. § 4003), to the form suggested by the EPA would require amendment of State law. The definition of "facility" already exists in § 121.1. This definition is used throughout Part I, Subpart C, Article III (relating to air re-

sources) and affects many other regulatory sections; therefore, the definition of "facility" will not be changed.

The EPA commented that the Department's definition of "allowable emissions" differs from the PAL-specific Federal definition in that it does not reflect the use of potential-to-emit to define allowable emissions. The Federal definition is broader in scope than the Commonwealth's definition. As noted in 40 CFR 51.165(f)(2), the Commonwealth's regulations must use the same definitions in the development of a PAL. Therefore, the EPA recommended that the Board revise its regulation to be consistent with the Federal definition of "allowable emissions." The Board revised the definition of "allowable emissions" and incorporated the clause "for purposes of the PAL requirements in § 127.218, the allowable emissions shall be calculated considering the emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit."

Several commentators stated that the definition of "major modification" as written is imprecise. If conditions (A) and (B) or any combination thereof meet the criteria of the expression major modification, clarification is necessary. The Board agrees that the definition is meant to include both of these conditions under the Federal NSR rule and clarified the definition.

Commentators stated that the proposed definition of "actual emissions" differs from the Federal definition. The Federal definition does not require a written determination for a more representative period. The Board changed some of the wording of the definition of "actual emissions" to match that of the Federal definition. The Board believes a written determination for a more representative period is required because the determination should be a public record. This public record will consist of that portion of the written plan approval or permit application when the owner or operator justified the use of the different consecutive 24-month time period and the written determination issued by the Department.

The EPA commented that the Department does not have a separate definition of "replacement unit" but does address replacement units under "emissions unit." In all cases, a replacement unit must be considered a new unit until it has operated for 2 years. Therefore, the Commonwealth's regulations are inconsistent with one of the minimum required elements (replacement unit) identified in NSR reform and must offer information to the EPA describing how this provision should be considered equivalent to the Federal regulations. The Board revised the definition of "emissions unit" to be consistent with the Federal definition and added the definition of "replacement unit."

All commentators stated that, for various reasons, the definition of "actual emissions" should not be limited to a "consecutive 2-year period" but to a "consecutive 24-month period" per the Federal NSR rule. The Board agrees that the EPA term of "consecutive 24-month period" is appropriate and will replace the proposed term of "2-year period."

Many commentators agreed that the lb/hr and lb/day de minimis aggregation thresholds are burdensome and should be eliminated. The EPA does not require a lb/hr or lb/day basis. The Board agrees and removed this provision from the final-form rulemaking.

The EPA commented that neither the Department's current or proposed regulations exclude fugitive emissions in determining applicability. It should be noted that the

EPA's response to the Newmont Mining Petition for Reconsideration is to exclude fugitive emissions from applicability of NSR for all nonlisted source categories. The Department needs to provide information explaining how its program is at least equivalent, in this respect, to the requirements of the Federal program in 40 CFR 51.165(a)(4), regarding fugitive emissions. The Board believes the retention of fugitive emissions in this context is proper. Provisions for excluding fugitive emissions of criteria air pollutants for nonlisted sources do not exist in the Commonwealth's current NSR regulation. The Department relied on the inclusion of fugitive emissions of criteria air pollutants from all sources to demonstrate attainment and maintenance of the Federally-mandated NAAQS. It is reasonable and necessary to continue to include fugitive emissions from all sources in the determination of applicability to assure that facilities do not emit pollutants that have not been accounted for in the existing attainment plan. It should also be noted that the requirement to include fugitive emissions from all sources is being retained in accordance with the anti-backsliding provisions of section 172(e) of the CAA.

The Department's regulations proposed to lower the threshold for sources subject to NSR from 100 TPY to 70 TPY of PM-10. No justification for this decrease has been provided. The 100 TPY threshold should be retained. The Federal definition of the term "major stationary source" in 40 CFR 51.165(a)(1)(iv)(A) establishes a limit of 100 TPY, emitted or potential to emit, for any regulated pollutant, except in areas where the limit may be lower, as in 40 CFR 51.165(a)(1)(iv)(A)(vi) for serious nonattainment areas: "70 tons per year of PM-10 in any serious nonattainment area for PM-10." The language for "major facility" in the final-form NSR regulation closely mirrors the Federal language for this definition. A facility is a major facility for PM-10 if it emits or has the potential to emit 100 TPY of PM-10 unless the facility is in a serious nonattainment area, then the facility is major if it emits or has the potential to emit 70 TPY of PM-10. The Board revised the NSR applicability test to incorporate a two-step test in the final-form NSR rulemaking.

The EPA commented that the definitions of the different ozone classifications in § 121.1 are no longer consistent with the design values under the 8-hour ozone standard. The Board deleted the following terms and definitions from § 121.1: "extreme ozone nonattainment area," "marginal ozone nonattainment area," "moderate ozone nonattainment area," "serious ozone nonattainment area" and "severe ozone nonattainment area."

The EPA believes that the definition of the term "PAL permit" includes state operating permits despite the fact that the Federal regulations prohibit PALs from being established within these permits. The Board deleted the phrase "State operating permits" from the definition of "PAL permit" in the final-form rulemaking.

Commentators stated that the 5-year look-back period for determining the representative consecutive 24-month emissions baseline period is too restrictive. Many cited specific instances and examples of when a 5-year period would not have been representative. These commentators further stated that 10 years is much more representative for specific industrial or business cycles or even for the normal business cycle. Commentators indicated that the research done by the EPA to justify the Federal NSR 10-year look-back period is adequate. They commented that some neighboring states are using the 10-year look-back period without undue burden on the state agency and that the Commonwealth already uses the

10-year look-back period in its existing PSD program. The proposed 5-year look-back period will put businesses in this Commonwealth at a disadvantage with these neighboring states' businesses. Further, the Department is requiring a 15-year look-back period for the de minimis aggregation portion of this rulemaking, which serves to demonstrate that a 10-year look-back period is not too cumbersome. Commentators suggested the mandatory 10-year look-back but if the Board proceeds with a 5-year look-back, the rule should provide for a mandatory 5-year look-back period with the option to allow for another 2-year period in the last 10 years if that period is more representative of normal operations.

The Board disagrees that a 5-year look-back period is always too restrictive and finds that under many circumstances a 5-year look-back will be appropriate and environmentally beneficial. However, the Board agrees that there could be unusual circumstances when a 10-year look-back period for establishing the NSR continuous 24-month actual emissions baseline period will be appropriate. The 24-month period shall be from the preceding 5 years unless the owner can demonstrate to the satisfaction of the Department that a longer time frame is more representative. The Board revised § 127.203a(a)(4)(i) to include the following language: "baseline actual emissions are the average rate, in TPY, at which the unit emitted the regulated NSR pollutant during a consecutive 24-month period selected by the owner or the operator within the 5-year period immediately prior to the date a complete plan approval application is received by the Department. The Department may approve the use of a different consecutive 24-month period within the last 10 years upon a written determination that it is more representative of normal source operation."

Many commentators stated that the Board should adopt the Federal NSR regulatory language allowing for different 24-month emission baseline periods for each pollutant. They commented that different 24-month periods would be more representative of operations where complex business adjustments or shutdowns occurred.

The Board agrees that there could be unusual circumstances when different 24-month periods for establishing the actual emissions baselines for different pollutants will be appropriate. The 24-month period for each pollutant shall be the same unless the owner or operator of the facility can demonstrate to the satisfaction of the Department that a different 24-month period would be more representative. The Department revised § 127.203a(a)(4)(i)(D) to include the following language: "The same consecutive 24-month period shall be used for all regulated NSR pollutants unless the owner or operator demonstrates, in writing, to the Department that a different consecutive 24-month period is more appropriate and the Department approves, in writing, the different consecutive 24-month period for a regulated NSR pollutant or pollutants."

Several commentators stated that the proposed requirements that continue to treat the five-county Philadelphia area as severe, as it was under the 1-hour ozone standard, will put the area at a competitive disadvantage to other areas, cause the need for additional expensive control equipment and result in the cancellation of projects intended for economic growth. The Board disagrees. First the U.S. Court of Appeals for the D.C. Circuit in *South Coast Air Quality Management District v. EPA*, et al. found that NSR is a control measure and to withdraw it from the SIP would constitute impermissible backsliding. As a result, in implementing the 8-hour

ozone NAAQS, all 1-hour ozone NAAQS major NSR requirements, in this Commonwealth and in the five-county Philadelphia area will remain in place. Moreover, under the moderate rules if an existing facility makes a modification, the triggering NSR threshold is 40 TPY of VOC or NOx. Under the severe rules, it was 25 TPY. So, a major facility under the moderate rules can increase its NOx or VOC emissions an additional 15 TPY before NSR is applicable. There are approximately 200 major facilities in the five-county Philadelphia area. Under the worst-case scenario, there could be an additional 3,000 TPY of VOC and 3,000 TPY of NOx emitted from these facilities before NSR can be applied under the moderate rule. Additionally, when facilities do trigger major NSR under the Federal regulation, the less stringent offset ratio of 1.15 to 1 instead of 1.3 to 1 applies. Under the EPA planning rules for SIPs, the Commonwealth would need to plan for this increase in emissions by finding offsetting decreases in emissions from other source categories.

Some commentators stated that the 5-year look back period for determining the representative consecutive 24-month emissions baseline period is too restrictive. Many cited specific instances and examples when a 5-year period would not have been representative. The Board agrees that under many circumstances the 5-year look back period will be appropriate and environmentally beneficial. However, the Board also agrees that there could be unusual circumstances when a 10-year look-back period for establishing the NSR continuous 24-month actual emissions baseline period will be appropriate. The 24-month period shall be from the preceding 5 years unless the owner can demonstrate to the satisfaction of the Department that a longer time frame is more representative. Language indicating this has been added to § 127.203a.

A commentator stated that the proposed PM-2.5 major thresholds should be lowered from the proposed 100 and 15 TPY to 25 and 10 TPY, respectively. Industry commented that the proposed PM-2.5 requirements are premature and should not be addressed until the EPA promulgates its regulation. The EPA commented that it strongly advises the Department to wait until the EPA promulgates the PM-2.5 implementation rule for NSR before adopting specific provisions for regulating PM-2.5 and its precursors under its nonattainment NSR program. As requested by the EPA, the Board will wait until the Federal PM-2.5 rule is promulgated. Consequently, all language referring to PM-2.5 has been removed from the final-form rulemaking.

Commentators suggested that project emissions should be calculated, monitored and reported in terms of 12-month periods consistent with the established policy and guidance and the Federal rule. The Board followed the lead of the EPA by designating the reporting requirement period as a calendar year basis from the language in the EPA's NSR rule pertaining to applicability procedures under 40 CFR 51.165(a)(6)(iii). The Board wishes to maintain the continuity between the final-form rulemaking and the Federal regulation so the language in the subparagraph will not be changed.

A commentator suggested that the final-form rulemaking should allow for ERCs generated by a facility located adjacent to or within another facility, but not under common control with that facility (for example, a portion of a facility sold to another entity) be considered a creditable decrease as an emission decrease. The Board disagrees. A net emissions increase calculation requires all increases and decreases in actual emissions at the

major facility that are contemporaneous with the project and are otherwise creditable. The emission decreases used as a netting credit have to be generated at the same facility. ERCs generated at other facilities cannot be used by separate facilities for netting purposes, even if they are within a contemporaneous period.

Some commentators stated that the Board should allow the use of different 24-month emission baseline periods for each unit involved in a project as this would be more representative of varying and complex business conditions. The Board proposed that the same 24-month period shall be used for all units involved in a project. This is in accordance with 40 CFR 51.165(a)(xxv)(A)(3). Since the final-form rulemaking must be at least as stringent as the Federal regulation, this stipulation will not be changed.

Commentators stated that the proposed rulemaking contained additional new recordkeeping and reporting requirements in § 127.203a(a)(7). Depending on the type of modification, it may not be possible to separate the actual annual emissions into baseline actual emissions, emissions that could have been accommodated during the baseline period, unrelated emissions due to the demand growth and emissions increase due to the project. The Board has not explained why it needs more data, or an additional report, from the same sources that are already required to file annual emission reports under Chapter 135 (relating to reporting of sources). This requirement is redundant, burdensome and creates more unnecessary paperwork for the Department to review. This provision should be deleted. The Board disagrees. Revised § 127.203a(a)(5) is consistent with 40 CFR 51.165(a)(6)(i)(B). Since the final-form NSR rulemaking must be at least as stringent as the Federal rule, recordkeeping and reporting requirements have not been revised in the final-form rulemaking.

Commentators found that a facility making improvements that are classified as BAT would apparently be prohibited from generating ERCs under the proposed rulemaking. In practice, this will prohibit many sources from conducting emissions netting. The Board believes that to allow for the generation of ERCs through the use of rules that are intended to safeguard the environment would defeat the purpose and effect of these regulations. The Board will not allow for the generation of ERCs through the enforcement of BAT.

Some commentators stated that the proposed "advanced clean coal generation technology" is unfair because this provision is not available for other equally viable technologies that it supports. Another commentator stated that although this technology does not apply directly to them, they support measures to encourage the use of clean coal technology. The EPA informed the Department that the "EPA cannot, under any circumstance, approve this provision. LAER must be the more stringent of either: (1) a limit in a SIP for a class or category of source, or (2) an emissions limit that has been achieved in practice. A presumptive limit that is adopted as part of a regulation cannot be demonstrated to meet either of these qualifications." The Board removed the clean coal generation technology provision as a result of the EPA's concerns.

A commentator stated that § 127.218(c)(2) refers to the public participation requirements in subsection (d), but

the public participation requirement is actually discussed in subsection (e). The Board agrees and changed the reference to the appropriate subsection.

Another commentator found that the requirement under § 127.218(g)(10) that any new source under a PAL must achieve BAT defeats the purpose of the PAL by eliminating the flexibility of a facility to allocate its allowable emissions among its sources. The Board disagrees. There are a number of provisions that provide for operational flexibilities. For example, § 127.14 (relating to exemptions) determines the conditions when new sources can be exempted from BAT. Exemptions can be determined from the existing list of sources or through the use of a request for determination. Many de minimis and trivial sources will be exempted through these provisions. Moreover, § 127.1 (relating to purpose) specifically states "New sources shall control the emission of air pollutants to the maximum extent, consistent with the BAT as determined by the Department as of the date of issuance of the plan approval for the new source." Further, it is stated in § 127.12(a) (relating to content of applications): "An application for approval shall: . . . (5) Show that emissions from a new source will be the minimum attainable through the use of best available technology." Since these regulatory provisions remained unchanged, BAT requirements for new sources remain in effect under § 127.218.

Commentators stated that conformance with the 2002 EPA final rule requires that the Board also abandon any proposed amendments to § 127.203a referencing the 1991 baseline period for contemporaneous change evaluations under the NSR program. Creditable reductions generated at a site often stay with prior owners or are consumed in unrelated operations for facilities, or parts of facilities, which are sold to new operators. Therefore, tying NSR compliance to an arbitrary baseline from 15 years ago represents an unfair burden, especially since the Board is silent on how to restate NSR baselines for facilities that are combined, divided or sold.

On the advice of the AQTAC, the Board revised the duration of the de minimis emissions aggregation period from 15 years as proposed to 10 years in the final-form rulemaking. The de minimis aggregation requirement includes both increases and decreases for the previous 10-year period allowing for the facility to take credit for any reductions that are surplus, permanent and enforceable while still being accountable for increases that are also to continue but have not previously been offset. Under the Federal regulation and implementing memorandums, facilities may add several nonrelated projects up to an emissions increase of 39.9 TPY or need only wait for 18 months to be able to propose continual 39.9 TPY increases per project without providing offsets and without having to account for any 39.9 TPY or less increases that occurred previous to the 5-year period. Under the final-form rulemaking, owners/operators of facilities in the five-county Philadelphia area will be able to avoid major NSR by keeping emission increases under 25 TPY but will still have to account for all emission increases under 25 TPY that occurred within the last 10 years but did not have offsets provided. For the rest of this Commonwealth, owner/operators of facilities will be able to avoid major NSR by keeping emission increases under 40 TPY but will still have to account for all emission increases under 40 TPY that occurred within the last 10 years but did not have offsets provided.

Commentators agreed that emissions from start-ups, shutdowns and malfunctions should not be treated differ-

ently under the definitions of "baseline actual emissions" and "projected future actual emissions." Others also specify that § 123.203a(a)(5) indicates that emissions from start-ups and shutdowns are to be included in the baseline actual emissions only if they are "authorized," while the projected future actual emissions include emissions from startups and shutdowns regardless if they are authorized. The proposed regulation is different and apparently more stringent than the Federal rule. The final-form rulemaking will not allow the use of emissions from malfunctions to be included in the baseline actual emissions because it is not representative of normal source operation. The Board removed the word "authorized" from this language.

The EPA objected to the Department's definition of "plantwide applicability limit" in that it does not include the provision that the limit must be practically enforceable. Rather, the Department requires the limit to be legally enforceable. Practical enforceability is not the same as legal enforceability. For instance, every term and condition in a permit issued by the Commonwealth is legally enforceable. However, it has long been recognized that for a limit to be practically enforceable for the purpose of effectively imposing a level of control on a unit or source, the limit must meet several criteria: it must be legally enforceable; there must be a short period of time over which compliance is to be determined; and the limit must include monitoring or recordkeeping, or both, to verify compliance. The EPA believes that this is a significant deviation from the Federal rule for which there is a minimum required program element. The Board agrees and revised the definition of "plantwide applicability limit" to change the phrase "legally enforceable" to "enforceable as a practical matter."

A commentator supported the common sense provision for "demand growth" exclusion but requested clarification on the phrase "and that is unrelated to the particular project." Any emissions that could have been accommodated during the baseline period should inherently be excluded under the demand growth exclusion. A commentator requested an example of a situation when emissions could have been accommodated during the baseline period but cannot be excluded under the demand growth exclusion because the emissions are "related to the particular project."

The Board referred commentators to 67 FR 80202 and 80203 to the response to comment 7 "Why Was the Demand Growth Exclusion Retained?" It is the Board's intent to include the EPA's demand growth provision in the final-form rulemaking. The Department closely mirrored the EPA's NSR regulatory language from 40 CFR 51.165(a)(1)(xxviii)(A)(2) in revised § 127.203a(a)(5)(i)(C). The Board's interpretation and use of the EPA's regulatory language and commentary would be consistent. For example: (1) If an existing source before modification had the potential to emit 20% more of a regulated pollutant had the demand existed during the 24-month baseline chosen, but after the proposed modification has a projected actual emission rate of 40% more of the same regulated pollutant, then the projected actual emissions would be 140% of the baseline emissions. The emission increase would be the 140% level minus the "could have been accommodated" 20% and minus the original 100% actual baseline equaling a 20% emission increase. The new permit emission limit would be 140% of the baseline regardless of the new or modified unit's potential to emit which could be higher. The modification made to the emission unit in this example will not have altered the product or in any way created the demand growth. Another example: (2) A printing press can presently print

in three colors and had the potential to accommodate a 20% higher level of actual emissions during the 24-month baseline period chosen had the demand existed, as in example 1. The owner wishes to modify the press to be able to print in four colors while increasing the unit output capacity and potential to emit and again as in example (1) the owner establishes a projected future actual emission level at 140% of the baseline which can be below the new potential. Here there is a 40% emission increase because the entire product demand growth could be attributable to the product alteration. The new permit emission limit would be 140% of the baseline as in example (1).

The EPA commented that the Department's definition of "PEMS—predictive emissions monitoring system" includes the language "All of the equipment necessary to monitor parameters including..." The EPA recommended using the phrase "including but not limited to" since the types of parameters listed in the Commonwealth's definition clearly are not an exhaustive list of process or operational parameters. Alternatively, the text of the preamble to the final-form rulemaking could clarify that the definitions are not interpreted to be exclusive.

The Board disagrees. The meaning of this definition has not been changed. The formatting convention of the Legislative Reference Bureau does not allow the use of the phrase "but is not limited to" when listing items in a class. The word "including" is not interpreted to be exclusive and restricted to the list of items that follow the word "including." The phrase "but not limited to" is unnecessary and is to be avoided. It is also important to note that use of the phrase "shall include" in a definition does not exclude or limit things, which do not follow the phrase.

In *New York v. EPA*, 45 F.3d 3 (D.C. Cir. June 24, 2005), the DC Circuit court remanded the EPA to either provide an acceptable explanation for its "reasonable possibility" standard or to devise an appropriately supported explanation. At this time, the EPA has not responded to the remand and the reasonable possibility standard still exists in the Federal regulations. The Commonwealth, therefore, must provide information as to how § 127.203a(7) is equivalent to 40 CFR 51.165(a)(6).

The Board believes the calculation method for determining the projected actual emissions for both the Federal and the final-form rulemaking are equivalent. The final-form rulemaking projected actual emissions are reflective of the actual emissions level that the facility expects and are not adjusted. With the Federal regulation, the projected actual emissions are reduced by the amount that could have been accommodated.

Commentators stated that under the EPA's approach, facilities are only required to track emissions for a period of time following a modification. The Commonwealth proposed a very complicated approach which involves using the summation of "baseline actual emissions; emissions that could previously be accommodated prior to the proposed modification; and the projected actual emission increase due to the proposed project." These data would be used to determine compliance and tracked for 5 years (10 years if there is a capacity increase). In addition, facilities would be required to demonstrate compliance with the projected actual emission increase that is due solely to the project. These provisions are not only more stringent than the Federal equivalent, but are confusing. Commentators recommended that the Board adopt the

Federal approach of recordkeeping and reporting to ensure that projects that do not trigger NSR do not in fact trigger NSR.

Most of the language in final-form § 127.203a(a)(5) duplicates the language used in the Federal regulation as it pertains to demand growth and reporting requirements. The EPA stipulates that the owner will keep records for 5 years or for 10 years if the project increases a unit's potential to emit. These records are to be reviewed annually by local or state agencies to ensure that the projected actual emission increases as proposed are not exceeded for existing electric generating unit (EGU) projects. For non-EGUs, the owner will report only if the projected emissions are exceeded. The Board changed the regulatory language to more closely duplicate the Federal language concerning recordkeeping and reporting requirements in the final-form NSR rulemaking to alleviate the commentators' concerns.

Most commentators agreed that projected actual emissions should not become permit restrictions. The EPA does not propose to limit a project's future emissions to the facility's projected actual emissions in a plan approval or permit. The EPA stipulates that the owner will keep records for 5 years or for 10 years if the project increases a unit's potential to emit. These records are to be reviewed annually by the local or state agencies to ensure that the projected actual emission increases as proposed are not exceeded for existing EGU projects. For non-EGUs, the owner will report only if the projected actual emissions are exceeded. If these emission rates are exceeded, the local or state agency or the EPA can then take whatever action they feel is necessary after an explanation by the owner or operator of a source. The Board does not agree that this approach would be beneficial to the environment or the regulated community. Under the Federal NSR regulation, when the 10-year recordkeeping requirements expire, there will be no restrictions to prevent an owner from increasing a unit to its full potential usage at a possibly substandard emission rate that was granted initially. For the regulated community, the consequences of exceeding the projected actual emissions during the 5- or 10-year reporting period are unknown to them under the new Federal NSR regulation. The owner's explanation as required would be the determining factor of what the consequences at the Federal level would be. In contrast, the Department's enforcement action would be based upon the proposed § 127.203a(a)(5) permit limit. The Federal regulation allows for the possibility that members of the regulated community could knowingly or unknowingly exceed their projected actual emission limits for 1 year or beyond before discovery or disclosure, again with unknown consequences for the owner or the environment. The final-form NSR rulemaking eliminates any confusion about the consequences to the owner or the environment that exist under the present Federal NSR proposal when the projected actual emissions are exceeded.

After reviewing the proposed PAL provisions of the proposed rulemaking, some commentators questioned whether the Commonwealth is committed to allowing PAL permits. They stated that the PAL provisions in the proposed rulemaking virtually remove any associated benefit of obtaining a PAL in this Commonwealth. The proposed 5-year look-back for PALs will result in less operational flexibility, which is one of the key benefits that the PAL regulations offer. Business cycles can be much longer than 5 years and a 10-year look-back will account for fluctuations in a company's emissions associated with its business cycle. A 10-year look-back is

appropriate and representative. The proposed rulemaking is more restrictive than the Federal requirements and ultimately harmful to the PAL program. PALs should have a 10-year term and be fixed rather than declining.

The actual PAL level for a major facility is based on the definition of "baseline actual emissions" and is also determined in accordance with § 127.203a(a)(4). The Board believes that under many situations the 5-year look back period for calculating baseline actual emissions will be appropriate and environmentally beneficial. However, the Department agrees that there could be unusual circumstances when a 10-year look back period for establishing the NSR continuous 24-month actual emissions baseline period will be appropriate. The Board revised the final-form rulemaking to include the following language: "baseline actual emissions are the average rate, in tons per year, at which the unit emitted the regulated NSR pollutant during a consecutive 24-month period selected by the owner or the operator within the 5-year period immediately prior to the year a complete plan approval application is received by the Department." The final-form regulation allows the use of a different consecutive 24-month period within the last 10 years upon a written determination that it is more representative of normal source operation.

A commentator stated that it is not clear from the proposed rulemaking as to how a PAL permit is to interact with existing plan approvals or operating permits, or both. The Board noted that the Department intends to incorporate each PAL for each pollutant into the owner's Title V operating permit as suggested by the EPA in the preamble for the Federal NSR regulation at 67 FR 80213 and 80214. The EPA suggested that the PAL be incorporated into the Title V permit upon issuance if the Title V permit does not already exist. The EPA further suggested that owners and operators of facilities request incorporation of the PAL into already existing Title V permits during Title V renewal. Since the term for a Title V permit is 5 years and the term for the PAL is 10 years, Title V renewal will not necessitate a PAL renewal the first time around. Each PAL for each pollutant will have its own expiration date that will have to be included in the Title V permit when the renewal dates are not concurrent.

#### G. *Benefits, Costs and Compliance*

*Benefits.* Overall, the citizens of this Commonwealth will benefit from this final-form rulemaking because it will result in improved air quality by reducing criteria pollutant emissions, recognize and encourage pollution prevention practices and encourage new technologies and practices which reduce emissions.

*Compliance costs.* The final-form rulemaking will reduce the operating costs of industry through enhanced operational flexibility under PALs.

*Compliance assistance.* The Department plans to educate and assist the public and regulated community with understanding newly revised requirements and how to comply with them. This will be accomplished through the Department's ongoing Regional Compliance Assistance Program.

*Paperwork requirements.* The final-form rulemaking will not increase the paperwork that is already generated during the normal course of business. However, the owner or operator of a facility that voluntarily elects a 10-year PAL must retain records for at least 10 years to document that the emission limit was not exceeded.

#### H. *Pollution Prevention*

The Federal Pollution Prevention Act of 1990 established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally-friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This final-form rulemaking incorporated the following pollution prevention incentives. As a result of the NSR requirements, a company has a significant incentive to minimize their emissions to avoid these additional regulatory requirements. If they are unable to avoid these requirements, they must demonstrate the employment of the lowest achievable emission reduction with existing technology. These minimized emissions can be achieved through process modifications and do not have to come from add-on control equipment. Pollution prevention is one of the most cost effective means to eliminate costly add-on controls or to reduce the costs of running add-on controls.

#### I. *Sunset Review*

The regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

#### J. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 16, 2006, the Department submitted a copy of the notice of proposed rulemaking, published at 36 Pa.B. 1991 (April 29, 2006), to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy 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 the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on April 4, 2007, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on April 5, 2007, and approved the final-form rulemaking.

#### K. *Findings*

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law, and all comments were considered.

(3) This final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 36 Pa.B. 1991.



(4) This final-form rulemaking is necessary and appropriate for administration and enforcement of the authorizing acts identified in section C of this preamble.

(5) This final-form rulemaking is necessary for the Commonwealth to achieve and maintain ambient air quality standards and to satisfy related CAA requirements.

(6) This final-form rulemaking is necessary for the Commonwealth to avoid sanctions under the CAA.

(7) This final-form rulemaking will be submitted to EPA as an amendment to the Pennsylvania SIP.

L. Order

The Board, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 25 Pa. Code Chapters 121 and 127, are amended by amending §§ 121.1, 127.13, 127.201—127.210, 127.212, 127.213, 127.215 and 127.217; by deleting §§ 127.211 and 127.214; and by adding §§ 127.201a, 127.203a and 127.218 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(Editor's Note: The Department withdrew the proposal to amend § 127.214a which was included in the proposed rulemaking at 36 Pa.B. 1991. The amendment to § 127.13 was not included in the proposed rulemaking.)

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.

(c) The Chairperson of the Board shall submit this order and Annex A to the Independent Regulatory Review Commission and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.

(d) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau, as required by law.

(e) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

KATHLEEN A. MCGINTY,  
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 37 Pa.B. 1940 (April 21, 2007).)

**Fiscal Note:** Fiscal Note 7-399 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION  
PART I. DEPARTMENT OF ENVIRONMENTAL  
PROTECTION**

**Subpart C. PROTECTION OF NATURAL  
RESOURCES**

**ARTICLE III. AIR RESOURCES**

**CHAPTER 121. GENERAL PROVISIONS**

**§ 121.1. Definitions.**

The definitions in section 3 of the act (35 P. S. § 4003) apply to this article. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

*Actual emissions*—For purposes of Chapter 127, Subchapter E (relating to new source review), the actual rate of emissions of a regulated NSR pollutant from an emissions unit shall be determined in accordance with the following subparagraphs. This definition does not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under § 127.218 (relating to PALs). Instead, the definition of the terms “projected actual emissions” and “baseline actual emissions” apply for those purposes. This definition may not be used to calculate a baseline emissions rate under § 127.207(4) (relating to creditable emissions decrease or ERC generation and creation).

(i) Actual emissions as of a particular date must equal the average rate, in TPY, at which the unit actually emitted the regulated NSR pollutant during the consecutive 24-month period which immediately preceded the particular date and which is representative of normal source operations. The Department will authorize the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates and types of materials processed, stored or combusted during the selected time period.

(ii) For an emissions unit that has not begun normal operations on the particular date, actual emissions equal the potential to emit of the unit on that date.

*Actual PAL for a major facility*—A PAL based on the baseline actual emissions of all emissions units at a major facility that emit or have the potential to emit the PAL pollutant.

\* \* \* \* \*

*Air contamination source*—Any place, facility or equipment, stationary or mobile, at, from or by reason of which there is emitted into the outdoor atmosphere any air contaminant.

\* \* \* \* \*

*Allowable emissions*—The emissions rate of a facility calculated using the maximum rated capacity of the facility unless the facility is subject to Federally enforceable limits which restrict the operating rate, or hours of operation, or both, and the most stringent of the following:

(i) The applicable standards in 40 CFR Part 60 or 61 (relating to standards of performance for new stationary sources; and National emission standards for hazardous air pollutants).

(ii) An applicable SIP emissions limitation, including those with a future compliance date.

(iii) The emissions rate specified under a requirement or condition in a plan approval or operating permit that is Federally enforceable or enforceable as a practical matter, including those with a future compliance date.

(iv) For purposes of the PAL requirements in § 127.218 (relating to PALs), the allowable emissions shall be calculated considering the emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

\* \* \* \* \*

*BACT—Best available control technology*—An emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each regulated NSR pollutant which would be emitted from any proposed major facility or major modification which the Depart-

ment, on a case-by-case basis, taking into account energy, environmental and economic impacts and other costs, determines is achievable for the facility or modification through application of production processes or available methods, systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of the pollutant. The application of BACT may not result in emissions of a pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR Part 60 or 61. If the Department determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. The standard must, to the degree possible, set forth the emissions reduction achievable by implementation of the design, equipment, work practice or operation, and provide for compliance by means which achieve equivalent results.

\* \* \* \* \*

*Baseline actual emissions*—The rate of emissions, in TPY, of a regulated NSR pollutant, as determined in accordance with § 127.203a(a)(4) (relating to applicability determination).

\* \* \* \* \*

*Begin actual construction*—Initiation of physical onsite construction activities on an emissions unit or a facility which are of a permanent nature. These activities include installation of building supports and foundations, laying of underground pipe work and construction of permanent storage structures. With respect to a change in method of operating, the term refers to those onsite activities other than preparatory activities which mark the initiation of the change.

\* \* \* \* \*

*CEMS*—*Continuous emissions monitoring system*—For purposes of Chapter 127, Subchapter E, all of the equipment that may be required to meet the data acquisition and availability requirements of Chapter 127, Subchapter E to sample, condition, analyze and provide a record of emissions on a continuous basis.

*CERMS*—*Continuous emissions rate monitoring system*—For purposes of Chapter 127, Subchapter E, the total equipment required for the determination and recording of the pollutant mass emissions rate, in terms of mass per unit of time.

\* \* \* \* \*

CO—Carbon monoxide.

CO<sub>2</sub>—Carbon dioxide.

\* \* \* \* \*

*CPMS*—*Continuous parameter monitoring system*—For purposes of Chapter 127, Subchapter E, all of the equipment necessary to meet the data acquisition and availability requirements to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents), and other information (for example, gas flow rate, O<sub>2</sub> or CO<sub>2</sub> concentrations), and to record average operational parameter values on a continuous basis.

\* \* \* \* \*

*Commence*—As applied to the construction, modification or installation of an air contamination source or facility

the owner or operator has necessary approvals including plan approvals or permits and has either:

(i) Begun, or caused to begin, a continuous program of actual onsite construction of the facility, to be completed within a reasonable time.

(ii) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

\* \* \* \* \*

*Creation*—The process of generating usable and tradable ERCs to be used to offset emissions. This process includes the following elements:

- (i) Application.
- (ii) Documentation.
- (iii) Quantification.
- (iv) Verification.
- (v) Entry into the registry.

*Creditable emissions decrease*—Emission changes at an existing major facility as determined in accordance with § 127.203a(a)(3).

\* \* \* \* \*

*Deactivation*—Cessation of the emissions of an air pollutant from air contamination source, emissions unit or facility.

\* \* \* \* \*

*De minimis emissions increase*—For purposes of Chapter 127, Subchapter E, an increase in emissions calculated in accordance with § 127.203a(a)(1)(i) which is less than the emissions rate that is significant as defined in this section.

\* \* \* \* \*

*Electric utility steam generating unit*—For purposes of the NSR requirements in Chapter 127, Subchapter E, a steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to a utility power distribution system for sale. Steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

\* \* \* \* \*

*Emissions unit*—For purposes of Chapter 127, Subchapter E, a part of a facility that emits or has the potential to emit a regulated NSR pollutant including an electric utility steam generating unit as defined in this section. For the purposes of NSR requirements, there are two types of emissions units:

(i) A new emissions unit, which is or will be newly constructed and which has existed for less than 2 years from the date the emissions unit first operated.

(ii) An existing emissions unit is an emissions unit that does not meet the requirements in subparagraph (i). A replacement unit, as defined in this section, is an existing emissions unit.

\* \* \* \* \*

*Extreme environmental conditions*—Exposure to weather all of the time, temperature consistently above

203° F, detergents, abrasive and scouring agents, solvents, corrosive atmospheres or similar environmental conditions.

*Extreme performance coatings*—Coatings designed and used for harsh exposure or extreme environmental conditions.

\* \* \* \* \*

*Federally enforceable*—The limitations and conditions which are enforceable by the EPA, including:

(i) Requirements developed under 40 CFR Parts 60 and 61.

(ii) Requirements within an applicable SIP.

(iii) Plan approval or operating permit requirements established under 40 CFR 52.21 (relating to prevention of significant deterioration of air quality) or under regulations approved under 40 CFR Part 51, Subpart I (relating to review of new sources and modifications), including plan approvals or operating permits issued under an EPA-approved program that is incorporated into the SIP and expressly requires adherence to a permit issued under the program.

\* \* \* \* \*

*Fugitive emissions*—For purposes of Chapter 127 (relating to construction, modification, reactivation and operation of sources), those emissions which could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening.

\* \* \* \* \*

*Generation*—With respect to ERCs, an action taken by an owner or operator of an air contamination source, emissions unit or facility that results in the actual reduction of emissions.

\* \* \* \* \*

*Major emissions unit*—For purposes of § 127.218, an emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major facility threshold as defined in this section for the PAL pollutant.

*Major facility*—

(i) A facility which emits or has the potential to emit 100 TPY or more of a regulated NSR pollutant, except that lower emissions thresholds apply as follows:

(A) Fifty TPY of VOCs in a serious nonattainment area for ozone.

(B) Fifty TPY of VOCs in an area within an ozone transport region except for a severe or extreme nonattainment area for ozone.

(C) Twenty-five TPY of VOCs in a severe nonattainment area for ozone.

(D) Ten TPY of VOCs in an extreme nonattainment area for ozone.

(E) Seventy TPY of PM-10 in a serious nonattainment area for PM-10.

(F) Fifty TPY of CO in a serious nonattainment area for CO.

(ii) For the purposes of applying the requirements of Chapter 127, Subchapter E to the owner or operator of a facility located in an ozone nonattainment area or in an ozone transport region which emits or has the potential to emit NOx, as follows:

(A) One hundred TPY or more of NOx in an ozone nonattainment area classified as marginal, basic or moderate.

(B) One hundred TPY or more of NOx in an ozone nonattainment area classified as a transitional, submarginal, or incomplete or no data area, when the area is located in an ozone transport region.

(C) One hundred TPY or more of NOx in an area designated under section 107(d) of the Clean Air Act (42 U.S.C.A. § 7407(d)) as attainment or unclassifiable for ozone that is located in an ozone transport region.

(D) Fifty TPY or more of NOx in a serious nonattainment area for ozone.

(E) Twenty-five TPY or more of NOx in a severe nonattainment area for ozone.

(F) Ten TPY or more of NOx in an extreme nonattainment area for ozone.

(iii) A physical change that occurs at a facility which does not exceed the major facility thresholds specified in Chapter 127, Subchapter E is considered a major facility if the change constitutes a major facility by itself.

(iv) A facility which is major for VOCs or NOx is considered major for ozone.

(v) Notwithstanding the provisions under subparagraphs (i) and (ii), a facility which emits or has the potential to emit 25 TPY or more of NOx or VOC and is located in Bucks, Chester, Delaware, Montgomery or Philadelphia County.

*Major modification*—

(i) A physical change in or change in the method of operation of a major facility that would result in the following:

(A) A significant emissions increase of a regulated NSR pollutant.

(B) A significant net emissions increase of that pollutant from the major facility.

(ii) A proposed de minimis increase that would result in a net emissions increase as determined under Chapter 127, Subchapter E that meets or exceeds the applicable emissions rate that is significant.

(iii) A significant emissions increase from an emissions unit or a net emissions increase at a major facility that is significant for VOCs or NOx is considered significant for ozone.

(iv) A physical change in or change in the method of operation of a major facility does not include:

(A) Routine maintenance, repair and replacement.

(B) The use of an alternative fuel or raw material by reason of an order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) (15 U.S.C.A. § 79(a) and (b)) (or superseding legislation) or by reason of a natural gas curtailment plan under the Federal Power Act (16 U.S.C.A. §§ 792—825r).

(C) The use of an alternative fuel by reason of an order or rule under section 125 of the Clean Air Act (42 U.S.C.A. § 7425).

(D) The use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

(E) The use of an alternative fuel or raw material by a facility which meets one of the following conditions:

(I) The facility was capable of accommodating the fuel before January 6, 1975, unless the change would be prohibited under a Federally enforceable operating permit condition.

(II) The facility is approved to use the fuel or material under a Federally enforceable operating permit.

(F) An increase in the hours of operation or in the production rate, unless the change is prohibited under a condition of a Federally enforceable plan approval or an operating permit.

(G) A change in ownership of a facility.

(v) The term does not apply to a particular regulated NSR pollutant when the major facility is complying with the requirements under § 127.218. Instead, the definition of "PAL major modification" applies.

*Major NOx emitting facility*—A facility which emits or has the potential to emit NOx from the processes located at the site or on contiguous properties under the common control of the same person at a rate greater than one of the following:

(i) Ten TPY in an ozone nonattainment area designated as extreme under section 182(e) and (f) of the Clean Air Act (42 U.S.C.A. § 7511a(e) and (f)).

(ii) Twenty-five TPY in an ozone nonattainment area designated as severe under section 182(d) and (f) of the Clean Air Act.

(iii) Fifty TPY in an area designated as serious under section 182(c) and (f) of the Clean Air Act.

(iv) One hundred TPY in an area included in an ozone transport region established under section 184 of the Clean Air Act (42 U.S.C.A. § 7511c).

(v) Twenty-five TPY and is located in Bucks, Chester, Delaware, Montgomery or Philadelphia County.

*Major VOC emitting facility*—A facility which emits or has the potential to emit VOCs from processes located at the site or on contiguous properties under the common control of the same person at a rate greater than one of the following:

(i) Ten TPY in an ozone nonattainment area designated as extreme under section 182(e) of the Clean Air Act.

(ii) Twenty-five TPY in an ozone nonattainment area designated as severe under section 182(d) of the Clean Air Act.

(iii) Fifty TPY in an area included in an ozone transport region established under section 184 of the Clean Air Act.

(iv) Twenty-five TPY and is located in Bucks, Chester, Delaware, Montgomery or Philadelphia County.

*Malodor*—An odor which causes annoyance or discomfort to the public and which the Department determines to be objectionable to the public.

*Maximum allowable emissions*—The emission rate calculated using the maximum rated capacity of the source unless the source is subject to enforceable permit conditions which limit operating rate or hours of operation, or both, and the most stringent of the following:

(i) Applicable new source performance standards or standards for hazardous pollutants in 40 CFR Parts 60 and 61.

(ii) Applicable emission limitation under this title.

(iii) The emission rate specified as an enforceable permit.

\* \* \* \* \*

*Model year*—The manufacturer's annual production period (as determined under 40 CFR 85.2304 (relating to definition of production period)) which includes January 1 of the calendar year. If the manufacturer has no annual production period, the term means the calendar year.

*Modification*—A physical change in a source or a change in the method of operation of a source which would increase the amount of an air contaminant emitted by the source or which would result in the emission of an air contaminant not previously emitted, except that routine maintenance, repair and replacement are not considered physical changes. An increase in the hours of operation is not considered a modification if the increase in the hours of operation has been authorized in a way that is Federally enforceable or legally and practicably enforceable by an operating permit condition.

\* \* \* \* \*

*NSR*—New source review.

*Necessary preconstruction approvals or permits*—Those permits or approvals required under the Clean Air Act or the act and regulations adopted under the acts, which are part of the applicable SIP.

*Net emissions increase*—Emission changes at an existing major facility as determined in accordance with § 127.203a(a)(1).

\* \* \* \* \*

*O<sub>2</sub>*—Oxygen.

\* \* \* \* \*

*PAL—Plantwide applicability limit*—An emissions limit expressed in TPY, for a pollutant at a major facility, that is enforceable as a practical matter and established facility-wide in accordance with § 127.218.

*PAL effective date*—The date of issuance of the PAL permit. The PAL effective date for an increased PAL is the date an emissions unit which is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

*PAL effective period*—The period beginning with the PAL effective date and ending 10 years later.

*PAL major modification*—Notwithstanding the definitions under this section for "major modification" and "net emissions increase," a physical change in or change in the method of operation of the facility that causes the facility to emit the PAL pollutant at a level equal to or greater than the PAL.

*PAL permit*—The plan approval, operating permit or Title V permit issued by the Department that establishes a PAL for a major facility.

*PAL pollutant*—The pollutant for which a PAL is established for a major facility.

*PEMS—Predictive emissions monitoring system*—For purposes of Chapter 127, Subchapter E, all of the equipment necessary to monitor process and control device operational parameters including control device secondary voltages and electric currents, other information including gas flow rate, O<sub>2</sub> or CO<sub>2</sub> concentrations, and calculate and record the mass emissions rate in terms of mass per unit time, like lb/hr, on a continuous basis.

\* \* \* \* \*

*PM-10*—Particulate matter with an effective aerodynamic diameter of less than or equal to a nominal 10 micrometer body as measured by the applicable reference method or an equal method.

*ppmvd*—Parts per million dry volume.

\* \* \* \* \*

*Project*—A physical change in or change in the method of operation of an existing facility, including a new emissions unit.

*Projected actual emissions*—The maximum annual rate in TPY at which an existing emissions unit is projected to emit a regulated NSR pollutant, as determined in accordance with § 127.203a(a)(5).

\* \* \* \* \*

*Regulated NSR pollutant*—

- (i) NOx or VOCs.
- (ii) A pollutant for which the EPA has promulgated a NAAQS.
- (iii) A pollutant that is a constituent or precursor of a pollutant listed under subparagraph (i) or (ii), if the constituent or precursor pollutant may only be regulated under NSR as part of regulation of the pollutant listed under subparagraph (i) or (ii).

\* \* \* \* \*

*Replacement unit*—An emissions unit for which all the criteria listed in subparagraphs (i)—(iv) are met. Creditable emission reductions may not be generated from shutting down the existing emissions unit that is replaced.

(i) The emissions unit is a reconstructed unit if the fixed capital cost of the new components exceeds 50% of the fixed capital cost that would be required to construct a comparable, entirely new emissions unit, or the emissions unit completely takes the place of an existing emissions unit.

(ii) The emissions unit is identical to or functionally equivalent to the replaced emissions unit.

(iii) The replacement unit does not alter the basic design parameters of the process unit.

(iv) The replaced emissions unit is permanently removed from the major facility, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it shall constitute a new emissions unit.

\* \* \* \* \*

*Secondary emissions*—

(i) Emissions which occur as a result of the construction or operation of a major facility or major modification of a major facility, but do not come from the major facility or major modification itself. The secondary emissions must be specific, well defined, quantifiable and impact the same general area as the facility or modification which causes the secondary emissions.

(ii) The term includes emissions from an offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major facility or major modification.

(iii) The term does not include emissions which come directly from a mobile source regulated under Title II of the Clean Air Act (42 U.S.C.A. §§ 7521—7589).

\* \* \* \* \*

*Semiaqueous cleaning solvent*—A solution in which water is a primary ingredient (>60% by weight of the solvent solution as applied is water).

*Significant*—

(i) In reference to a net emissions increase or the potential of a facility to emit one of the following pollutants at a rate of emissions that would equal or exceed the following emissions rates except as specified in subparagraphs (ii)—(v):

<i>Pollutant</i>	<i>Emissions Rate</i>
Carbon monoxide (CO):	100 TPY
Nitrogen oxides (NOx):	40 TPY
Sulfur oxides (SOx):	40 TPY
Ozone:	40 TPY of VOCs or NOx
Lead:	0.6 TPY
PM-10:	15 TPY

(ii) The emissions rate that is significant for VOCs in a serious or severe ozone nonattainment area is 25 TPY.

(iii) For purposes of applying Chapter 127, Subchapter E to the owner or operator of modifications at a major facility located in an ozone nonattainment area or in an ozone transport region that emits or has the potential to emit NOx, the emissions rate that is significant and other requirements for VOCs in subparagraphs (i) and (ii) apply to NOx emissions.

(iv) The emissions rate that is significant for CO in a serious nonattainment area is 50 TPY if the EPA has determined that the affected facility contributes significantly to CO levels in that area.

(v) The emissions rate that is significant for VOCs in an extreme nonattainment area for ozone is any amount above zero.

*Significant emissions increase*—For a regulated NSR pollutant, an increase in emissions that is significant as defined in this section for that pollutant.

*Significant emissions unit*—For purposes of the PAL requirements in § 127.218, an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the emissions rate that is significant as defined in this section or in the Clean Air Act for that PAL pollutant, whichever is lower, but less than the amount that would qualify the unit as a major facility as defined in this section.

*Significant net emissions increase*—For a regulated NSR pollutant, a net emissions increase that is significant as defined in this section.

\* \* \* \* \*

*Small emissions unit*—For purposes of the PAL requirements in § 127.218, an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the emissions rate that is significant for that PAL pollutant as defined in this section or in the Clean Air Act, whichever is lower.

\* \* \* \* \*

*TPY*—Tons per year.

\* \* \* \* \*

**CHAPTER 127. CONSTRUCTION, MODIFICATION, REACTIVATION AND OPERATION OF SOURCES**

**Subchapter B. PLAN APPROVAL REQUIREMENTS**

**§ 127.13. Extensions.**

(a) Approval granted by the Department will be valid for a limited time, as specified by the Department in the

approval. Except as provided in §§ 127.11a and 127.215 (relating to reactivation of sources; and reactivation), at the end of the time, if the construction, modification, reactivation or installation has not been completed, a new plan approval application or an extension of the previous approval will be required.

(b) If the construction, modification or installation is not commenced within 18 months of the issuance of the plan approval or if there is more than an 18-month lapse in construction, modification, or installation, a new plan approval application that meets the requirements of this subchapter and Subchapters D and E (relating to prevention of significant deterioration of air quality; and new source review) shall be submitted. The Department may extend the 18-month period upon a satisfactory showing that an extension is justified.

**Subchapter E. NEW SOURCE REVIEW**

**§ 127.201. General requirements.**

(a) A person may not cause or permit the construction or modification of an air contamination facility in a nonattainment area or having an impact on a nonattainment area unless the Department or an approved local air pollution control agency has determined that the requirements of this subchapter have been met.

(b) The nonattainment area classification that applies for offset trading and offset ratio selection shall be the highest classification designated by the EPA Administrator in 40 CFR 81.339 (relating to Pennsylvania) or by operation of law.

(c) The NSR requirements of this subchapter also apply to a facility located in an attainment area for ozone and within an ozone transport region that emits or has the potential to emit at least 50 TPY of VOC or 100 TPY of NOx. A facility within either an unclassifiable/attainment area for ozone or within a marginal or incomplete data nonattainment area for ozone or within a basic nonattainment area for ozone and located within an ozone transport region will be considered a major facility and shall be subject to the requirements applicable to a major facility located in a moderate nonattainment area.

(d) The NSR requirements of this subchapter apply to an owner or operator of a facility at which a net emissions increase that is significant would occur as determined in accordance with § 127.203a (relating to applicability determination). If an emissions increase meets or exceeds the applicable emissions rate that is significant as defined in § 121.1 (relating to definitions), the facility is subject to the permitting requirements under § 127.205 (relating to special permit requirements). An emissions increase subject to this subchapter must also be offset through the use of ERCs at the offset ratios specified in § 127.210 (relating to offset ratios). The generation, use, transfer and registration requirements for ERCs are listed in §§ 127.206—127.209.

(e) In the event of an inconsistency between this rule and any other rule promulgated by the Department, the inconsistency must be resolved by the application of the more stringent provision, term, condition, method or rule.

(f) A facility located in Bucks, Chester, Delaware, Montgomery or Philadelphia Counties that emits or has

the potential to emit at least 25 TPY of VOC or NOx will be considered a major facility and shall be subject to the requirements applicable to a major facility located in a severe nonattainment area for ozone.

**§ 127.201a. Measurements, abbreviations and acronyms.**

Measurements, abbreviations and acronyms used in this subchapter are defined as follows:

- BAT—Best available technology
- BACT—Best available control technology
- CEMS—Continuous emissions monitoring system
- CERMS—Continuous emissions rate monitoring system
- CPMS—Continuous parametric monitoring system
- CO—Carbon monoxide
- ERC—Emission reduction credit
- LAER—Lowest achievable emission rate
- MACT—Maximum achievable control technology
- NSPS—New source performance standard
- NSR—New source review
- PEMS—Predictive emissions monitoring system
- lb—Pounds
- µg/m<sup>3</sup>—Micrograms per cubic meter
- MERC—Mobile reduction credit
- mg/m<sup>3</sup>—Milligrams per cubic meter
- NOx—Nitrogen oxides
- O<sub>2</sub>—Oxygen
- PAL—Plantwide Applicability Limit
- PM—Particulate matter
- RACT—Reasonably available control technology
- SOx—Sulfur oxides
- TPY—Tons per year
- VOC—Volatile organic compound

**§ 127.202. Effective date.**

(a) The special permit requirements in this subchapter apply to an owner or operator of a facility to which a plan approval will be issued by the Department after May 19, 2007.

(b) For SOx, PM-10, lead and CO, this subchapter applies until a given nonattainment area is redesignated as an unclassifiable or attainment area. After a redesignation, special permit conditions remain effective until the Department approves a permit modification request and modifies the permit.

**§ 127.203. Facilities subject to special permit requirements.**

(a) This subchapter applies to the construction of a new major facility or modification at an existing major facility located in a nonattainment area, an ozone transport region or an attainment or unclassifiable area which impacts a nonattainment area in excess of the following significance levels:

Pollutant	Averaging time				
	Annual	24 (hours)	8 (hours)	3 (hours)	1 (hours)
SO <sub>2</sub>	1.0 µg/m <sup>3</sup>	5 µg/m <sup>3</sup>	-	25 µg/m <sup>3</sup>	-
PM-10	1.0 µg/m <sup>3</sup>	5 µg/m <sup>3</sup>	-	-	-
CO	-	-	0.5 mg/m <sup>3</sup>	-	2 mg/m <sup>3</sup>
Lead	-	0.1 µg/m <sup>3</sup>	-	-	-

(b) The following provisions apply to an owner or operator of a facility located in Bucks, Chester, Delaware, Montgomery or Philadelphia County or an area classified as a serious or severe ozone nonattainment area:

(1) The applicability requirements in § 127.203a (relating to applicability determination) apply except as provided by this subsection. The requirements of this subchapter apply if the aggregated emissions determined according to subparagraph (i) or (ii) exceed 25 TPY of NOx or VOCs.

(i) The proposed increases and decreases in emissions are aggregated with the other increases in net emissions occurring over a consecutive 5 calendar-year period, which includes the calendar year of the modification or addition which results in the emissions increase.

(ii) The proposed increases and decreases in emissions are aggregated with other increases and decreases which occurred within 10 years prior to the date of submission of a complete plan approval application. If the aggregated emissions increase calculated using this subparagraph meets or exceeds the emissions rate that is significant, only the emissions offset requirements in § 127.205(3) (relating to special permit requirements) apply to the aggregated emissions.

(2) An increase in emissions of VOCs or NOx, other than a de minimis emission increase, from a discrete operation, unit or other pollutant emitting activity at a facility with a potential to emit less than 100 TPY of VOCs or NOx is considered a modification unless the owner or operator elects to offset the increase by a greater reduction in emissions of VOCs or NOx from other operations, units or activities within the facility at an internal offset ratio of at least 1.3 to 1. If the owner or operator does not elect to offset at the required ratio, the increase is considered a modification and the BACT requirement is substituted for LAER. The owner or operator of the facility shall comply with all applicable requirements including the BAT requirement.

(3) An increase in emissions of VOCs or NOx, other than a de minimis emission increase, from a discrete operation, unit or other pollutant emitting activity at a facility with a potential to emit of 100 TPY or more is considered a modification unless the owner or operator elects to offset the increase by a greater reduction in emissions of VOCs or NOx from other operations, units or activities within the facility at an internal offset ratio of at least 1.3 to 1. If the owner or operator elects to offset at the required ratio, the LAER requirement does not apply. The owner or operator of the facility shall comply with the applicable requirements including the BAT requirement.

(c) The NSR requirements of this subchapter apply to an owner or operator of:

(1) A facility at which the net emissions increase as determined under this subchapter meets or exceeds the applicable emissions rate that is significant. A decrease in a facility's emissions will not qualify as a decrease for purposes of this subchapter unless the ERC provisions in

§ 127.207(1) and (3)—(7) (relating to creditable emissions decrease or ERC generation and creation) are met.

(2) A major facility subject to this subchapter which was deactivated for a period in excess of 1 year and is not in compliance with the reactivation requirements of § 127.215 (relating to reactivation).

(d) The requirements of this subchapter which apply to VOC emissions from major facilities and major modifications apply to NOx emissions from major facilities and major modifications in an ozone transport region or an ozone nonattainment area classified as marginal, basic, moderate, serious, severe or extreme, except in areas which the EPA has determined that additional reductions of NOx will not produce net air quality benefits.

(e) The following provisions apply to an owner or operator of a major facility subject to this subchapter:

(1) Approval to construct or modify an air contamination source or facility does not relieve an owner or operator of the responsibility to comply fully with applicable provisions of the SIP and other requirements under local, State or Federal law.

(2) If a particular source or modification becomes a major facility or major modification solely by virtue of a relaxation in an enforcement limitation which was established after August 7, 1980, on the capacity of the source or modification to emit a pollutant including a restriction on hours of operation, the requirements of this subchapter also apply to the source or modification as though construction had not yet commenced on the source or modification.

(f) The NSR requirements of this subchapter do not apply to an owner or operator of a major facility at which:

(1) A physical change or change in the method of operation still maintains its total facility-wide emissions below the PAL, meets the requirements in § 127.218 (relating to PALs) and complies with the PAL permit.

(2) A project results in a net emissions increase which does not meet or exceed the applicable emissions rate that is significant.

(3) A proposed de minimis increase results in a net emissions increase calculated using emissions increases and decreases which occurred within 10 years prior to the date of submission of a complete plan approval application, which does not meet or exceed the emissions rate that is significant.

(4) Construction of a new facility or a project at an existing major facility located in an attainment or unclassified area does not impact a nonattainment area for the applicable pollutant in excess of the significance level specified in § 127.203a.

#### § 127.203a. Applicability determination.

(a) The Department will conduct an applicability determination during its review of a plan approval application for the construction of a new major facility or modification at an existing major facility under the following provisions:

(1) As part of the plan approval application, the owner or operator of the facility shall calculate whether a significant emissions increase and a significant net emissions increase will occur as a result of a physical change or change in the method of operation. The owner or operator of the facility shall use the procedures in subparagraph (i) to calculate the emissions increase in a regulated NSR pollutant due to the project, and the procedures in subparagraph (ii) to calculate the net emissions increase in a regulated NSR pollutant. A project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases—a significant emissions increase and a significant net emissions increase. If the project causes a significant emissions increase, the project is a major modification if it also results in a significant net emissions increase.

(i) The emissions increase in a regulated NSR pollutant due to the project will be the sum of the following:

(A) For existing emissions units, an emissions increase of a regulated NSR pollutant is the difference between the projected actual emissions and the baseline actual emissions for each unit, as determined in paragraphs (4) and (5). Exclude, in calculating an increase in emissions that results from the particular project, that portion of the unit's emissions following completion of the project that existing units could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that is also unrelated to the particular project, including all increased utilization due to product demand growth as specified in paragraph (5)(i)(C).

(B) For new emissions units, the emissions increase of a regulated NSR pollutant will be the potential to emit from each new emissions unit.

(ii) The net emissions increase for a regulated NSR pollutant emitted by a major facility will be the amount by which the sum of the following exceeds zero:

(A) The increase in emissions from a physical change or change in the method of operation at a major facility as calculated under subparagraph (i).

(B) Other increases and decreases in actual emissions at the major facility that are contemporaneous with the project and are otherwise creditable.

(I) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date 5 years before construction on the project commences and the date that construction on the project is completed.

(II) Baseline actual emissions for calculating increases are determined as specified under paragraph (4), except that paragraph (4)(i)(D) does not apply.

(2) As part of the plan approval application for a proposed de minimis emission increase, the owner or operator of the facility shall use subparagraphs (i) and (ii) to calculate the net emissions increase. For a proposed de minimis increase in which the net emissions increase calculated using subparagraphs (i) and (ii) meets or exceeds the emissions rate that is significant, only the emissions offset requirements in § 127.205(3) (relating to special permit requirements) apply to the net emissions increase.

(i) The net emissions increase is the sum of the proposed de minimis increase due to the project and the previously determined increases in potential emissions or actual emissions and decreases in actual emissions that are contemporaneous with the project.

(ii) An increase or decrease is contemporaneous if it occurred within 10 years prior to the date of the Department's receipt of a complete plan approval application.

(3) An increase or a decrease is creditable for applicability determination purposes if it meets the following conditions:

(i) The Department has not relied on it in issuing a permit for the facility under this subchapter, for which the permit is in effect when the increase in emissions from the project occurs.

(ii) The increase is creditable to the extent that the new level of emissions exceeds the old level of emissions.

(iii) An actual emissions decrease is creditable if the following conditions are met:

(A) The ERC provisions in § 127.207(1) and (3)—(7) (relating to creditable emissions decrease or ERC generation and creation) have been complied with, and the decrease in emissions is Federally enforceable by the time construction begins on the project. The plan approval for the project will contain a provision specifying that the emissions decrease is Federally enforceable on or before the construction date.

(B) The emissions decrease is such that when compared with the proposed emissions increase there is no significant change in the character of the emissions, including seasonal emission patterns, stack heights or hourly emission rates.

(C) The emissions decrease represents approximately the same qualitative significance for public health and welfare as attributed to the proposed increase. This requirement is satisfied if the emissions rate that is significant is not exceeded.

(D) An emissions decrease or an ERC generated at the facility may be used as a creditable decrease in a net emissions increase. The use of the ERCs in applicability determinations for netting purposes is limited to the period specified in paragraphs (1)(ii) and (2). A portion of an ERC generated at another facility, acquired by trade and incorporated in a plan approval for use at the facility, is not creditable as an emissions decrease.

(iv) An actual or potential emissions increase that results from a physical change in a facility occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. A replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(4) The following procedures apply in determining the baseline actual emissions for an existing emissions unit:

(i) For an existing emissions unit, baseline actual emissions are the average rate, in TPY, at which the unit emitted the regulated NSR pollutant during a consecutive 24-month period selected by the owner or the operator within the 5-year period immediately prior to the date a complete plan approval application is received by the Department. The Department may approve the use of a different consecutive 24-month period within the last 10 years upon a written determination that it is more representative of normal source operation.

(A) The average rate includes fugitive emissions to the extent quantifiable and emissions associated with startups and shutdowns; the average rate does not include excess emissions including emissions associated with upsets or malfunctions.

(B) The average rate is adjusted downward to exclude noncompliant emissions that occurred while the source



was operating above an emissions limitation that was legally enforceable during the consecutive 24-month period.

(C) The average rate is adjusted downward to exclude emissions that would have exceeded an emissions limitation with which the facility must currently comply, had the facility been required to comply with the limitations during the consecutive 24-month period. The baseline actual emissions is based on the emissions limitation in this subchapter or a permit limitation or other more stringent emissions limitation required by the Clean Air Act or the act, whichever is more restrictive.

(D) For a regulated NSR pollutant, when a project involves multiple emissions units, the same consecutive 24-month period must be used to determine the baseline actual emissions for the emissions units being changed. The same consecutive 24-month period shall be used for all regulated NSR pollutants unless the owner or operator demonstrates, in writing, to the Department that a different consecutive 24-month period is more appropriate and the Department approves, in writing, the different consecutive 24-month period for a regulated NSR pollutant or pollutants.

(E) The average rate is not based on a consecutive 24-month period for which there is inadequate information for:

- (I) Determining annual emissions, in TPY.
  - (II) Adjusting this amount if required by clause (B) or (C).
- (F) The average rate is not greater than the emissions previously submitted to the Department in the required emissions statement and for which applicable emission fees have been paid.

(i) For a new emissions unit, the baseline actual emissions equal zero and thereafter, for all other purposes, shall equal the unit's potential to emit.

(iii) The baseline actual emissions is determined by measurement, calculations or estimations in the order of the following preferences:

- (A) Monitoring systems including:
  - (I) CEMS data interpolated to annual emissions using flow meters and conversion factors.
  - (II) PEMS approved, in writing, by the Department.
- (B) Other measurements and calculations including:
  - (I) Stack measurement which generates emission estimates using stack test derived emission factors and throughput.
  - (II) A mass balance equation which includes the following elements:
    - (-a-) The amount of materials used per unit of time, determined through measurements of parameters representing process conditions.
    - (-b-) The emissions per unit mass of material used, determined using mass balance techniques.
    - (-c-) The annual emissions, calculated using emissions per unit mass of material and amount of material used per unit of time.

(C) Emission factors, including generally recognized and accepted emission factors by EPA, such as USEPA "Compilation of Air Pollutant Emission Factors" (AP-42) or other emission factors accepted by the Department.

(D) Other calculations and measurements as approved by the Department.

(5) Projected actual emissions is the maximum annual rate, in TPY, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit of that regulated NSR pollutant and full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major facility. The following procedures apply in determining the projected actual emissions of a regulated NSR pollutant for an emissions unit, before beginning actual construction on the project:

(i) The owner or operator of the major facility shall:

(A) Consider all relevant information, including, but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, and the company's filings with the State or Federal regulatory authorities.

(B) Include fugitive emissions to the extent quantifiable, and emissions associated with startups and shutdowns.

(C) Exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following completion of the project that existing units could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that is also unrelated to the particular project, including any increased utilization due to product demand growth.

(ii) In lieu of using the method set out in subparagraph (i), the owner or operator of the major facility may elect to use the emissions unit's potential to emit, in TPY.

(iii) If the projected actual emissions for a regulated NSR pollutant are in excess of the baseline actual emissions, the following apply:

(A) The projected actual emissions for the regulated NSR pollutant must be incorporated into the required plan approval or the operating permit as an emission limit.

(B) The owner or operator shall monitor the emissions of the regulated NSR pollutant for which a limit is established in clause (A) and calculate and maintain a record of emissions, in TPY on a calendar year basis, for 5 years following resumption of regular operations after the change, or for 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated NSR pollutant at the emissions unit.

(C) The owner or operator shall record sufficient information to identify for all emission units in the approved project their total actual annual emissions and their actual annual emissions increase due to the project.

(D) The owner or operator shall submit a report to the Department, within 60 days after the end of each calendar year, which contains the emissions data required by clauses (B) and (C). This report must also contain a demonstration of how these emissions were determined if the determination was not by direct measurement with a Department-certified CEMS system.

(b) An owner or operator of a major facility with a PAL for a regulated NSR pollutant shall comply with the requirements under § 127.218 (relating to PALs).

**§ 127.204. Emissions subject to this subchapter.**

(a) In determining whether a project exceeds the emission rate that is significant or the significance levels specified in § 127.203 (relating to facilities subject to special permit requirements), the potential to emit, actual emissions and actual emissions increase shall be determined by aggregating the emissions or emissions increases from contiguous or adjacent properties under the common control of a person or entity. This includes emissions resulting from the following: flue emissions, stack and additional fugitive emissions, material transfer, use of parking lots and paved and unpaved roads on the facility property, storage piles and other emission generating activities resulting from operation of the new or modified facility.

(b) Secondary emissions may not be considered in determining whether a facility meets the requirements of this subchapter. If a facility is subject to this subchapter on the basis of the direct emissions from the facility, the conditions of § 127.205 (relating to special permit requirements) shall also be met for secondary emissions.

**§ 127.205. Special permit requirements.**

The Department will not issue a plan approval, or an operating permit, or allow continued operations under an existing permit or plan approval unless the applicant demonstrates that the following special requirements are met:

(1) A new or modified facility subject to this subchapter shall comply with LAER, except as provided in § 127.203a(a)(2) (relating to applicability determination). When a facility is composed of several sources, only sources which are new or which are modified shall be required to implement LAER. In addition, LAER applies to the proposed modification which results in an increase in emissions and to subsequent or previous modifications which result in emissions increases that are directly related to and normally included in the project associated with the proposed modification and which occurred within the contemporaneous period of the proposed emissions increase.

(i) A project that does not commence construction within 18 months of the date specified in the plan approval shall be reevaluated for its compliance with LAER before the start of construction.

(ii) A project that discontinues construction for 18 months or more after construction is commenced shall be reevaluated for its compliance with LAER before resuming construction.

(iii) A project that does not complete construction within the time period specified in the plan approval shall be reevaluated for its compliance with LAER.

(iv) A project that is constructed in phases shall be reevaluated for its compliance with LAER if there is a delay of greater than 18 months beyond the projected and approved commencement date for each independent phase.

(2) Each facility located within this Commonwealth which meets the requirements of and is subject to this subchapter, which is owned or operated by the applicant, or by an entity controlling, controlled by or under common control with the applicant, and which is subject to emissions limitations shall be in compliance, or on a

schedule for compliance approved by the Department in a plan approval or permit, with the applicable emissions limitation and standards contained in this article. A responsible official of the applicant shall certify as to the facilities' compliance in writing on a form provided by the Department.

(3) Each modification to a facility which meets the requirements of and is subject to this subchapter shall offset, in accordance with §§ 127.203, 127.203a and 127.210 (relating to facilities subject to special permit requirements; applicability determination; and offset ratios), the total of the net increase. Emissions offsets shall be required for the entire net emissions increase which occurred over the contemporaneous period except to the extent that emissions offsets or other reductions were previously applied against emissions increases in an earlier applicability determination.

(4) Each new facility which meets the requirements of and is subject to this subchapter shall offset the potential to emit of that facility with ERCs in accordance with § 127.210.

(5) For a new or modified facility which meets the requirements of and is subject to this subchapter, an analysis shall be conducted of alternative sites, sizes, production processes and environmental control techniques for the proposed facility, which demonstrates that the benefits of the proposed facility significantly outweigh the environmental and social costs imposed within this Commonwealth as a result of its location, construction or modification.

(6) In the case of a new or modified facility which is located in a nonattainment area, and within a zone, identified by the EPA Administrator, in consultation with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted, emissions of a pollutant resulting from the proposed new or modified facility may not cause or contribute to emission levels which exceed the allowance permitted for the pollutant for the area from new or modified facilities in the SIP.

(7) The Department may determine that the BAT requirements of this chapter are equivalent to BACT or LAER.

**§ 127.206. ERC general requirements.**

(a) Emissions reductions or ERCs banked prior to January 1, 1991, may not be used as ERCs for emission offsets or netting purposes.

(b) The EQB may, by regulation and upon notice in the *Pennsylvania Bulletin* and opportunity for public comment, proportionally reduce the quantity of registered ERCs not previously included in a plan approval, or may halt transfer activity, in a nonattainment area or throughout this Commonwealth only as necessary when the other measures required by the Clean Air Act and the act may fail to achieve NAAQS or SIP requirements.

(c) ERCs shall be proportionally reduced prior to use in a plan approval in an amount equal to the reductions that the generating facility is or would have been required to make in order to comply with new requirements promulgated by the Department or the EPA, which apply to the generating facility after the ERCs were created.

(d) The Department may issue a plan approval for the construction of a new or modified facility which satisfies the offset requirements specified in § 127.205(3) and (4) (relating to special permit requirements) under the following conditions:

(1) The application for a plan approval demonstrates that the proposed facility either has or will secure the appropriate ERCs which are suitable for use at the specific facility. The ERCs shall be identified in a Department approved and Federally enforceable permit condition for the ERC generating source. The permit condition will provide that the ERCs are properly generated, certified by the Department and processed through the registry no later than the date approved by the Department for commencement of operation of the proposed new or modified facility.

(2) The owner or operator of the proposed new or modified facility may not commence operation or increase emissions until the required emissions reductions are certified and registered by the Department.

(e) ERCs generated by the over control of emissions by an existing facility will not expire for use as offsets. The use of these ERCs in applicability determinations for netting purposes is limited to the period specified in § 127.203a(a)(1) (relating to applicability determination).

(f) ERCs generated by the curtailment or shutdown of a facility which are not included in a plan approval and used as offsets will expire for use as offsets 10 years after the date the facility ceased emitting the ERC generating emissions. The use of these ERCs in applicability determinations for netting purposes is limited to the period specified in § 127.203a(a)(1).

(g) The expiration date of ERCs may not extend beyond the 10-year period allowed by subsection (f), if the ERCs are included in a plan approval but are not used and are subsequently reentered in the registry.

(h) ERCs which are included in a plan approval issued by the Department for a new or modified facility which is never operated may be reentered in the registry if the ERCs are no longer required by the plan approval. Applicable discounts in subsections (b) and (c) shall be applied when the ERCs are reentered in the registry.

(i) ERCs may not be used to achieve compliance with RACT, MACT, BAT, NSPS, BACT, LAER or other emissions limitations required by the Clean Air Act or the act.

(j) ERCs may not be entered into the ERC registry until the emissions reduction generating the ERCs has been certified by the Department in accordance with the criteria for ERC generation and creation contained in § 127.207 (relating to creditable emissions decrease or ERC generation and creation).

(k) A major facility which, due to reductions in the maximum allowable emissions rates, including reductions made to generate ERCs, no longer meets the criteria in § 127.203 (relating to facilities subject to special permit requirements) will continue to be treated as a major facility.

(l) ERCs may not be traded to facilities under different ownership until the emissions reduction generating the ERCs is made Federally enforceable.

(m) ERCs may not be created for an emissions reduction previously used in an applicability determination for netting purposes nor for an emissions decrease used to create an alternative emissions limitation.

(n) ERCs transferred from one facility to another may not be transferred to a third party, unless the transfer of the ERCs is processed by the Department through the ERC registry system.

(o) An ERC created for a regulated criteria pollutant shall only be used for offsetting or netting an emissions increase involving the same criteria pollutant.

(p) A source or facility which has registered ERCs with the Department may not exceed the emissions limitation or violate other permit conditions established in generating the ERCs.

(q) ERCs may not be generated for emissions in excess of those previously identified in required emission statements and for which applicable emission fees have been paid.

(r) Emission reductions occurring at a facility after January 1, 2002, but prior to May 19, 2007, may be used to generate ERCs in accordance with this subchapter, if a complete ERC registry application is submitted to the Department by May 19, 2008.

**§ 127.207. Creditable emissions decrease or ERC generation and creation.**

A creditable emissions decrease or ERC generation and creation may occur under the following conditions:

(1) A creditable emissions decrease or ERC shall be surplus, permanent, quantified and Federally enforceable as follows:

(i) *Surplus.* A creditable emissions decrease or ERC shall be included in the current emission inventory, and may not be required by or be used to meet past or current SIP, attainment demonstration, RFP, emissions limitation or compliance plans. Emissions reductions necessary to meet NSPS, LAER, RACT, BAT, BACT, allowance-based programs and permit or plan approval emissions limitations or other emissions limitations required by the Clean Air Act or the act may not be used to generate ERCs or a creditable emissions decrease.

(ii) *Permanent.* A creditable emissions decrease or ERC generated from emissions reductions which are Federally enforceable through an operating permit or a revision to the SIP and assured for the life of the corresponding increase, whether unlimited or limited in duration, are considered permanent. Emissions limitations and other restrictions imposed on a permit as a result of a creditable emissions decrease or ERC generation shall be carried over into each successive permit issued to that facility. MERCs and other ERCs generated pursuant to an approved economic incentive program shall be permanent within the time frame specified by the program.

(iii) *Quantified.* A creditable emissions decrease or ERC shall be quantified in a credible, workable and replicable method consistent with procedures promulgated by the Department and the EPA.

(iv) *Enforceable.* A creditable emissions decrease or ERC shall be Federally enforceable emissions reductions, regulated by Federal or SIP emissions limitations, such as a limit on potential to emit in the permit, and be generated from a plan approval, economic incentive program or permit limitation.

(2) Except as provided in § 127.206(r) (relating to ERC general requirements), an ERC registry application shall be submitted to the Department within 2 years of the initiation of an emissions reduction used to generate ERCs. For deactivated sources or facilities the following also apply:

(i) The owner or operator of an ERC-generating source or facility shall submit a written notice to the Department within 1 year after the deactivation of a source or facility to request preservation of the emissions in the inventory.

(ii) Within 2 years after ERC-generating emission reductions are initiated, the owner or operator of a source

or facility that is covered under a maintenance plan submitted to the Department in accordance with § 127.11a or § 127.215 (relating to reactivation of sources; and reactivation) may permanently deactivate the source or facility and submit an ERC registry application to the Department if the emissions are preserved in the inventory.

(3) An ERC registry application must include the following information:

(i) The name of the owner and operator of the source or facility.

(ii) The intended use of the ERCs, including information as to whether the ERCs are to be used for netting, internal offsetting or trading purposes.

(iii) The intended or actual date of initiation of emission reductions.

(iv) A description of the emission reduction techniques used to generate the ERCs.

(v) Full characterization of the emissions reductions using a protocol approved by the Department, including the following:

(A) Requirements and methods specified by EPA emission regulations and trading policies.

(B) Information concerning tests and related emission quantification methods specified in Chapter 139 (relating to sampling and testing) and other Department and EPA approved test methods and sampling procedures.

(C) The amounts, rates, hours, seasonal variations, annual emission profile and other data necessary to determine the ambient impact of the emissions.

(D) Compliance and verification methods.

(vi) Other information required by the Department to properly certify the ERCs.

(vii) For an ERC generating source or facility located outside of this Commonwealth, the name of the Pennsylvania agent authorized to accept service of process, and a statement that the applicant accepts the jurisdiction of this Commonwealth for purposes of regulating the ERCs registered with the Department.

(4) In establishing the baseline used to calculate a creditable emissions decrease or ERC, the Department will consider emission characteristics and operating conditions which include, at a minimum, the emission rate, capacity utilization, hours of operations and seasonal emission rate variations, in accordance with the following:

(i) The baseline emissions rate will be determined as follows:

(A) The average actual emissions or allowable emissions, whichever is lower, shall be calculated over the 2 calendar years immediately preceding the emissions reduction which generates the creditable emissions decrease or ERC.

(B) When the Department determines that the 2-year period immediately preceding the emissions reduction is not representative of the normal emission rates or characteristics of the existing facility, the Department may specify a different 2-year period if that period of time or other conditions are representative of normal operations occurring within the preceding 5 calendar years. If the existing facility has been in operation for fewer than 2 years, the Department will determine the baseline emissions rate based on a shorter representative period when the facility was in operation.

(ii) The baseline emissions rate may not exceed the emissions in the emission statements required by Chapter 135 (relating to reporting of sources), for which fees have been paid.

(iii) The baseline emissions rate will not exceed the allowable emissions rate including RACT requirements in force at the time the ERC registry application is submitted. The allowable emissions rate will be based on the emissions limitation in this article or a permit limitation or another more stringent emissions limitation required by the Clean Air Act or the act, whichever is more restrictive. The Department will consider only complete applications and will apply the requirements in effect at that time in determining the emission reduction achieved.

(5) Acceptable emissions reduction techniques, which an applicant may use to generate ERCs, are limited to the following:

(i) Shutdown of an existing facility occurring after January 1, 1991, pursuant to the issuance of a new permit or permit modification which is not otherwise required to comply with the Clean Air Act or the act.

(ii) Permanent curtailment in production or operating hours of an existing facility operating in accordance with a new permit or a permit modification if the curtailment results in an actual emissions reduction and is not otherwise required to comply with the Clean Air Act or the act.

(iii) Improved control measures, including improved control of fugitive emissions, which decrease the actual emissions from an existing facility to less than that required by the most stringent emissions limitation required by the Clean Air Act or the act and which is reflected in a new permit or a permit modification.

(iv) New technology and materials or new process equipment modifications which are not otherwise required by the Clean Air Act or the act.

(v) The incidental emissions reduction of nonhazardous air pollutants resulting from statutorily required reductions of hazardous air pollutants, or the emissions reduction of nonhazardous air pollutants which are incidental to the excess early emissions reduction of hazardous air pollutants listed in section 112(b)(1) of the Clean Air Act (42 U.S.C.A. § 7412(b)(1)), if the reduction meets the other requirements of this section.

(vi) Notwithstanding the requirements in paragraph (2), a MERC program, airport emission reduction credits program or another Economic Incentive Program which meets the requirements of this subchapter and which is approved by the EPA as a SIP revision.

(A) The program shall comply with the following requirements:

(I) The program shall be consistent with the Clean Air Act and the act.

(II) ERCs shall be quantifiable and enforceable at both the Federal and State levels.

(III) ERCs shall be consistent with SIP attainment and RFP demonstrations.

(IV) ERCs shall be surplus to emissions reductions achieved under other Federal and State regulations relied upon in an applicable attainment plan or demonstration or credited in an RFP or milestone demonstration.

(V) ERCs shall be permanent within the time frame specified by the program.

(B) The program shall contain the following elements:

(I) A clearly defined purpose and goals and an incentive mechanism that can rationally be related to accomplishing the goals.

(II) A clearly defined scope, which identifies affected sources and assures that the program will not interfere with other applicable regulatory requirements.

(III) A program baseline from which projected program results, including quantifiable emission reductions, can be determined.

(IV) Credible, workable and replicable procedures for quantifying emissions or emission-related parameters.

(V) Source requirements, including those for monitoring, recordkeeping and reporting, that are consistent with specified quantification procedures and allow for compliance certification and enforcement.

(VI) Projected program results and methods for accounting for compliance and program uncertainty.

(VII) An implementation schedule, administrative system and enforcement provisions adequate for ensuring Federal and State enforceability of the program.

(VIII) Audit procedures to evaluate program implementation and track results.

(IX) Reconciliation procedures to trigger corrective or contingency measures to make up a shortfall between the projected emissions reduction and the emissions reduction actually achieved.

(6) Methods for initial quantification of ERCs and verification of the required emissions reduction include the following:

(i) The use of existing continuous emission monitoring data, operational records and other documentation which provide sufficient information to quantify and verify the required emissions reduction.

(ii) For a facility which does not have Department approved data collection or quantification procedures to characterize the emissions, the use of prereduction and postreduction emission tests. Emission tests used to establish emission data shall be conducted in accordance with the requirements and procedures specified in 40 CFR Part 51, Appendix S (relating to emission offset interpretive ruling) and Chapter 139, and other applicable Federal and state requirements.

(iii) For facilities for which emissions rates vary over time, a Department approved alternative method for quantifying the reduction and ensuring the continued emissions reduction, if the method is approved by the EPA.

(7) The reduced emissions limitation of the new or modified permit of the source or facility generating the creditable emissions decrease or ERC shall be continuously verified by Department, local air pollution control agency or other State approved compliance monitoring and reporting programs. Onsite inspections will be made to verify shutdowns. If equipment has not been dismantled or removed, the owner or operator shall on an annual basis certify in writing to the Department the continuance of the shutdown.

**§ 127.208. ERC use and transfer requirements.**

The use and transfer of ERCs shall meet the following conditions:

(1) The registry system established by § 127.209 (relating to ERC registry system) shall be used to transfer

ERCs, with the Department's approval, directly from an existing source or facility where the ERCs were generated to the proposed facility.

(2) The transferee shall secure approval to use the offsetting ERCs through a plan approval or an operating permit, which indicates the Department's approval of the ERC transfer and use. Upon the issuance of a plan approval or an operating permit, the ERCs are no longer subject to expiration under § 127.206(f) (relating to ERC general requirements) except as specified in § 127.206(g).

(3) For the pollutants regulated under this subchapter, the facility shall demonstrate to the satisfaction of the Department that the ERCs proposed for use as offsets will provide, at a minimum, ambient impact equivalence to the extent equivalence can be determined and that the use of the ERCs will not interfere with the overall control strategy of the SIP.

(4) ERCs shall include the same conditions, limitations and characteristics, including seasonal and other temporal variations in emission rate and quality, as well as the maximum allowable emission rates the emissions would have had if emitted by the generator, unless equivalent ambient impact is assured through other means.

(5) ERCs may be obtained from or traded in another state, which has reciprocity with the Commonwealth for the trading and use of ERCs, only upon the approval of both the Commonwealth and the other state through SIP approved rules and procedures, including an EPA approved SIP revision. ERCs generated in another state may not be traded into or used at a facility within this Commonwealth unless the ERC generating facility's ERCs are enforceable by the Department.

(6) ERCs may not be transferred to and used in an area with a higher nonattainment classification than the one in which they were generated.

(7) A facility proposing new or increased emissions shall demonstrate that sufficient offsetting ERCs at the ratio specified in § 127.210 (relating to offset ratios) have been acquired from within the nonattainment area of the proposed facility.

(8) If the facility proposing new or increased emissions demonstrates that ERCs are not available in the nonattainment area where the facility is located, ERCs may be obtained from another nonattainment area if the other nonattainment area has an equal or higher classification and if the emissions from the other nonattainment area contribute to an NAAQS violation in the nonattainment area of the proposed facility. In addition, the requirements of paragraph (3) shall be satisfied.

(9) For the purpose of emissions offset transfers at VOC or NOx facilities, the areas included within an ozone transport region established under section 184 of the Clean Air Act (42 U.S.C.A. § 7511c), which are designated in 40 CFR 81.339 (relating to Pennsylvania) as attainment, nonattainment or unclassifiable areas for ozone, shall be treated as a single nonattainment area.

(10) An owner or operator of a facility shall acquire ERCs for use as offsets from an ERC generating facility located within the same nonattainment area.

(11) An owner or operator of a facility shall acquire ERCs for use as offsets from an ERC generating facility located within the same nonattainment area, except that the Department may allow the owner or operator to obtain ERCs generated in another nonattainment area if the following exist:

(i) The other area has an equal or higher nonattainment classification than the area in which the facility is located.

(ii) Emissions from the other area contribute to a violation of the NAAQS in the nonattainment area in which the facility is located.

(12) An owner or operator of a facility that is subject to allowance-based programs in this article may generate, create, transfer and use ERCs in accordance with this subchapter and applicable provisions in Chapter 145 (relating to interstate pollution transport reduction).

**§ 127.209. ERC registry system.**

(a) The Department will establish an ERC registry system to track ERCs which have been created, transferred and used in accordance with the requirements of this subchapter. Prior to registration of the ERCs, the Department will review and approve the ERC registry application to verify compliance with this subchapter. Registration of the ERCs in the registry system will constitute certification that the ERCs satisfy the requirements of this subchapter and are available for use.

(b) The Department will maintain supporting documentation, including plan approval or permit decisions, registry applications and other items required to sufficiently characterize the emissions, which will allow the Department and potential users to determine if the ERCs are suitable for use at a specific facility.

(c) As part of the NSR process, the Department will provide the EPA and the public with notice of a plan approval or operating permit proposing to use ERCs.

(d) The Department will process each ERC registry application, permit modification and plan approval application, including those involving netting transactions, through the registry system to verify the information and to ensure that the requirements of §§ 127.206—127.208 (relating to ERC general requirements; creditable emissions decrease of ERC generation and creation; and ERC use and transfer requirements) have been met, including the requirement that the required reductions have been made and certified before registry entries or changes are made.

(e) Registry operations and procedures are as follows:

(1) The registry will list the ERCs, and the Department will publish revisions to the list of registered ERCs available for trading purposes in the *Pennsylvania Bulletin* on a quarterly basis.

(2) The registry will list ERCs by criteria pollutants and identify the nonattainment areas in which the ERCs were generated. The registry will identify ERCs that are available for use and that are in use.

(3) The ERC creation date entered in the registry will reflect the anticipated date of emissions reduction and will be amended as necessary to reflect the actual emissions reduction date.

(4) Upon issuance of a plan approval or operating permit allowing the use of ERCs entered in the registry, the following registry transactions will occur:

(i) The registry will identify the remaining ERCs available for use, if any, after the transaction. The ERC expiration date will be included for ERCs generated under § 127.207(5)(i) and (ii).

(ii) The registry will indicate the effective date, the quantity of ERCs used, the originating generator and the

ERC creation date, which is the date of actual or anticipated emissions reduction by the ERC generating facility.

**§ 127.210. Offset ratios.**

The emission offset ratios for ERC transactions subject to the requirements of this subchapter shall be in an amount equal to or greater than the ratios specified in the following table:

<i>Required Emission Reductions From Existing Sources</i>		
	<i>Flue Emissions</i>	<i>Fugitive Emissions</i>
PM-10 and SOx	1.3:1	5:1
Volatile Organic Compounds		
Ozone Classification Areas		
Severe Areas	1.3:1	1.3:1
Serious Areas	1.2:1	1.3:1
Moderate Areas	1.15:1	1.3:1
Marginal/Incomplete Data Areas	1.15:1	1.3:1
Transport Region	1.15:1	1.3:1
NOx		
Ozone Classification Areas		
Severe Areas	1.3:1	1.3:1
Serious Areas	1.2:1	1.2:1
Moderate Areas	1.15:1	1.15:1
Marginal/Incomplete Data Areas	1.15:1	1.15:1
Transport Region	1.15:1	1.15:1
Carbon Monoxide		
Primary Nonattainment Areas	1.1:1	1.1:1
Lead	1.1:1	1.1:1

**§ 127.211. (Reserved).**

**§ 127.212. Portable facilities.**

(a) An owner or operator of a portable SOx, PM-10, lead or CO facility subject to this subchapter which will be relocated within 6 months of the commencement of operation to a location within an attainment area which does not have an impact on a nonattainment area at or above the significance levels contained in § 127.203 (relating to facilities subject to special permit requirements) shall be exempt from this subchapter. An owner or operator of a facility which subsequently returns to a location where it is subject to this subchapter shall comply with this subchapter.

(b) An owner or operator of a portable VOC or NOx facility subject to this subchapter which will be relocated outside of this Commonwealth within 6 months of the commencement of operation shall be exempt from this subchapter. An owner or operator of a facility which subsequently returns to a location in this Commonwealth where it is subject to this subchapter shall comply with this subchapter.

**§ 127.213. Construction and demolition.**

(a) Emissions from construction or demolition activities will be exempt from § 127.205 (relating to special permit requirements) if BACT is used during the construction or demolition period.

(b) Emissions from construction and demolition activities may not be considered under § 127.203a (relating to applicability determination).

**§ 127.214. (Reserved).**

**§ 127.215. Reactivation.**

(a) A facility which has been out of operation or production for 1 year or more during the term of its

operating permit may be reactivated within the term of its operating permit and will not be considered a new facility subject to this subchapter if the following conditions are satisfied:

(1) The permittee shall within 1 year of the deactivation submit in writing to the Department and implement a maintenance plan which includes the measures to be taken, including maintenance, upkeep, repair or rehabilitation procedures, which will enable the facility to be reactivated in accordance with the terms of the permit.

(2) The permittee shall submit a reactivation plan at least 30 days prior to the proposed date of reactivation. The reactivation plan shall include sufficient measures to ensure that the facility will be reactivated in compliance with the permit requirements. The permittee may submit a reactivation plan to the Department at any time during the term of its operating permit. The reactivation plan may also be submitted to and approved in writing by the Department as part of the plan approval or permit application process.

(3) The permittee shall notify the Department in writing within 1 year of deactivation requesting preservation of the emissions in the inventory and indicating the intent to reactivate the facility.

(4) The permittee shall comply with the terms and conditions of the following:

(i) Maintenance plan while the facility is deactivated.

(ii) Reactivation plan and the operating permit upon reactivation.

(5) The permittee with an approved reactivation plan shall notify the Department in writing at least 30 days prior to reactivation of the facility.

(b) The Department will approve or disapprove in writing the complete reactivation plan within 30 days of plan submission, unless additional time is required based on the size or complexity of the facility.

(c) For a facility which is deactivated in accordance with subsection (a), ERCs may be created only if an ERC registry application is filed within 2 years of deactivation.

**§ 127.217. Clean Air Act Titles III—V applicability.**

Compliance with this subchapter does not relieve a source or facility from complying with Titles III—V of the Clean Air Act (42 U.S.C.A. §§ 7601—7627; 7641, 7642, 7651—7651o; and 7661—7661f), applicable requirements of the act or regulations adopted under the act.

**§ 127.218. PALs.**

(a) The following provisions govern an actual PAL for a major facility:

(1) The Department may approve the use of an actual PAL for any existing major facility if the PAL meets the requirements in this subsection and subsections (b)—(n).

(2) The Department will not permit an actual PAL for VOC or NO<sub>x</sub> for a major facility located in an extreme ozone nonattainment area.

(3) A physical change in or change in the method of operation of a major facility that maintains its total facility-wide emissions below the PAL level, meets the requirements in this subsection and subsections (b)—(n) and complies with the PAL permit is not:

(i) A major modification for the PAL pollutant.

(ii) Subject to this subchapter.

(iii) Subject to § 127.203(e)(2) (relating to facilities subject to special permit requirements).

(4) An owner or operator of a major facility shall continue to comply with applicable Federal or State requirements, emissions limitations and work practice requirements that were established prior to the PAL effective date.

(b) The owner or operator of a major facility shall submit the following information to the Department as part of the PAL application:

(1) A list of the emissions units at the facility designated as small, significant or major based on their potential to emit. The list must indicate which Federal or State applicable requirements, emissions limitations or work practices apply to each unit.

(2) Calculations and supporting documentation for the baseline actual emissions, which include emissions associated with operation of the unit, startups and shutdowns.

(3) The calculation procedures that the owner or operator of the major facility proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by subsection (m)(1).

(c) The Department may establish a PAL if the following requirements are met:

(1) The PAL shall impose an annual emissions limitation in TPY for the entire major facility. For each month during the PAL effective period after the first 12 months of establishing a PAL, the owner or operator of the major facility shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months, expressed as a 12-month rolling total, is less than the PAL. For each month during the first 11 months from the PAL effective date, the owner or operator of the major facility shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

(2) The PAL shall be established in a PAL permit that meets the public participation requirements in subsection (e).

(3) The PAL permit shall contain the requirements of subsection (g).

(4) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major facility.

(5) Each PAL shall regulate emissions of only one pollutant.

(6) Each PAL shall have a PAL effective period of 10 years.

(7) The owner or operator of a major facility issued a PAL permit shall comply with the monitoring, recordkeeping and reporting requirements provided in subsections (m)—(o) for each emissions unit under the PAL through the PAL effective period.

(d) At no time during or after the PAL effective period are emissions reductions of a PAL pollutant, which occur during the PAL effective period, creditable as decreases for purposes of offsets under this subchapter unless the level of the PAL is reduced by the amount of the emissions reductions and the reductions would be creditable in the absence of the PAL.

(e) A PAL for an existing major facility must be established or modified in accordance with the public notice procedures under §§ 127.44, 127.424 and 127.521 (relating to public notice; public notice; and additional public participation provisions).

(f) Setting the 10-year actual PAL level must comply with the following:

(1) The actual PAL level for a major facility must be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the facility plus an amount equal to the applicable emissions rate that is significant for the PAL pollutant or under the Clean Air Act, whichever is lower.

(2) When establishing the actual PAL level, for a PAL pollutant, one consecutive 24-month period must be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant.

(3) Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level.

(4) For newly constructed emission units, which do not include modifications to existing units, on which actual construction began after the 24-month period, instead of adding the baseline actual emissions as specified in this paragraph, the emissions must be added to the PAL level in an amount equal to the potential to emit of the emission units.

(5) The Department will specify a reduced PAL level in TPY in the PAL permit to become effective on the future compliance date of any applicable Federal or State regulatory requirement that the Department is aware of prior to issuance of the PAL permit.

(g) At a minimum, the PAL permit must contain the following information:

(1) The PAL pollutant and the applicable facility-wide emissions limitation in TPY.

(2) The effective date and the expiration date.

(3) A requirement that if the owner or operator of a major facility applies to renew a PAL in accordance with subsection (k) before the end of the PAL effective period, the PAL permit does not expire at the end of the PAL effective period. The PAL permit remains in effect until the Department issues a revised PAL permit.

(4) A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns and malfunctions.

(5) A requirement that, upon expiration of the PAL permit, the owner or operator of a major facility is subject to the requirements of subsection (j).

(6) The calculation procedures that the owner or operator of a major facility shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by subsection (n)(1).

(7) A requirement that the owner or operator of a major facility monitor all emissions units in accordance with subsection (m).

(8) A requirement that the owner or operator retain the records required under subsection (n) and that they be retrievable onsite.

(9) A requirement that the owner or operator submit the reports required under subsection (o) by the required deadlines.

(10) A requirement that the emissions from a new source that requires a plan approval shall be the minimum attainable through the use of BAT. A physical change or change in method of operation at an existing emissions unit will not be subject to BAT requirements of this chapter unless the emissions unit is modified so that the fixed capital cost of new components exceeds 50% of the fixed capital cost that would be required to construct a comparable entirely new emissions unit.

(11) Other requirements the Department deems necessary to implement and enforce the PAL.

(h) The Department will specify a PAL effective period of 10 years.

(i) The following requirements apply to reopening of the PAL permit:

(1) During the PAL effective period, the Department will reopen the PAL permit to:

(i) Correct typographical/calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL.

(ii) Reduce the PAL if the owner or operator of the major facility creates creditable emissions reductions for use as offsets under § 127.207 (relating to creditable emissions decrease or ERC generation or creation).

(iii) Revise the PAL to reflect an increase in the PAL as provided under subsection (l).

(2) The Department may reopen the PAL permit to reduce the PAL:

(i) To reflect newly applicable Federal requirements with compliance dates after the PAL effective date.

(ii) Consistent with a requirement that is enforceable as a practical matter and that the Department may impose on the major facility consistent with all applicable requirements.

(iii) If the Department determines that a reduction is necessary to avoid causing or contributing to:

(A) A NAAQS or PSD increment violation.

(B) An adverse impact on an air quality related value that has been identified for a Federal Class I area by a Federal land manager and for which information is available to the general public.

(3) Except for the permit reopening paragraph (1)(i) for the correction of typographical/calculation errors that do not increase the PAL level, other reopening shall be carried out in accordance with the public participation requirements of subsection (e).

(j) A PAL permit which is not renewed in accordance with the procedures in subsection (k) expires at the end of the PAL effective period and the following requirements apply:

(1) The owner or operator of each emissions unit or each group of emissions units that existed under the PAL shall comply with an allowable emissions limitation under a revised permit established according to the following procedures:

(i) Within the time frame specified for PAL permit renewals in subsection (k)(2), the owner or operator of the major facility shall submit a proposed allowable emissions limitation for each emissions unit, or each group of



emissions units if this distribution of allowable emissions is more appropriate as determined by the Department, by distributing the PAL allowable emissions for the major facility among each of the emissions units that existed under the PAL permit. If the PAL permit has not been adjusted for an applicable requirement that became effective during the PAL effective period, as required under subsection (k)(5), this distribution is made as if the PAL permit has been adjusted.

(i) The Department will decide whether and how to distribute the PAL allowable emissions and issue a revised PAL permit incorporating allowable limits for each emissions unit or each group of emissions units.

(2) The owner or operator of each emissions unit or group of emissions units shall comply with the allowable emissions limitation on a 12-month rolling basis. The Department may approve the use of emissions monitoring systems other than CEMS, CERMS, PEMS or CPMS to demonstrate compliance with the allowable emissions limitation.

(3) Until the Department issues the revised PAL permit incorporating the allowable limits for each emissions unit or group of emissions units required under paragraph (1)(i), the owner or operator of the facility shall continue to comply with a facility-wide, multi-unit emissions cap equivalent to the level of the PAL emissions limitation.

(4) A physical change or change in the method of operation at the major facility is subject to this subchapter if the change meets the definition of major modification.

(5) The owner or operator of the major facility shall continue to comply with any State or Federal applicable requirements including BAT, BACT, RACT or NSPS that may have applied either during the PAL effective period or prior to the PAL effective period except for those emissions limitations that had been established under § 127.203(e)(2), but were eliminated by the PAL in accordance with the provisions in subsection (a)(3)(iii).

(k) The following requirements apply to renewal of a PAL:

(1) The Department will follow the procedures specified in subsection (e) in approving a request to renew a PAL permit for a major facility, and will provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment in accordance with the applicable public notice requirements in §§ 127.44, 127.424 and 127.521. During the public review, a person may propose a PAL level for the major facility for consideration by the Department.

(2) An owner or operator of a major facility shall submit a timely application to the Department to request renewal of a PAL permit. A timely application is one that is submitted at least 6 months prior to, but not earlier than 18 months prior to the date of permit expiration. If the owner or operator of a major facility submits a complete application to renew the PAL permit within this time period, the PAL continues to be effective until the revised permit with the renewed PAL is issued.

(3) The application to renew a PAL permit must contain the following information:

- (i) The information required in subsection (b)(1)–(3).
- (ii) A proposed PAL level.
- (iii) The sum of the potentials to emit of the emissions units under the PAL.

(iv) Other information the owner or operator wishes the Department to consider in determining the appropriate level at which to renew the PAL.

(4) The Department will consider the options in subparagraphs (i) and (ii) in determining whether and how to adjust the PAL. In no case may the adjustment fail to comply with subparagraphs (iii) and (iv).

(i) If the emissions level calculated in accordance with subsection (f) is equal to or greater than 80% of the PAL level, the Department may renew the PAL at the same level without considering the factors set forth in subparagraph (ii).

(ii) The Department may set the PAL at a level that it determines to be more representative of the facility's baseline actual emissions or that it determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the facility's voluntary emissions reductions or other factors specifically identified by the Department in its written rationale.

(iii) If the potential to emit of the major facility is less than the PAL, the Department will adjust the PAL to a level no greater than the potential to emit of the facility.

(iv) The Department will not approve a renewed PAL level higher than the current PAL unless the major facility has complied with subsection (l).

(5) If the compliance date for a State or Federal requirement that applies to the facility occurs during the PAL effective period and the Department has not already adjusted for this requirement, the PAL must be adjusted at the time of the PAL permit renewal or Title V permit renewal, whichever occurs first.

(l) The following requirements apply to increasing a PAL during the PAL effective period:

(1) The Department may increase a PAL emissions limitation during the PAL effective period if the owner or operator of the major facility complies with the following:

(i) The owner or operator of the major facility shall submit a complete application to request an increase in the PAL limit for a PAL major modification. The application must identify the emissions units contributing to the increase in emissions that cause the major facility's emissions to equal or exceed its PAL.

(ii) The owner or operator of the major facility shall demonstrate that the sum of the baseline actual emissions of the small emissions units assuming application of BAT, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions units exceeds the PAL. The level of control that would result from BAT or BACT equivalent controls on each small emissions unit, significant emissions unit or major emissions unit must be determined by conducting a new BAT or BACT analysis at the time the application is submitted unless the emissions unit is currently required to comply with a BAT, BACT or LAER requirement that was established within the preceding 10 years. In this case, the assumed control level for that emissions unit is equal to the level of BAT, BACT or LAER with which that emissions unit must currently comply.

(iii) The owner or operator of the major facility shall obtain a major NSR permit for all emissions units identified in subparagraph (i), regardless of the magnitude of the emissions increase resulting from them. The

owner or operator of these emissions units shall comply with the applicable emissions requirements of this subchapter, even if the units are subject to a PAL or continue to be subject to a PAL.

(iv) The PAL permit must require that the increased PAL level be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(2) The Department will calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls determined in accordance with paragraph (1)(ii), plus the sum of the baseline actual emissions of the small emissions units.

(3) The PAL permit must be revised to reflect the increased PAL level under the public notice requirements of subsection (e).

(m) The following monitoring requirements apply to an owner or operator subject to a PAL:

(1) Each PAL permit must contain enforceable requirements for the monitoring system to accurately determine plantwide emissions of the PAL pollutant in terms of mass per unit of time.

(2) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements in paragraph (5) and must be approved in writing by the Department.

(3) The owner or operator of the facility may also use an alternative monitoring approach that meets the requirements of paragraph (1), if approved in writing by the Department.

(4) Failure to use a monitoring system that meets the requirements of this section renders the PAL permit invalid.

(5) The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in paragraphs (6)—(12):

(i) Mass balance calculations for activities using coats or solvents.

(ii) CEMS.

(iii) CPMS or PEMS.

(iv) Emission factors.

(6) An owner or operator of a major facility using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet the following requirements:

(i) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit.

(ii) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process.

(iii) If the vendor of a material or fuel used in or at the emissions unit publishes a range of pollutant content from the material, the owner or operator shall use the highest value of the range to calculate the PAL pollutant emissions unless the Department determines, in writing, that there is site-specific data or a site-specific monitoring program to support another content within the range.

(7) An owner or operator of a major facility using a CEMS to monitor PAL pollutant emissions shall meet the following requirements:

(i) The CEMS must comply with applicable performance specifications found in 40 CFR Part 60, Appendix B (relating to performance specifications).

(ii) The CEMS must sample, analyze and record data at least every 15 minutes while the emissions unit is operating.

(8) An owner or operator of a major facility using a CPMS or PEMS to monitor PAL pollutant emissions shall meet the following requirements:

(i) The CPMS or PEMS must be calibrated based on current site-specific data demonstrating a correlation between the monitored parameters and the PAL pollutant emissions across the range of operation of the emissions unit.

(ii) Each CPMS or PEMS must sample, analyze and record data at least every 15 minutes or other less frequent interval approved in writing by the Department, while the emissions unit is operating.

(9) An owner or operator of a major facility using emission factors to monitor PAL pollutant emissions shall:

(i) Adjust the emission factors to account for the degree of uncertainty or limitations in the development of the factors.

(ii) Operate the emissions unit within the designated range of use for the emission factor, if applicable.

(iii) Conduct validation testing to determine a site-specific emission factor within 6 months of PAL permit issuance, unless the Department determines, in writing, that testing is not required.

(10) An owner or operator of a facility shall record and report maximum potential emissions without considering enforceable emissions limitations or operational restrictions for an emissions unit during a period of time that there is no monitoring data, unless another method for determining emissions during these periods is specified in the PAL permit.

(11) If an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameters and the PAL pollutant emissions rate at the operating points of the emissions unit, the Department will, at the time of permit issuance, either:

(i) Establish default values for determining compliance with the PAL permit based on the highest potential emissions reasonably estimated at the operating points.

(ii) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameters and the PAL pollutant emissions is a violation of the PAL permit.

(12) Data used to establish the PAL must be revalidated through performance testing or other scientifically valid means approved in writing by the Department. This testing must occur at least once every 5 years after issuance of the PAL permit.

(n) The following requirements apply to recordkeeping:

(1) The PAL permit must require an owner or operator to retain a copy of the records necessary to determine compliance with a requirement of this section and of the PAL, including a determination of the 12-month rolling total emissions for each emissions unit, for 5 years.

(2) The PAL permit must require an owner or operator to retain a copy of the following records for the duration of the PAL effective period and 5 years after the PAL permit expires:

(i) A copy of the PAL permit application and applications for revisions to the PAL permit.

(ii) Each annual certification of compliance required under Title V of the Clean Air Act (42 U.S.C.A. §§ 7661—7661f) and regulations adopted under the act and the data relied on in certifying the compliance.

(o) The following requirements apply to reporting and notification:

(1) The owner or operator of a major facility shall submit semiannual monitoring reports and prompt deviation reports to the Department in accordance with the Title V operating permit requirements of Subchapters F and G (relating to operating permit requirements; and Title V operating permits).

(2) The semiannual reports must:

(i) Be submitted to the Department within 30 days of the end of each reporting period.

(ii) Contain the following information:

(A) The identification of the owner and operator and the permit number.

(B) Total annual emissions in TPY based on a 12-month rolling total for each month in the reporting period recorded in compliance with subsection (n)(1).

(C) Data relied upon, including the quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions.

(D) A list of the emissions units modified or added to the major facility during the preceding 6-month period.

(E) The number, duration and cause of deviations or monitoring malfunctions, other than the time associated with zero and span calibration checks, and the corrective action taken.

(F) A notification of a shutdown of a monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by the method included in the permit under subsection (m)(10).

(G) A statement signed by a responsible official of the company that owns or operates the facility certifying the truth, accuracy and completeness of the information provided in the report.

(3) The reports of deviations and exceedances of the PAL requirements, including periods in which no monitoring is available, must:

(i) Be submitted to the Department promptly. A report submitted under Subchapter G satisfies this reporting requirement.

(ii) Contain the following information:

(A) The identification of the owner and operator and the permit number.

(B) The PAL requirement that experienced the deviation or that was exceeded.

(C) Emissions resulting from the deviation or the exceedance.

(D) A statement signed by a responsible official of the company that owns or operates the facility certifying the truth, accuracy and completeness of the information provided in the report.

(4) The owner or operator of a major facility shall submit to the Department the results of any revalidation test or method within 3 months after completion of the test or method.

(p) The Department may modify or supersede any PAL which was established prior to the date of approval of the PAL provisions by the EPA as a revision to the SIP.

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