



---

Volume 39 (2009)

Pennsylvania Bulletin  
Repository

---

5-23-2009

May 23, 2009 (Pages 2559-2678)

Pennsylvania Legislative Reference Bureau

Follow this and additional works at: [http://digitalcommons.law.villanova.edu/pabulletin\\_2009](http://digitalcommons.law.villanova.edu/pabulletin_2009)

---

#### Recommended Citation

Pennsylvania Legislative Reference Bureau, "May 23, 2009 (Pages 2559-2678)" (2009). *Volume 39 (2009)*. 21.  
[http://digitalcommons.law.villanova.edu/pabulletin\\_2009/21](http://digitalcommons.law.villanova.edu/pabulletin_2009/21)

This May is brought to you for free and open access by the Pennsylvania Bulletin Repository at Villanova University Charles Widger School of Law Digital Repository. It has been accepted for inclusion in Volume 39 (2009) by an authorized administrator of Villanova University Charles Widger School of Law Digital Repository. For more information, please contact [Benjamin.Carlson@law.villanova.edu](mailto:Benjamin.Carlson@law.villanova.edu).

# PENNSYLVANIA BULLETIN

Volume 39

Number 21

Saturday, May 23, 2009 • Harrisburg, PA

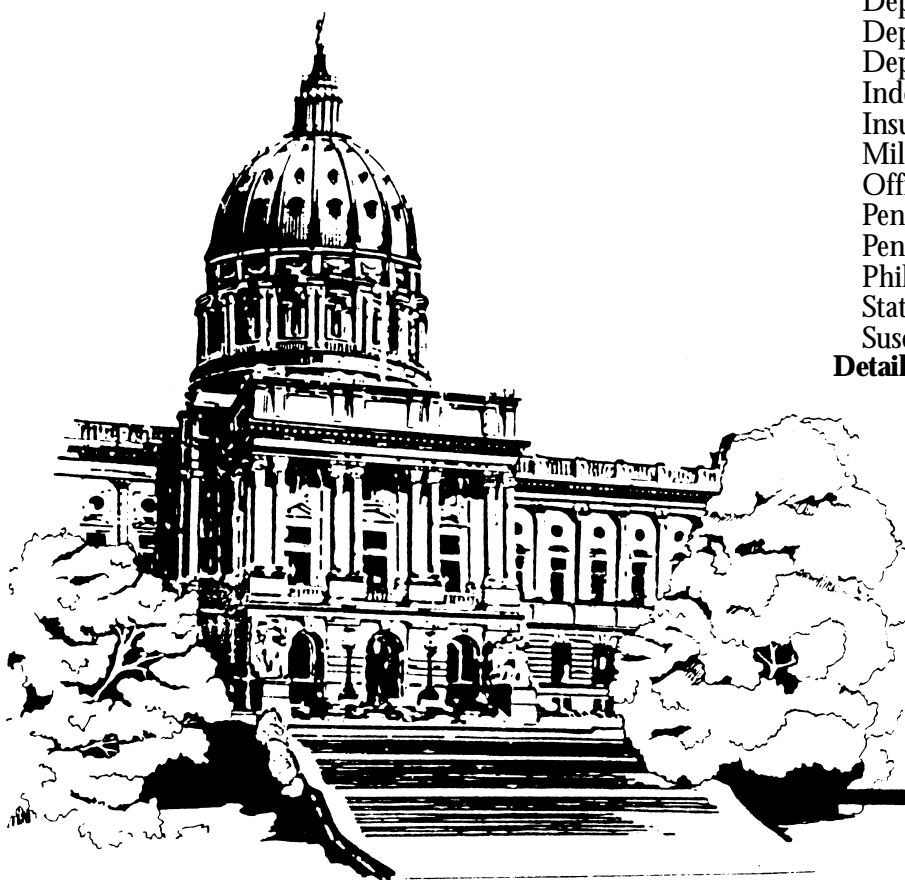
Pages 2559—2678

See Part II page 2661  
for the Environmental Quality  
Board's Safe Drinking Water—  
General Update

## Part I

### Agencies in this issue

The Courts  
Department of Agriculture  
Department of Banking  
Department of Education  
Department of Environmental Protection  
Department of Health  
Department of Public Welfare  
Department of Transportation  
Independent Regulatory Review Commission  
Insurance Department  
Milk Marketing Board  
Office of Victims' Services  
Pennsylvania Gaming Control Board  
Pennsylvania Public Utility Commission  
Philadelphia Regional Port Authority  
State Board of Nursing  
Susquehanna River Basin Commission  
**Detailed list of contents appears inside.**



PRINTED ON 100% RECYCLED PAPER



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

**No. 414, May 2009**

CUT ON DOTTED LINES AND ENCLOSE IN AN ENVELOPE

**CHANGE NOTICE**

If information on mailing label is incorrect, please make changes in space provided below and mail to:

**FRY COMMUNICATIONS, INC.**

**Attn: *Pennsylvania Bulletin***

**800 W. Church Rd.**

**Mechanicsburg, PA 17055-3198**

CUSTOMER NUMBER (6 digit number above name)

NAME OF INDIVIDUAL

OFFICE NAME—TITLE

ADDRESS (Number and Street)

(City)

(State)

(Zip Code)

TYPE OR PRINT LEGIBLY

**PENNSYLVANIA**



**BULLETIN**

(ISSN 0162-2137)

published weekly by Fry Communications, Inc. for the Commonwealth of Pennsylvania, Legislative Reference Bureau, 641 Main Capitol Building, Harrisburg, Pa. 17120, under the policy supervision and direction of the Joint Committee on Documents pursuant to Part II of Title 45 of the Pennsylvania Consolidated Statutes (relating to publication and effectiveness of Commonwealth Documents). Subscription rate \$82.00 per year, postpaid to points in the United States. Individual copies \$2.50. Checks for subscriptions and individual copies should be made payable to "Fry Communications, Inc." Periodicals postage paid at Harrisburg, Pennsylvania.

Postmaster send address changes to:

**FRY COMMUNICATIONS**

Attn: *Pennsylvania Bulletin*

800 W. Church Rd.

Mechanicsburg, Pennsylvania 17055-3198

(717) 766-0211 ext. 2340

(800) 334-1429 ext. 2340 (toll free, out-of-State)

(800) 524-3232 ext. 2340 (toll free, in State)

Orders for subscriptions and other circulation matters should be sent to:

Fry Communications, Inc.

Attn: *Pennsylvania Bulletin*

800 W. Church Rd.

Mechanicsburg, PA 17055-3198

Copyright © 2009 Commonwealth of Pennsylvania

Editorial preparation, composition, printing and distribution of the *Pennsylvania Bulletin* is effected on behalf of the Commonwealth of Pennsylvania by FRY COMMUNICATIONS, Inc., 800 W. Church Road, Mechanicsburg, Pennsylvania 17055-3198.

# CONTENTS

## THE COURTS

<b>DISCIPLINARY BOARD OF THE SUPREME COURT</b>	
Notice of disbarment.....	2572
<b>LOCAL COURT RULES</b>	
<b>Blair County</b>	
Amendment to local rules of court, specifically the amended compulsory arbitration rules.....	2571
<b>PHILADELPHIA RULES</b>	
Philadelphia municipal court; civil division; municipal court administrative regulation no. 2009-02; in re: CLAIMS electronic filing system.....	2571
<b>RULES OF CRIMINAL PROCEDURE</b>	
Order amending rule of criminal procedure 103; no. 379; doc. no. 2.....	2567
Order amending rule of criminal procedure 1002; no. 380; doc. no. 2.....	2568

## EXECUTIVE AGENCIES

<b>DEPARTMENT OF AGRICULTURE</b>	
<b>Rules and Regulations</b>	
General provisions for seed certification.....	2584
Seed testing, labeling and standards.....	2573
Standards for seed certification.....	2577
<b>Notices</b>	
Peach and Nectarine Research Program.....	2595
<b>DEPARTMENT OF BANKING</b>	
<b>Notices</b>	
Actions on applications.....	2595
<b>DEPARTMENT OF EDUCATION</b>	
<b>Notices</b>	
Availability of 2009-2010 Career and Technical Education Equipment Grants.....	2597
<b>DEPARTMENT OF ENVIRONMENTAL PROTECTION</b>	
<b>Rules and Regulations</b>	
Safe drinking water—general update.....	2661
<b>Statements of Policy</b>	
Request for scientific information; resorcinol and sulfonates; statement of policy.....	2594
<b>Notices</b>	
Ambient air monitoring network plan for the City of Philadelphia; available for public comment.....	2635
Applications, actions and special notices.....	2597
Environmental laboratory accreditation proficiency test study requirements.....	2636
Extension of Pennsylvania NPDES general permit for stormwater discharges associated with construction (PAG-2).....	2637
Laboratory Accreditation Advisory Committee; meeting cancellation.....	2637
Pennsylvania's Climate Change Advisory Committee.....	2638

## DEPARTMENT OF HEALTH

<b>Notices</b>	
Application for exception:	
Abington Memorial Hospital.....	2638
Alle-Kiski Medical Center—Allegheny Valley Hospital.....	2638
Brandywine Hospital.....	2638
Conyngham Valley Surgicenter.....	2639
DuBois Regional Medical Center—Brookville Family Medical Practice.....	2639
DuBois Regional Medical Center—Charles Medical Center, Suite C.....	2639
Geisinger Medical Center.....	2640
Muncy Valley Hospital.....	2640
Sunbury Community Hospital.....	2640
Surgery Center of Allentown.....	2641
Susquehanna Endoscopy Center, LLC.....	2641
Temple University Hospital—Episcopal Campus ..	2641
28 Pa. Code § 127.32.....	2640
University of Pennsylvania/Penn Radiation Oncology at Doylestown.....	2642
Wellspan Surgical Center (2 documents).....	2642
West Shore Surgery Center.....	2642
Decisions on requests for exceptions to health care facility regulations.....	2643
Long-term care nursing facilities; requests for exception.....	2648

## DEPARTMENT OF PUBLIC WELFARE

<b>Notices</b>	
Federal Poverty Income guidelines for 2009.....	2648

## DEPARTMENT OF TRANSPORTATION

<b>Notices</b>	
Proposed disadvantaged business enterprise goals for participation in Federally-funded highway, aviation and transit contracts for Federal Fiscal Year 2010.....	2649

## INDEPENDENT REGULATORY REVIEW COMMISSION

<b>Notices</b>	
Action taken by the Commission.....	2650
Notice of comments issued.....	2650

## INSURANCE DEPARTMENT

<b>Notices</b>	
Aetna Health, Inc.—Individual Advantage HMO Plans rate filing; rate filing.....	2651
Agency contract termination of Evans N. Fishel under Act 143; ECM Insurance Group; doc. no. AT09-05-005.....	2651
Highmark, Inc. and Highmark Blue Cross Blue Shield; provider reimbursement adjustments to allowances—UCR and PremierBlue; rate filing....	2651
Review procedure hearings under the Unfair Insurance Practices Act.....	2652

## MILK MARKETING BOARD

<b>Notices</b>	
Sunshine meetings for Fiscal Year 2009-2010.....	2652

---

**Now Available Online at <http://www.pabulletin.com>**

---

**OFFICE OF VICTIMS' SERVICES**

**Proposed Rulemaking**

Crime victims compensation ..... 2591

**PENNSYLVANIA GAMING CONTROL BOARD**

**Rules and Regulations**

Corrective amendment to 58 Pa. Code Chapter 401a ..... 2588

Suppliers' principal place of business; temporary credentials and recordkeeping ..... 2588

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Notices**

Local exchange carrier services ..... 2652

Rescission order ..... 2653

Service of notice of motor carrier applications..... 2653  
Tentative order ..... 2654

**PHILADELPHIA REGIONAL PORT AUTHORITY**

**Notices**

Request for bids (2 documents) ..... 2656

**STATE BOARD OF NURSING**

**Notices**

Bureau of Professional and Occupational Affairs v. Margie Leh Rondish, LPN; doc. no. 1753-51-08 ..... 2656

**SUSQUEHANNA RIVER BASIN COMMISSION**

**Notices**

Projects approved for consumptive uses of water . . . . 2656

# 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.

**SUBSCRIPTION INFORMATION: (717) 766-0211  
GENERAL INFORMATION AND FINDING AIDS: (717) 783-1530**

### 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.

### Reproduction, Dissemination or Publication of Information

Third parties may not take information from the *Pennsylvania Code* and *Pennsylvania Bulletin* and reproduce, disseminate or publish such information except as provided by 1 Pa. Code § 3.44. 1 Pa. Code § 3.44 reads as follows:

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

Information published under this part, which information includes, but is not limited to, cross references, tables of cases, notes of decisions, tables of contents, indexes, source notes, authority notes, numerical lists and codification guides, other than the actual text of rules or regulations may be reproduced only with the written consent of the Bureau. The information which appears on the same leaf with the text of a rule or regulation, however, may be incidentally reproduced in connection with the reproduction of the rule or regulation, if the reproduction is for the private use of a subscriber and not for resale. There are no other restrictions on the reproduction of information published under this part, and the Commonwealth hereby consents to a reproduction.

# List of Pa. Code Chapters Affected

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

<b>4 Pa. Code (Administration)</b>		<b>Statements of Policy</b>	
<b>Adopted Rules</b>		96 .....	1674
6 .....	406	<b>40 Pa. Code (Liquor)</b>	
<b>Statements of Policy</b>		<b>Adopted Rules</b>	
9 .....	427, 1008, 1212, 1970, 2116	13 .....	682
<b>7 Pa. Code (Agriculture)</b>		<b>49 Pa. Code (Professional and Vocational Standards)</b>	
<b>Adopted Rules</b>		<b>Adopted Rules</b>	
111 .....	2573	7 .....	219
113 .....	2584	13 (correction) .....	414, 523
115 .....	2577	16 .....	1625
130f .....	1859	18 .....	1625
143 .....	308	21 .....	2103
<b>Statements of Policy</b>		31 .....	1985
28 .....	310	47 .....	417
<b>12 Pa. Code (Commerce Trade and Local Government)</b>		<b>Proposed Rules</b>	
<b>Statements of Policy</b>		5 .....	1004
31 .....	1306	11 .....	2208
<b>22 Pa. Code (Education)</b>		13 .....	2210
<b>Adopted Rules</b>		37 .....	2218
14 .....	17	39 .....	1005
<b>25 Pa. Code (Environmental Protection)</b>		41 .....	2211
<b>Adopted Rules</b>		43b .....	2205, 2206, 2345
78 .....	1982	<b>51 Pa. Code (Public Officers)</b>	
93 .....	2523	<b>Adopted Rules</b>	
109 .....	2334, 2661	31 .....	2204
218 .....	1201	33 .....	2204
260a .....	201	35 .....	2204
261a .....	201	37 .....	2204
262a .....	201	39 .....	2204
263a .....	201	41 .....	2204
264a .....	201	43 .....	2204
265a .....	201	45 .....	2204
266a .....	201	51 .....	1939
266b .....	201	53 .....	1939
267a .....	201	55 .....	1939
269a .....	201	57 .....	1939
270a .....	201	59 .....	1939
806 .....	19	61 .....	1939
<b>Proposed Rules</b>		63 .....	1939
78 .....	838	65 .....	1939
121 .....	1636	67 .....	1939
129 .....	1636	69 .....	1939
130 .....	1636	<b>52 Pa. Code (Public Utilities)</b>	
<b>Statements of Policy</b>		<b>Proposed Rules</b>	
16 .....	2543, 2594	56 .....	925
<b>31 Pa. Code (Insurance)</b>		62 .....	1657, 1870
<b>Adopted Rules</b>		<b>Statements of Policy</b>	
89 .....	2086	69 .....	1676
139 .....	996	<b>55 Pa. Code (Public Welfare)</b>	
<b>Proposed Rules</b>		<b>Proposed Rules</b>	
147 .....	841	501 .....	1114
<b>34 Pa. Code (Labor and Industry)</b>		<b>Statements of Policy</b>	
<b>Proposed Rules</b>		1223 .....	1991
125 .....	2331	2600 .....	26, 2346
<b>37 Pa. Code (Law)</b>		3270 .....	1011, 2347
<b>Proposed Rules</b>		3280 .....	1011, 2347
411 .....	2591	3290 .....	1011, 2347



**58 Pa. Code (Recreation)**

**Adopted Rules**

29 ..... 523  
 51 ..... 1860  
 53 ..... 1860  
 56 ..... 1860  
 61 ..... 1201  
 63 ..... 1860  
 65 ..... 1860  
 69 ..... 1859, 1860  
 75 ..... 1202, 1860  
 101 ..... 1860  
 113 ..... 1860  
 141 ..... 1110  
 143 ..... 1388, 1990  
 147 ..... 1205, 1388  
 401 ..... 2113  
 401a ..... 235, 2588  
 431a ..... 2588  
 435a ..... 2588  
 437a ..... 2588  
 439a ..... 1868, 2113  
 443a ..... 21  
 451a ..... 2588  
 465a ..... 1868, 2113, 2588

**Proposed Rules**

53 ..... 1870  
 91 ..... 1870  
 97 ..... 1870  
 101 ..... 1870  
 105 ..... 1870  
 109 ..... 1870  
 111 ..... 1870  
 131 ..... 1531  
 139 ..... 1532  
 141 ..... 1391, 1392, 1393, 1668  
 143 ..... 1529  
 147 ..... 1529  
 401a ..... 2113  
 403a ..... 418  
 435a ..... 418  
 437a ..... 1003  
 439a ..... 1662, 2113  
 441a ..... 418  
 461a ..... 418, 423, 1662  
 463a ..... 423, 1662  
 465a ..... 418, 1662, 2113  
 499a ..... 1662

**Statements of Policy**

461b ..... 685

**61 Pa. Code (Revenue)**

**Proposed Rules**

53 ..... 1209  
 151 ..... 1207  
 153 ..... 1207

**67 Pa. Code (Transportation)**

**Proposed Rules**

229 ..... 997  
 231 ..... 999

**201 Pa. Code (Judicial Administration)**

**Proposed Rules**

40 ..... 1293  
 50 ..... 1293

**204 Pa. Code (Judicial System General Provisions)**

**Adopted Rules**

71 ..... 2433  
 81 ..... 1980  
 83 ..... 1846, 1980, 2193, 2318

**207 Pa. Code (Judicial Conduct)**

**Adopted Rules**

51 ..... 675

**210 Pa. Code (Appellate Procedure)**

**Adopted Rules**

1 ..... 508, 1094  
 9 ..... 508, 1094  
 11 ..... 508, 1094  
 19 ..... 508, 1094  
 21 ..... 508, 1094  
 25 ..... 508, 1094  
 37 ..... 508, 1094  
 65 ..... 1615

**225 Pa. Code (Rules of Evidence)**

**Adopted Rules**

ART. I ..... 410

**231 Pa. Code (Rules of Civil Procedure)**

**Adopted Rules**

200 ..... 304  
 1000 ..... 676  
 2950 ..... 304

**Proposed Rules**

3000 ..... 1849

**234 Pa. Code (Rules of Criminal Procedure)**

**Adopted Rules**

1 ..... 829, 1106, 2434, 2567  
 4 ..... 8  
 10 ..... 2568

**Proposed Rules**

4 ..... 983, 2318, 2435  
 5 ..... 991  
 6 ..... 2324  
 7 ..... 983  
 10 ..... 2435

**237 Pa. Code (Juvenile Rules)**

**Adopted Rules**

2 ..... 676  
 3 ..... 676  
 8 ..... 1614  
 11 ..... 1614  
 13 ..... 1614  
 18 ..... 1614

**Proposed Rules**

4 ..... 1850  
 16 (correction) ..... 9, 1854, 1981

**246 Pa. Code (Minor Court Civil Rules)**

**Proposed Rules**

100 ..... 1856

**249 Pa. Code (Philadelphia Rules)**

Unclassified ..... 189, 192, 830, 1199, 2327, 2571

**252 Pa. Code (Allegheny County Rules)**

Unclassified ..... 994

**255 Pa. Code (Local Court Rules)**

Unclassified ... 10, 16, 306, 306, 513, 514, 517, 520, 679, 680, 832, 833, 835, 994, 995, 1107, 1199, 1200, 1386, 1478, 1522, 1523, 1524, 1525, 1526, 1527, 1621, 1857, 1981, 2084, 2200, 2201, 2438, 2439, 2571

# THE COURTS

## Title 234—RULES OF CRIMINAL PROCEDURE

### PART I. GENERAL

[ 234 PA. CODE CH. 1 ]

Order Amending Rule of Criminal Procedure 103;  
No. 379; Doc. No. 2

#### Order

*Per Curiam:*

Now, this 6th day of May, 2009, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3) in the interests of justice and efficient administration, and a Final Report to be published with this *Order*:

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule of Criminal Procedure 103 is amended as follows.

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

#### Annex A

### TITLE 234. RULES OF CRIMINAL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

#### PART A. Business of the Courts

#### Rule 103. Definitions.

The following words and phrases, when used in any Rule of Criminal Procedure, shall have the following meanings:

\* \* \* \* \*

**BAIL AUTHORITY** is the magisterial district judge, magistrate, Philadelphia [ **bail commissioner** ] **arraignment court magistrate**, or the judge with jurisdiction over the case who is authorized by law to set, modify, revoke, or deny bail.

\* \* \* \* \*

**ISSUING AUTHORITY** is any public official having the power and authority of a magistrate, a Philadelphia [ **bail commissioner** ] **arraignment court magistrate**, or a magisterial district judge.

\* \* \* \* \*

#### Comment

\* \* \* \* \*

The definitions of bail authority and issuing authority were amended in 2005 to reflect the provisions of Act 207 of 2004 that changed the phrase "district justice" to "magisterial district judge," effective January 29, 2005. See also the Court's January 6, 2005 Order providing that any reference to "district justice" in a court rule shall be deemed a reference to a "magisterial district judge."

**The definitions of "bail authority" and "issuing authority" were amended in 2009 to reflect the provisions of Act 98 of 2008 that changed the**

**phrase "bail commissioner" to "arraignment court magistrate," effective December 8, 2008. See also the Court's January 21, 2009 Order providing that any reference to "bail commissioner" in a court rule shall be deemed a reference to an "arraignment court magistrate."**

\* \* \* \* \*

**Official Note:** Previous Rules 3 and 212 adopted June 30, 1964, effective January 1, 1965, suspended January 31, 1970, effective May 1, 1970; present Rule 3 adopted January 31, 1970, effective May 1, 1970; amended June 8, 1973, effective July 1, 1973; amended February 15, 1974, effective immediately; amended June 30, 1977, effective September 1, 1977; amended January 4, 1979, effective January 9, 1979; amended July 12, 1985, effective January 1, 1986; January 1, 1986 effective date extended to July 1, 1986; amended August 12, 1993, effective September 1, 1993; amended February 27, 1995, effective July 1, 1995; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 103 and Comment revised March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002; amended March 3, 2004, effective July 1, 2004; amended April 30, 2004, effective July 1, 2004; amended August 24, 2004, effective August 1, 2005; amended February 4, 2005, effective immediately; **amended May 6, 2009, effective immediately.**

*Committee Explanatory Reports:*

\* \* \* \* \*

**Final Report explaining the May 6, 2009 amendments modifying the definitions of bail authority and issuing authority published with the Court's Order at 39 Pa.B. 2567 (May 23, 2009).**

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

*Amendments to Pa.R. Crim.P. 103 (Definitions)*

#### PHILADELPHIA ARRAIGNMENT COURT MAGISTRATE

On May 6, 2009, effective immediately, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rule 103 (Definitions) changing the term "bail commissioner" to "arraignment court magistrate" in the definitions of "bail authority" and "issuing authority" in view of Act 98 of 2008.

On October 9, 2008, Governor Rendell signed into law Act 98 of 2008 that changed the term "bail commissioner" to "arraignment court magistrate," effective December 8, 2008. Because "bail commissioner" is used extensively in the Rules of Criminal Procedure, the references to "bail commissioner" are being changed to "arraignment court magistrate" to avoid confusion to the members of the bench, bar, and public.

The first step is the amendment of the definitions of "bail authority" and "issuing authority" in Rule 103. Accordingly, in conformance with Act 98 of 2008, the term "Philadelphia bail commissioner" has been replaced with the new term "Philadelphia arraignment court magistrate." This change is explained in the Rule 103 Comment

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

with a cross-reference to Act 98 of 2008. The Comment also includes a reference to the Supreme Court's Order, No. 329 Judicial Administration Docket No. 1, providing, inter alia, that all references to "bail commissioner" in the court rules will be deemed "arraignment court magistrate." With this amendment to Rule 103 and the Court's Order, the Court will be able to proceed in an orderly manner to change all the other references to "bail commissioner" by making the changes when a rule is being amended for some other reason.

[Pa.B. Doc. No. 09-918. Filed for public inspection May 22, 2009, 9:00 a.m.]

[ 234 PA. CODE CH. 10 ]

Order Amending Rule of Criminal Procedure 1002;  
No. 380; Doc. No. 2

Order

*Per Curiam:*

Now, this 12th day of May, 2009, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3) in the interests of justice and efficient administration, and a Final Report to be published with this *Order*:

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule of Criminal Procedure 1002 is amended as follows.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective February 1, 2010.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 10. RULES OF CRIMINAL PROCEDURE  
FOR THE PHILADELPHIA MUNICIPAL COURT  
AND THE PHILADELPHIA TRAFFIC COURT

PART A. Philadelphia Municipal Court Procedures  
Rule 1002. Procedure in Summary Cases.

\* \* \* \* \*

(B) Non-traffic summary proceedings shall be instituted **either** by a citation issued to the defendant [ : ] or **arresting without a warrant when arrest is specifically authorized by law.**

(1) Issuance of Citation

(a) [ **Except as provided in paragraph (B)(2), the law enforcement officer shall take the defendant into custody and transport him or her to the appropriate district police station, where without unnecessary delay the law enforcement officer or a superior officer shall prepare and issue to the defendant a citation and a notice to appear. The defendant shall not be slated, fingerprinted, or photographed, except as provided by law.** ] The law enforcement officer shall issue the citation to the defendant pursuant to Rule 405 (Issuance of Citation), together with a notice to appear, unless required to proceed pursuant to paragraph (B)(1)(e). The notice to appear shall direct the

**defendant to appear before a judge or trial commissioner on a date and at a time certain in a specified court room.**

[ (2) ] (b) When authorized by local rule promulgated pursuant to Rule 105 (Local Rules), [ **in lieu of taking the defendant into custody as provided in paragraph (B)(1),** ] the law enforcement officer may prepare, verify, and transmit a citation electronically. The law enforcement officer contemporaneously shall give the defendant a paper copy of the citation containing all the information required by Rule 403(A) (Contents of Citation) and a notice to appear. **The notice to appear shall direct the defendant to appear before a judge or trial commissioner on a date and at a time certain in a specified court room.**

[ (3) Except as provided in paragraph (B)(5), in all cases, the law enforcement officer shall release the defendant on the defendant's own recognizance. **The notice to appear shall direct the defendant to appear before a trial commissioner in a specified court room.** ]

[ (4) ] (c) Within 5 days after issuance of the citation and notice to appear, the citation shall be filed with the clerk of Municipal Court.

(d) **When the defendant appears before the judge or trial commissioner as provided in paragraph (B)(1)(a) or (B)(1)(b), the judge or trial commissioner shall explain the process to the defendant.**

(i) **If the defendant enters a guilty plea, the judge or trial commissioner shall impose the fines and costs.**

(ii) **If the defendant enters a not guilty plea, the judge or trial commissioner shall set a date for trial before a judge and issue a subpoena to the defendant.**

(iii) **If applicable, after paying any fee imposed, the defendant may be accepted into the Municipal Court's summary case diversionary program, or any other diversionary program offered pursuant to local rule promulgated pursuant to Rule 105 (Local Rules). When the defendant successfully completes the Municipal Court's summary case diversionary program, the defendant's arrest record automatically will be expunged.**

[ (5) ] (e) When required by local rule promulgated pursuant to Rule 105 (Local Rules), [ **rather than releasing the defendant pursuant to paragraph (B)(3), a** ] the law enforcement officer shall take the defendant into custody and transport him or her to the appropriate district police station, where, without unnecessary delay, the law enforcement officer or a superior officer shall prepare and issue the citation to the defendant. Thereafter, the law enforcement officer without unnecessary delay shall transport the defendant to the Municipal Court for proceedings before a [ **Municipal Court** ] judge, and the case shall proceed as provided by local rule promulgated pursuant to Rule 105 (Local Rules).

(f) **The defendant shall not be slated, fingerprinted, or photographed, except as provided by law.**

(2) Arrest Without a Warrant

(a) **When an arrest without a warrant in a non-traffic summary case is authorized by law, the**

police officer shall take the defendant into custody and transport him or her to the appropriate district police station, where, without unnecessary delay, the police officer or a superior officer shall prepare and issue a citation to the defendant.

(b) Except when the police officer is required to proceed pursuant to paragraph (B)(1)(e), or as otherwise provided in this rule, the case shall proceed as provided in Rule 441.

(c) If the defendant is to be released pursuant to Rule 441(B), the defendant shall be released on his or her own recognizance and given a notice to appear on a date and at a time certain in a specified court room.

(d) If the defendant is not released under Rule 441(B), the defendant without unnecessary delay shall be brought before a judge, who shall proceed as provided in Rule 441(C).

**[ (C) Procedures Following Institution of Summary Proceedings**

(1) When the defendant is taken before a Municipal Court judge pursuant to paragraph (B)(5), the case shall proceed as provided by local rule promulgated pursuant to Rule 105 (Local Rules).

(2) When the defendant appears before a trial commissioner, the trial commissioner shall explain the process to the defendant.

(a) If the defendant enters a guilty plea, the trial commissioner shall impose the fines and costs.

(b) If the defendant requests a trial before a Municipal Court judge, the trial commissioner shall set a date for trial and issue a subpoena to the defendant.

(c) If applicable, after paying any fee imposed, the defendant may be accepted into the Municipal Court's summary case diversionary program, or any other diversionary program offered pursuant to local rule promulgated pursuant to Rule 105 (Local Rules). When the defendant successfully completes the Municipal Court's summary case diversionary program, the defendant's arrest record automatically will be expunged.

(D) ] (C) If the defendant fails to appear pursuant to the notice to appear or a subpoena, a bench warrant shall be issued.

[ (E) ] (D) When the same conduct is proscribed under an Act of Assembly and a municipal criminal ordinance, the charge shall be brought under the Act of Assembly and not under the ordinance.

**Comment**

\* \* \* \* \*

The 2009 amendments to paragraph (B) conform the non-traffic summary citation procedures in Philadelphia with the statewide procedures governing the institution of a non-traffic summary case by issuing a citation to the defendant in person or arresting the defendant without a warrant. See Rules 405 (Issuance of Citation) and 440 (Arrest Without Warrant). The amendments require the police officer to issue a citation as provided in Rule 405 and proceed pursuant to paragraph (B)(1)(a) or (B)(1)(b), unless the case falls within the jurisdiction of one of Philadelphia Municipal Court's Nui-

sance Night Courts or Community Courts, or to arrest without a warrant when such an arrest is authorized by law.

The contents of the citation must comply with the requirements of Rule 403(A). The notice to appear required by paragraphs (B)(1)(a), (B)(1)(b), and (B)(2)(c) may be added to the citation form.

Arrests without a warrant in summary cases are authorized only in exceptional circumstances, such as cases involving enhanced penalties, or when the defendant fails to produce identification, or when there is violence or the imminent threat of violence, or when there is a likelihood that the defendant will flee.

Nothing in this rule prevents the filing of a citation pursuant to Rules 410 and 411.

The 2009 amendments do not modify the current procedures governing Philadelphia Municipal Court's Nuisance Night Courts and Community Courts that are implemented by paragraph (B)(1)(e).

Although defendants in summary cases ordinarily are not slated, photographed, or fingerprinted, the issuing authority should require the defendant to submit to administrative processing and identification procedures (such as fingerprinting) as authorized by law. See, e.g., 18 Pa.C.S. § 3929(g) concerning fingerprinting in retail theft cases.

**[ The contents of the citation must comply with the requirements of Rule 403. ]**

All summary offenses under the motor vehicle laws and parking violations are under the jurisdiction of the Philadelphia Traffic Court. See 42 Pa.C.S. §§ 1301—1303, 1321.

**Official Note:** Rule 6002 adopted June 28, 1974, effective July 1, 1974; amended July 1, 1980, effective August 1, 1980; Comment revised January 28, 1983, effective July 1, 1983; amended July 12, 1985, effective January 1, 1986; January 1, 1986 effective date extended to July 1, 1986; amended February 1, 1989, effective July 1, 1989; amended August 9, 1994, effective January 1, 1995; renumbered Rule 1002 and amended March 1, 2000, effective April 1, 2001. Rule 1002 rescinded August 15, 2005, effective February 1, 2006, and replaced by new Rule 1002; amended May 12, 2009, effective February 1, 2010.

*Committee Explanatory Reports:*

\* \* \* \* \*

**Final Report explaining the May 12, 2009 changes to paragraph (B) concerning issuing citations and arrest without warrants in summary cases published at 39 Pa.B. 2569 (May 23, 2009).**

**FINAL REPORT<sup>1</sup>**

*Amendments to Pa.R.Crim.P. 1002 (Procedure in Summary Cases)*

**PHILADELPHIA NON-TRAFFIC SUMMARY CITATION PROCEDURES**

On May 12, 2009, effective February 1, 2010, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rule 1010 (Procedure in

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

Summary Cases) to bring the Philadelphia non-traffic summary citation procedures into conformity with the summary citations procedures in the rest of the state.

### I. Introduction

The Committee undertook a review of the summary citation procedures in Philadelphia after receiving a letter from Philadelphia Police Commissioner Ramsey in which he requested that the Committee consider bringing Philadelphia non-traffic summary citation procedures in line with the statewide non-traffic summary citation procedures. Because the issues are distinct to Philadelphia, the Committee referred the matter to a Subcommittee that included representatives from the Committee, from Philadelphia, and from the Administrative Office of Pennsylvania Courts (AOPC).

### II. Background

Under current Rule of Criminal Procedure 1002, in all non-traffic summary cases, the police officer is required to take the defendant into custody and transport him or her to the police station where a citation is prepared and issued to the defendant. Unless the offense is one of the offenses within the jurisdiction of the Municipal Court's community courts and is committed in a community court district during specified hours, the defendant is given a notice to appear and is released. When the case falls within the parameters of the community court local rule procedures, the defendant is taken before a Municipal Court judge.

In the rest of the State, pursuant to Rule of Criminal Procedure 405, a law enforcement officer is required to give the defendant in a summary case a citation at the time of the offense, and the defendant is free to leave. The defendant is required to mail in a plea with the citation and either fines and costs, if a guilty plea, or collateral, if a not guilty plea. See Rules 406—409. In those cases in which the police officer is authorized to arrest without a warrant, pursuant to Rule 440, the police officer must release the defendant from custody if the defendant meets the criteria set forth in Rule 441(B) or take the defendant before a magisterial district judge without unnecessary delay as provided in Rule 441(C).

### III. Discussion of Rule 1002 Changes

Although the current provisions in Rule 1002 for handling non-traffic summary citation procedures in Philadelphia have been amended, the local rule provision for some summary cases to be handled in the Municipal Court's community courts have been retained.<sup>2</sup> These community courts have been successful in accomplishing the Municipal Court's goals of promptly addressing quality of life-type offenses, providing screening procedures, and providing prompt access to social services and rehabilitation programs. In addition, the technical aspects of implementing the rule changes, including changes to the citation form to delete the defendant's signature line and add a verification of issuance by the police officer, will be handled locally by Municipal Court, the Philadelphia police, and the Philadelphia District Attorney's office.

#### *Issuance of Citation*

New paragraph (B)(1) sets forth the procedures for instituting a non-traffic summary case by issuing a citation. New paragraph (B)(1)(a) requires the law en-

forcement officer to issue the citation to the defendant pursuant to Rule 405, unless the case falls within the community court procedures in paragraph (B)(1)(e) (current Rule 1002(B)(5)). The new citation procedures retain the requirements that a notice to appear be included with the citation and that the notice direct the defendant to appear before a Municipal Court judge or a trial commissioner on a date certain (current Rule 1002(B)(3)). The last paragraph of current paragraph (B)(1) providing that the defendant is not to be fingerprinted, etc., also has been retained as new paragraph (B)(1)(f).

Pursuant to new paragraph (B)(1)(a), except in community court cases, when the case is one in which a citation must be issued under the rules, the law enforcement officer may not take the defendant into custody to transport to the police station for issuance of the citation. Accordingly, current Rule 1002(1) has been deleted.

If the case falls within the community court procedures, the law enforcement officer must (1) take the defendant into custody, transport him or her to the appropriate district police station, and prepare and issue the citation to the defendant; and (2) thereafter, transport the defendant to the community court. These procedures, set forth in current paragraph (B)(1), now appear in new paragraph (B)(1)(e).

The procedures from current paragraph (C)(2) that must be followed when a defendant appears before the judge or trial commissioner after being issued a citation, with minor conforming changes, have been moved to paragraph (B)(1)(d).

#### *Arrest Without Warrant*

Under Rules 440—441, when a defendant elsewhere in the state is arrested without a warrant in a summary case, the police officer has 2 options—either release the defendant pursuant to Rule 441(B), or take the defendant without unnecessary delay before the proper issuing authority pursuant to Rule 441(C). When the defendant is released, a citation is issued to the defendant and the case proceeds pursuant to Rule 405. When a defendant is taken before the proper issuing authority, a citation is filed and the defendant enters a plea, etc. See Rule 441. The Committee agreed this procedure should apply to Philadelphia cases as well as to summary cases in the rest of the state, but recognized that the procedures would need to be modified to accommodate the procedures Municipal Court already has in place to address the special needs of the court.

New paragraph (B)(2) sets forth the arrest without warrant procedures. New paragraph (B)(2)(a) incorporates the procedures in current Rule 1002(B)(1) providing, when an arrest without a warrant in a non-traffic summary case is authorized by law, that the defendant is to be taken into custody and transported to the appropriate police district by a police officer, where a citation is prepared and issued to the defendant. New paragraph (B)(2)(b) provides that the case is to proceed pursuant to Rule 441 except when the case falls within the community court exception in new (B)(1)(e) or as otherwise provided in the rule. Thus, although, for the most part, the police must follow Rule 441, there are some procedural differences.

New paragraphs (B)(2)(c) and (B)(2)(d) set forth procedures that vary from the Statewide procedures but are consistent with current Rule 1002. When a defendant is to be released pursuant to Rule 441(B), the release is "ROR," as required in current Rule 1002(B)(3), and the

<sup>2</sup> "Community Court" is the general term Municipal Court has used to identify their special courts program. Because of the continuing evolution of the Philadelphia Municipal Court community court program, rather than having to go through the time consuming rule-making process with the Criminal Procedural Rules Committee and the Court, Rule 1002 permits Municipal Court to elaborate the details of the community court procedures in a local rule promulgated pursuant to Rule 105.

defendant is given a notice to appear. When the defendant is not released, the rule requires the defendant be taken before a Municipal Court judge and the case will proceed pursuant to Rule 441(C). Municipal Court assigns an "emergency" judge to be on call twenty-four hours a day, seven days a week, 365 days a year. Accordingly, when a defendant is arrested without a warrant in a summary case in Philadelphia, the police will proceed as provided in Rule 441(C)(1) and take the defendant without unnecessary delay before the Municipal Court judge, or, if outside the normal business hours of the Municipal Court, the emergency judge when available pursuant to Rule 117.

#### Comment

The Comment also has been revised correlative to the new changes in Rule 1002 with elaboration on the new citation procedures and the exception to the procedures for community court cases.

The Committee incorporated the language from the Rule 440 Comment explaining the limitations on arrests without warrants in summary cases, and added to the examples of exceptional circumstances cases involving enhanced penalties and cases in which a defendant fails to produce identification.

During the Committee's discussions, it was noted that the police officers in Philadelphia rarely proceed by filing a citation as provided in Rules 410 and 411. For those rare cases in which it would be appropriate for the police to proceed pursuant to Rules 410 and 411, a statement has been added to the Comment to the effect that nothing in the rule is intended to prevent filing a citation pursuant to Rules 410 and 411.

[Pa.B. Doc. No. 09-919. Filed for public inspection May 22, 2009, 9:00 a.m.]

## Title 249—PHILADELPHIA RULES

Philadelphia Municipal Court; Civil Division; Municipal Court Administrative Regulation No. 2009-02; In Re: CLAIMS Electronic Filing System

#### Order

The electronic filing of all civil trial activity from case initiation through post judgment proceedings by attorneys in the Philadelphia Municipal Court shall be mandatory effective: Monday, March 2, 2009.

Attorneys are reminded that a User Manual for the use of the CLAIMS Electronic Filing System is available on the First Judicial District's web site: <http://courts.phila.gov/publications.html>.

This Administrative Order shall be published in the *Pennsylvania Bulletin*. The original Administrative Order shall be filed with the Prothonotary in a docket maintained for Administrative Orders issued by the President Judge of the Philadelphia Municipal Court, and copies shall be submitted to the Administrative Office of Pennsylvania Courts and the Legislative Reference Bureau. Copies of the Administrative Order shall be submitted to *American Lawyer Media*, *The Legal Intelligencer*, Jenkins Memorial Library and the Law Library for the First

Judicial District, and shall be posted on the web site of the First Judicial District of Pennsylvania: <http://courts.phila.gov>.

MARSHA H. NEIFIELD,  
*President Judge*  
BRADLEY K. MOSS,  
*Supervising Judge,*  
*Civil Division*

[Pa.B. Doc. No. 09-920. Filed for public inspection May 22, 2009, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### BLAIR COUNTY

Amendment to Local Rules of Court, Specifically the Amended Compulsory Arbitration Rules

#### Order

*And Now*, this 27th day of April, 2009, the Blair County Local Rules of Court are hereby amended as indicated in the attachment, and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. The Court Administrator is directed to:

1. File seven (7) certified copies of the within Order and amended local rules with the Administrative Office of Pennsylvania Courts.
2. Forward two (2) certified copies and a disk containing the text of the amended local rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. Forward one (1) certified copy to the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania.
4. Forward one (1) copy to the *Blair County Legal Bulletin* for publication.

Copies shall be kept continuously available for public inspection in the Office of the Blair County Prothonotary, the Office of the Court Administrator and the Blair County Law Library.

HONORABLE JOLENE GRUBB KOPRIVA,  
*President Judge*

**Rule 1301—1 Arbitrators**, subsection (d) shall be amended to read as follows:

(d) The Case Manager will swear in the panel and take the oath. The case manager shall also ensure that all exhibits are properly marked and kept within the court file. All photographs shall be marked on the back with the case docket number, and then placed within an envelope also to be marked with the case caption and docket number.

**Rule 1303—Arbitration Process**, subsection (e) shall be amended to read as follows:

(e) **Arbitration Costs**—If no appeal is filed, then the Arbitration Costs shall follow the verdict. The unsuccessful party shall pay such Arbitration Costs (as defined

below, which does not include the \$150 administrative fee) to the Prothonotary within thirty-five (35) days of the Arbitration Award. If an appeal is filed, then the appealing party shall pay the Arbitration Appeal Fees as set forth in Rule 1303 (g) below.

(1) For each Civil Case eligible for arbitration under B.C.L.R. 1301(a)(1) and (3), Arbitration Costs shall be set at one-hundred fifty dollars (\$150) to the Chairperson, and one-hundred twenty-five dollars (\$125) to each additional Arbitrator of the arbitration panel.

(2) For each Civil Case in which the arbitration hearing lasts four and a half (4 1/2) hours or more, the Arbitration Costs shall be set at two-hundred twenty-five dollars (\$225) to the Chairperson, and two-hundred dollars (\$200) to each additional Arbitrator of the arbitration panel.

**Rule 1303—Arbitration Process**, subsection (g) shall be amended to read as follows:

(g) **Arbitration Appeal Fees**—A party appealing an Arbitration Award, under B.C.L.R. 1308, shall pay to the Prothonotary an Arbitration Appeal Fee of \$400, unless the arbitration hearing lasted four and one-half (4 1/2) hours or more, in which case the Arbitration Appeal Fee shall be \$625. Such fee must be paid at the time of filing an appeal in order to perfect such appeal. An appeal from the Arbitration Award does not, in any way, relieve any party of any duty to pay any applicable Administrative Fees or Continuance Fees.

There shall be no reimbursement of the Arbitration Appeal Fees to the appealing party, even if the final decision entered after the appeal differs from the Award of Arbitrators.

[Pa.B. Doc. No. 09-921. Filed for public inspection May 22, 2009, 9:00 a.m.]

---

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Disbarment

Notice is hereby given that Mark A. Blevins, having had his license to practice law in the State of West Virginia annulled by Order of the Supreme Court of Appeals of West Virginia filed September 26, 2008, the Supreme Court of Pennsylvania issued an Order on May 8, 2009, disbaring Mark A. Blevins, from the Bar of this Commonwealth, effective June 7, 2009. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 09-922. Filed for public inspection May 22, 2009, 9:00 a.m.]

---

# RULES AND REGULATIONS

## Title 7—AGRICULTURE

### DEPARTMENT OF AGRICULTURE

#### [ 7 PA. CODE CH. 111 ]

#### Seed Testing, Labeling and Standards

The Department of Agriculture (Department) amends Chapter 111 (relating to seed testing, labeling and standards) to read as set forth in Annex A.

#### *Statutory Authority*

The Department, under the authority of 3 Pa.C.S. Chapter 71 (relating to the Seed Act) (act) and under the specific authority of sections 7111 and 7117 of the act (relating to powers and duties of secretary and department; and rules and regulations) amends Chapter 111. The act replaces The Pennsylvania Seed Act of 1965 (3 P. S. §§ 285-1—285-11).

Section 7111 of the act authorizes and empowers the Department to enforce the provisions of the act and to “. . . prescribe, modify and enforce such reasonable rules, regulations, standards, tolerances and orders as in the judgment of the secretary shall be necessary to carry out the provisions of [the act].” See 3 Pa.C.S. § 7111(a). In addition, section 7111 of the act establishes specific powers and duties of the Department and provides for delegation of such authority. See 3 Pa.C.S. § 7111(b) and (c). Section 7117 of the act specifically delineates that the Department “. . . shall promulgate and enforce rules and regulations necessary for administration and implementation of [the act].” See 3 Pa.C.S. § 7117. Consistent with that authority and to establish regulations which are consistent with the provisions of the act, the Department is amending Chapter 111.

#### *Purpose of the Final-Form Regulation*

The regulations are required to establish regulations which are consistent with the act. The promulgation and implementation of these amended regulations is necessary to comply with the statute. The amended regulations will be in compliance with the new statute and will eliminate incompatibility and redundancy that occurs with the statute and the current regulations.

The regulation establishes seed testing, labeling and standards criteria for seed producers and distributors. The regulations define seed testing requirements, labeling terminology and requirements and procedures for seed distributors consistent with the requirements of the act. The regulations were developed to ensure that the public health, safety and environment of the citizens of this Commonwealth are not negatively impacted by the marketing and use of untested or adulterated seed.

The more uniform method of seed labeling set forth in this regulation will allow for a more understandable seed label for the purchaser of seed products. Farmers, seeds distributors and home gardeners will benefit from the changes implemented by this regulation.

#### *Comment and Responses*

Interested persons were invited to submit written comments regarding the proposed regulations within 30 days following publication at 38 Pa.B. 2256 (May 17, 2008). The Department received only one comment on the proposed regulations. The comment was from PennAg Industry Association (PennAg Industry) and set forth its

approval and support of the proposed amendments to Chapter 111. The Department sent a letter to PennAg Industry informing it of the right to receive a copy of the final-form regulations. The Department received no comments from the Independent Regulatory Review Commission (IRRC). Because the comment received was positive and requested no changes to the proposed regulations, the Department has made no changes from the proposed regulations to the final-form rulemaking.

The Comment and Response will be published in the *Pennsylvania Bulletin* as part of this final-form Preamble and along with the Annex A. The Department will also make the regulation, including this Preamble and the Annex A available for review on the Department's web site at [www.agriculture.state.pa.us](http://www.agriculture.state.pa.us). Individuals who would like to request a hard copy of the Annex A or Preamble may call Joe Garvey in the Department of Agriculture, Bureau of Plant Industry at (717) 787-4894.

#### *Comment*

PennAg Industries submitted a comment letter for this regulation in which PennAg expressed its support of the proposed regulations. PennAg appreciated the acknowledgement the Department gave the PennAg Seed Council in the regulations. PennAg stated that the regulations would continue to provide more uniformity within the seed industry, therefore benefiting the seed producers and marketers and consumers purchasing and using the products. PennAg also mentioned that the provisions in this chapter are part of a National seed industry initiative working toward the adoption of Recommended Uniform State Seed Laws (RUSSL). Along with RUSSL, the proposed regulations would allow for compliance and continuity with Federal seed regulation, the United States Department of Agriculture's Animal and Plant Health Inspection Service National harmonization program and certification standards of the Association of Official Seed Certifying Agencies. The proposed regulations would allow Pennsylvania's seed industry to remain part of the competitive seed market.

#### *Response*

The Department acknowledged PennAg's comment in writing. The Department appreciates PennAg's support of the regulations. No changes were made to the proposed regulation.

#### *Fiscal Impact*

#### *Commonwealth*

The final-form regulations will not impose additional fiscal impact upon the Commonwealth. The fee schedule and all associated fees are now established in the act. There are no new costs associated with these regulations. There are no adverse affects or costs associated with amending the regulations. The amended regulations create uniformity and consistency with the act. There will be no costs or savings to State government. There are no additional State government staff resources necessary to implement these regulations.

#### *Political Subdivisions*

Local government is not associated with the implementation or enforcement of the regulations. Therefore, the final-form regulations will impose no additional work or



costs and have no fiscal impact upon any political subdivision. The regulations will impose no additional burden of enforcement on political subdivisions.

#### *Private Sector*

The final-form regulations will impose no additional costs on the private sector. The fee schedule and all associated fees are now established in the act.

#### *General Public*

The final-form regulations will impose no direct costs and have no fiscal impact on the general public. Farmers, seed distributors and home gardeners will benefit from the changes to these regulations. These changes will eliminate redundancies that have occurred with the amendment of the act. A more uniform method of seed labeling will allow for a more understandable seed label for the purchaser of seed products.

#### *Paperwork Requirements*

The final-form regulations will not result in any increase in paperwork. Review and administrative procedures will be very similar to the existing system overseen by the Department.

#### *Effective Date*

Compliance with the regulation is required within 30 days of publication of the regulations.

#### *Additional Information*

Further information is available by contacting the Department of Agriculture, Bureau of Plant Industry, 2301 North Cameron Street, Harrisburg, PA 17110-9408, Attn: Joe Garvey at (717) 787-4894.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the notice of proposed rulemaking published at 38 Pa.B. 2256 on May 2, 2008, to IRRC and to the Chairpersons of the House and Senate Agriculture and Rural Affairs Committees (Committees) for review and comment.

In compliance with section 5(b) of the Regulatory Review Act, the Department also provided the Commission and the Committees with copies of all comments received. In preparing this final-form regulation, the Department has considered all comments received from the Commission, the Committees and the public.

These final-form regulations were deemed approved by the Committees on April 1, 2009. Under section 5(g) of the Regulatory Review Act, the final-form regulations were deemed approved by IRRC effective April 1, 2009.

#### *Findings*

The Department finds that:

(1) Public notice of intention to adopt this final-form regulation has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and their attendant regulations at 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law and all comments received were considered.

(3) No modifications to this regulation in response to comments received were necessary or made and therefore there is no enlargement of the purpose of the proposed regulation published at 38 Pa.B. 2256.

(4) The adoption of the regulation in the manner provided in this order is necessary and appropriate for the administration of the authorizing statute.

#### *Order*

The Department, acting under the authorizing statute, orders the following:

(1) The regulations of the Department, 7 Pa. Code Chapter 111, are amended by amending §§ 111.1—111.4, 111.11—111.13, 111.16, 111.17, 111.22, 111.23 and 111.41; and by deleting §§ 111.15 and 111.21 to read as set for in Annex A.

(2) The Secretary of Agriculture shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General for approval as required by law.

(3) The Secretary of Agriculture shall certify and deposit this order and Annex A with the Legislative Reference Bureau as required by law.

(4) This order shall take effect June 22, 2009.

DENNIS C WOLFF,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 2064 (April 18, 2009).)*

**Fiscal Note:** Fiscal Note 2-156 remains valid for the final adoption of the subject regulation.

### **Annex A**

#### **TITLE 7. AGRICULTURE**

#### **PART V. BUREAU OF PLANT INDUSTRY**

#### **CHAPTER 111. SEED TESTING, LABELING AND STANDARDS**

#### **GENERAL PROVISIONS**

#### **§ 111.1. Sampling and testing of seeds.**

The terms used in seed testing and the methods of sampling, inspecting, analyzing, testing and examining agriculture, vegetable, flower, tree and shrub seeds, and lawn and turf mixtures and the tolerance allowed thereof shall be those adopted by the Association of Official Seed Analysts (AOSA), effective October 1, 1981, as amended, except that tolerance will not be allowed for prohibited noxious weed seeds. A copy of the rules may be obtained from the current Secretary-Treasurer AOSA or at [www.aosaseed.com](http://www.aosaseed.com).

#### **§ 111.2. Condition of seeds for testing.**

(a) Dirty or uncleaned seeds and mixed seed kinds when a percentage of analysis is not provided will not be tested.

(b) Seed samples treated with a material will not be tested unless the name of the substance is plainly marked on the container in accordance with this chapter.

(c) The year of harvest, if known, shall be marked on the container.

#### **§ 111.3. Fees and schedule of charges.**

(a) The testing fee shall accompany the sample or the cost of testing will be billed at the first of every month. A fee will be considered past due when payment is not received within 30 days from day of billing.

(b) Fees shall be paid by check or money order made payable to the Commonwealth of Pennsylvania. Cash will not be accepted.

(c) A Pennsylvania Noxious Weed Seed Examination shall be included with purity analyses.

**§ 111.4. Prohibitions and requirements.**

(a) Seeds of which the analysis is already known will not be sent for testing unless:

- (1) There is suspicion that the law is being violated.
- (2) Verification of the analysis is required, in which case a copy of the analysis given by the dealer shall accompany the sample.

(b) The analysis and test may be used for labeling purposes but the name of the Bureau of Plant Industry shall in no way be used for advertising purposes.

(c) Samples to be tested shall be sent to the Bureau of Plant Industry at least 30 days before the seeds are to be planted or sold.

(d) Procedures for sampling are as follows:

- (1) Samples shall be analyzed in the order in which they are received and reports shall be made as promptly as the work permits.
- (2) The time required for germination tests of seeds shall be between 6 and 28 days, depending on the kind of seed.
- (3) The time required for germination tests of tree seeds varies greatly.

**LABELING**

**§ 111.11. General labeling requirements.**

(a) In labeling the kind of agriculture, vegetable, flower, tree or shrub seeds as required in 3 Pa.C.S. § 7104 (relating to labels and labeling), the following apply:

- (1) Names and classifications (that is "crop" or "weed") used shall be those specified in the Rules for Seed Testing by the Association of Official Seed Analysts.
- (2) Variety names shall be confined to the recognized names for the kind and may not include names or terms which create a misleading impression as to the history or quality of the seeds.
- (3) Abbreviations of names of the kind and variety of seed may not be permitted.
- (4) The following kinds of agricultural seed are generally labeled as to variety and shall be labeled to show either the variety name or the words "Variety Not Stated" or "VNS":

- (i) Alfalfa
- (ii) Bahiagrass
- (iii) Barley
- (iv) Bean, field
- (v) Beet, field
- (vi) Brome, smooth
- (vii) Broomcorn
- (viii) Clover, crimson
- (ix) Clover, red
- (x) Clover, white
- (xi) Corn, field
- (xii) Corn, pop
- (xiii) Cowpea
- (xiv) Fescue, tall

- (xv) Flax
- (xvi) Lespedeza, striata
- (xvii) Millet, foxtail
- (xviii) Millet, pearl
- (xix) Oats
- (xx) Pea, field
- (xxi) Peanut
- (xxii) Rice
- (xxiii) Rye
- (xxiv) Safflower
- (xxv) Sorghum
- (xxvi) Sorghum sudangrass hybrid
- (xxvii) Soybean
- (xxviii) Sudangrass
- (xxix) Sunflower
- (xxx) Tobacco
- (xxxi) Trefoil, birdsfoot
- (xxxii) Wheat, common
- (xxxiii) Wheat, durum

(b) When variety or strain names are stated, they shall be used in connection with the full kind name, such as "Alta Tall Fescue," "Merion Kentucky Bluegrass," and "Michihli Chinese Cabbage."

**§ 111.12. Labeling of flower seeds.**

The provisions in 3 Pa.C.S. § 7104 (relating to labels and labeling) require that flower seeds be labeled with the name of the kind and variety or a statement of type and performance characteristics as prescribed by the Department of Agriculture. This provision shall be complied with as follows:

- (1) For seeds of plants grown primarily for their blooms:
  - (i) If the seeds are of a single named variety, the kind and variety shall be stated, such as: "Marigold Butterball."
  - (ii) If the seeds are of a single type and color for which there is no specific variety name, the type of plant, if significant, and the type and color of bloom shall be indicated, such as: "Scabiosa Tall, Large-Flowered, Double, Pink."

(iii) If the seeds consist of an assortment or mixture of colors or varieties of a single kind, the kind name, the type of plant, if significant, and the type or types of bloom shall be indicated. It shall be clearly indicated that the seed is mixed or assorted, such as: "Marigold, Dwarf Double French, Mixed Colors."

(iv) If the seeds consist of an assortment or mixture of kinds and varieties, it shall be clearly indicated that the seed is assorted or mixed and specific use of the assortment or mixture shall be indicated, such as: "Cut Flower Mixture," or "Rock Garden Mixture." Statements such as "General Purpose Mixture," "Wonder Mixture" or another statement which fails to indicate the specific use of the seed may not be considered as meeting the requirements of this section unless the specific use of the mixture is also stated. Containers over 3 grams shall list the kind or kind and variety names in excess of 5.0% in the order of their predominance giving the percentage by weight of each. Components of less than 5.0% shall be listed but

need not be in order of predominance. A single percentage by weight shall be given for these components. Containers of 3 grams or less shall list the components without giving percentage by weight and need not be in order of predominance.

(v) Flower seed mixtures shall be considered misleading if the kinds or kinds and varieties found by analysis differs by 20% or more of those listed on the label.

(2) For seeds of plants grown for ornamental purposes other than their blooms, the kind and variety shall be stated or the kind shall be stated together with a descriptive statement concerning the ornamental part of the plant, such as: "Ornamental Gourds," "Small Fruited," "Mixed."

(3) It is permissible to label vegetable and flower seed kinds in containers of 1 pound or less with the statement: "Packed for (YY)" and "Sell by (12/YY)" and an identifying lot number for the calendar year in which they are being offered for sale.

**§ 111.13. Labeling of lawn or turf grasses and mixtures.**

(a) It is permissible to label cool season lawn and turf grass mixtures that include less than 5% white or ladino clover with a "Sell By Date" and 15 month germination period not including the month of test.

(b) Unless otherwise stated as to use, all those kinds listed under cool season lawn and turf grasses and their mixes must have a "Sell by MM/YY" which may be no more than 15 months from the date of test, exclusive of month of test. Those labeled as: "For Forage Use" or "For Pasture Use" or "For Conservation Use" or some type of qualifying statement indicating that the mixture is not for lawn or turf purposes will require a 9 month date of test not including the month of test and no "Sell By MM/YY" is required.

**§ 111.15. (Reserved).**

**§ 111.16. Responsibility for labeling.**

(a) The person or dealer upon whose premises seeds are located and are exposed or offered for sale shall be responsible for labeling of the seeds.

(b) The person or dealer shall also be responsible for procuring a new germination test and subsequently attaching new analysis tags before the expiration date of the required 9-month period or 15 months for cool season lawn and turf grasses as provided in 3 Pa.C.S. § 7104 (relating to labels and labeling). Tests shall be made according to the Rules for Testing Seed published by the Association of Official Seed Analysts, and no test may be considered official unless the rules are followed.

**§ 111.17. Labeling of seeds for sprouting.**

The following information shall be indicated on labels of seeds sold for sprouting for salad or culinary purposes (otherwise known as health food):

- (1) Commonly accepted name of kind, or kinds.
- (2) Lot number.
- (3) Percentage by weight of a pure seed component in excess of 5.0% of the whole, other crop seed, inert matter and weed seeds if occurring.
- (4) Percentage of germination of a pure seed component and hard seed if applicable.
- (5) The calendar month and year the test was completed to determine the percentages.

**WEED SEEDS**

**§ 111.21. (Reserved).**

**§ 111.22. Prohibited noxious weed seeds.**

It shall be unlawful to sell or offer for sale seeds that contain the following prohibited weed seeds:

- (1) Bindweed, field (*Convolvulus arvensis*).
- (2) Bindweed, hedge (*Calystegia sepium*).
- (3) Quackgrass (*Elytrigia repens*).
- (4) Canada thistle (*Cirsium arvense*).
- (5) Multiflora rose (*Rosa multiflora*).
- (6) Johnsongrass (*Sorghum halepense*), its crosses with other grasses which produce seed which are not readily distinguishable from Johnsongrass.
- (7) Shattercane (*Sorghum bicolor*).
- (8) Marijuana (*Cannabis sativa*).
- (9) Mile-a-minute (*Polygonum perfoliatum*).
- (10) Kudzu-vine (*Pueraria lobata*).
- (11) Purple Loosestrife and cultivars (*Lythrum salicaria*).
- (12) Giant Hogweed (*Heracleum mantegazzianum*).
- (13) Goatsrue (*Galega officinalis*).
- (14) Jimsonweed (*Datura stramonium*).

**§ 111.23. Restricted noxious weed seeds.**

(a) The presence of restricted noxious weed seeds in agricultural, vegetable and flower seed, other than lawn and turf grasses, and mixtures thereof listed in subsection (b)(1) shall be governed by the following:

(1) *List.* The seeds of the following plants shall be restricted noxious weed seeds and shall be listed on the tag or label under the heading "Noxious Weed Seeds" by name and number per pound:

- (i) Bedstraw (*Galium spp.*).
- (ii) Buckhorn plantain (*Plantago lanceolata*).
- (iii) Corncockle (*Agrostemma githago*).
- (iv) Dodder (*Cuscuta spp.*).
- (v) Horsenettle (*Solanum carolinense*).
- (vi) Perennial sow thistle (*Sonchus arvensis*).
- (vii) Wild garlic (*Allium vineale*).
- (viii) Wild onion (*Allium canadense*).
- (ix) Wild mustard (*Brassica juncea*, *B. Kaber*, and *B. nigra*).
- (x) Bull Thistle (*Cirsium vulgare*).
- (xi) Musk Thistle (*Carduus nutans*).

(2) *Other states.* Seeds designated as noxious weed seeds in other states shall be listed under the heading "Noxious Weed Seeds" if included on the tag or label.

(3) *Rate of occurrence in small size seeds.* The seeds of *Agrostis spp.*, Bermuda grass, timothy, orchardgrass, fescues, alsike and white clover, Reed canary grass, ryegrass, foxtail millet, alfalfa, red clover, sweet clovers, lespedezas, smooth brome, tall oat grass, crimson clover, *Brassica spp.*, flax, *Agropyron spp.*, and other agricultural, vegetable and flower seeds of similar size and weight or mixtures thereof shall not contain more than one seed or bulblet, single or collectively, of restricted noxious weed seeds per 5 grams of seed-equivalent to 90

weed seeds per pound-except that not more than five seeds of buckhorn plantain per 5 grams of agricultural seed may be permitted equivalent to 450 weed seeds per pound.

(4) *Rate of occurrence in large size seeds.* The seeds of wheat, Sudan grass, oats, rye, barley, buckwheat, sorghums, vetches and other agricultural, vegetable and flower seeds of similar or greater size and weight or mixtures thereof may not contain more than one seed of restricted noxious weed seeds per 100 grams of seed-equivalent to five seeds per pound-except that not more than five seeds of buckhorn plantain per 100 grams of agricultural seeds may be permitted-equivalent to 25 weed seeds per pound, and seed wheat is not permitted to contain bulblets of wild garlic or wild onion-equivalent to zero bulblets per pound.

(b) The presence of restricted noxious weed seeds in lawn and turf grasses and mixtures thereof shall be governed by the following:

(1) Except as provided in paragraph (3), the seeds of the following plants shall be restricted noxious weed seeds and shall be listed on the tag or label under the heading "Undesirable Grass Seeds" or "Restricted Noxious Weed Seeds" by name and number per pound when present in bentgrass, Kentucky bluegrass, chewings fescue, hard fescue, red fescue, varieties of named turf type tall fescue, varieties of perennial ryegrass or mixtures containing these grasses:

- (i) Bermudagrass. (*Cynodon spp.*).
- (ii) Annual bluegrass. (*Poa annua*).
- (iii) Rough bluegrass. (*Poa trivialis*).
- (iv) Bentgrass (creeping, colonial, velvet), (*Agrostis spp.*).
- (v) Meadow fescue (*Festuca pratensis*).
- (vi) Tall fescue (*Festuca arundinaceae*).
- (vii) Orchardgrass (*Dactylis glomerata*).
- (viii) Timothy (*Phleum pratense*).
- (ix) Velvetgrass (*Holcus lanatus*).
- (x) Redtop (*Agrostis gigantea*).

(2) Restricted noxious weed seeds set forth in paragraph (1) may not exceed 0.50% by weight.

(3) The restricted noxious weed seeds set forth in paragraph (1) may not apply:

(i) To grasses or mixtures clearly labeled for pasture, forage, hay, conservation or spoil bank reclamation usages.

(ii) When the seeds are present in excess of 5.0% of the whole and the label contains the information required by § 111.13(a)(1) (relating to labeling of lawn or turf grasses and mixtures).

**MISCELLANEOUS PROVISIONS**

**§ 111.41. Stop sale procedures.**

(a) The owner or custodian of any lot of seeds held under "stop sale" shall be allowed 90 days to correct deficiencies so that the lot conforms to the requirements of this chapter and 3 Pa.C.S. Chapter 71 (relating to the Seed Act).

(b) If subsection (a) has not been complied with, the seed shall be condemned as unfit for seeding purposes, unless the owner or custodian can show cause why the seed should not be condemned.

(c) Seed under a "stop sale" may not be moved from the premises of the owner or custodian without written release from the inspector.

(d) When requirements of subsection (a) have been met, a copy of the corrected label shall be sent to the address specified by the seed inspector for a written release.

(e) The provisions in 3 Pa.C.S. § 7113 (relating to stop-sale orders) containing further requirements for "stop sale" notice, shall be followed.

[Pa.B. Doc. No. 09-923. Filed for public inspection May 22, 2009, 9:00 a.m.]

**DEPARTMENT OF AGRICULTURE  
[ 7 PA. CODE CH. 115 ]  
Standards for Seed Certification**

The Department of Agriculture (Department) amends Chapter 115 (relating to standards for seed certification) to read as set forth in Annex A.

*Statutory Authority*

The Department, under the authority of 3 Pa.C.S. Chapter 71 (relating to the Seed Act) (act) and under the specific authority of sections 7111 and 7117 of the act (relating to powers and duties of secretary and department; and rules and regulations) amends Chapter 115. The act replaces The Pennsylvania Seed Act of 1965 (3 P. S. §§ 285-1—285-11).

Section 7111 of the act authorizes and empowers the Department to enforce the provisions of the act and to "... prescribe, modify and enforce such reasonable rules, regulations, standards, tolerances and orders as in the judgment of the secretary shall be necessary to carry out the provisions of [the act]." See 3 Pa.C.S. § 7111(a). In addition, section 7111 of the act establishes specific powers and duties of the Department and provides for delegation of such authority. See 3 Pa.C.S. § 7111(b) and (c). Section 7117 of the act specifically delineates that the Department "... shall promulgate and enforce rules and regulations necessary for administration and implementation of [the act]." See 3 Pa.C.S. § 7117. Consistent with that authority and to institute regulations which are consistent with the provisions of the act, the Department is amending Chapter 115.

*Purpose of the Final-Form Regulation*

The regulations are required to establish regulations which are consistent with the act. The promulgation and implementation of these amended regulations is necessary to comply with the act. The amended regulations will be in compliance with the new act and will eliminate incompatibility and redundancy that occurs with the act and the current regulations. In addition, changes in the regulation are proposed to conform to changes in the Federal Seed Act and Regulations Part 201.67—201.78, the Crop Standards and Procedures of the Association of Official Seed Certifying Agencies (AOSCA), and the new USDA State National Harmonization Program For Seed Potatoes.

The regulations were developed to ensure that the public health, safety and environment of the citizens of this Commonwealth are not negatively impacted by the marketing and use of certified seed. These regulations

ensure that certified seed that farmers are purchasing and planting are true to their identity and meet established standards. Farmers and seed distributors buying, planting and selling certified seed will benefit from these regulations which will ensure good quality, clean seed with integrity of variety.

#### *Comment and Responses*

Interested persons were invited to submit written comments regarding the proposed regulations within 30 days following publication at 38 Pa.B. 2256 (May 17, 2008). The Department received only one comment on the proposed regulations. The comment was from PennAg Industry and set forth its approval and support of the proposed amendments to the regulations at Chapter 115. The Department sent a letter to PennAg Industry informing it of the right to receive a copy of the final-form regulations. The Department received no comments from the Independent Regulatory Review Commission (IRRC). Because the comment received was positive and requested no changes to the proposed regulations, the Department has made no changes from the proposed regulations to the final-form regulation.

The Comment and Response will be published in the *Pennsylvania Bulletin* as part of this final-form Preamble and along with the Annex A. The Department will also make the regulation, including this Preamble and the Annex A available for review on the Department's web site at [www.agriculture.state.pa.us](http://www.agriculture.state.pa.us). Individuals who would like to request a hard copy of the Annex A or Preamble may call Joe Garvey in the Department of Agriculture, Bureau of Plant Industry at (717) 787-4894.

#### *Comment*

PennAg Industries Association (PennAg) submitted a comment letter for these regulations in which PennAg expressed its support of the proposed regulations. PennAg appreciated the acknowledgement the Department gave the PennAg Seed Council in the regulations. PennAg stated that the regulations would continue to provide more uniformity within the seed industry, therefore benefiting the seed producers and marketers and consumers purchasing and using the products. PennAg also mentioned that the provisions in this chapter are part of a National seed industry initiative working toward the adoption of Recommended Uniform State Seed Laws (RUSSEL). Along with RUSSEL, the proposed regulations would allow for compliance and continuity with Federal seed regulation, the United States Department of Agriculture's Animal and Plant Health Inspection Service National harmonization program and certification standards of the Association of Official Seed Certifying Agencies. The proposed regulations would allow Pennsylvania's seed industry to remain part of the competitive seed market.

#### *Response*

The Department acknowledged PennAg's comment in writing. The Department appreciates PennAg's support of the regulations. No changes were made to the proposed regulations.

#### *Fiscal Impact*

#### *Commonwealth*

The final-form regulations will not impose additional fiscal impact upon the Commonwealth. The fee schedule and all associated fees are now established in the act. There are no new costs associated with these regulations. There are no adverse affects or costs associated with amending the regulations. The amended regulations cre-

ate uniformity and consistency with the act. There will be no costs or savings to State government. There are no additional State government staff resources necessary to implement these regulations.

#### *Political Subdivisions*

Local government is not associated with the implementation or enforcement of these regulations. Therefore, the final-form regulations will impose no additional work or costs and have no fiscal impact upon any political subdivision. The regulations will impose no additional burden of enforcement on political subdivisions.

#### *Private Sector*

The final-form regulations will impose no additional costs on the private sector. The fee schedule and all associated fees are now established in the Seed Act.

#### *General Public*

The final-form regulations will impose no direct costs and have no fiscal impact on the general public. Farmers and seed distributors buying, planting and selling certified seed will benefit from these regulations which will insure good quality, clean seed with integrity of variety, as well as, consistency with the requirements of the act and the Federal Seed Act and Regulations Part 201.67—201.78, the Crop Standards and Procedures of the AOSCA, and the new USDA State National Harmonization Program for Seed Potatoes.

#### *Paperwork Requirements*

The final-form regulations will not result in any increase in paperwork. Review and administrative procedures will be very similar to the existing system overseen by the Department.

#### *Effective Date*

Compliance with the rulemaking is required 30 days after publication of these regulations.

#### *Additional Information*

Further information is available by contacting the Department of Agriculture, Bureau of Plant Industry, 2301 North Cameron Street, Harrisburg, PA 17110-9408; Attn: Joe Garvey at (717) 787-4894.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the notice of proposed rulemaking published at 38 Pa.B. 2256 on May 2, 2008, to IRRC and to the Chairpersons of the House and Senate Agriculture and Rural Affairs Committees (Committees) for review and comment.

In compliance with section 5(b) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of all comments received. In preparing these final-form regulations, the Department has considered all comments received from the Commission, the Committees and the public.

These final-form regulations were deemed approved by the Committees on April 1, 2009. Under section 5(g) of the Regulatory Review Act, the final-form regulations were deemed approved by IRRC effective April 1, 2009.

#### *Findings*

The Department finds that:

(1) Public notice of intention to adopt this final-form regulation has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and their attendant regulations at 1

Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law and all comments received were considered.

(3) No modifications to this regulation in response to comments received were necessary or made and therefore there is no enlargement of the purpose of the proposed regulation published at 38 Pa.B. 2256.

(4) The adoption of the regulation in the manner provided in this order is necessary and appropriate for the administration of the authorizing statute.

*Order*

The Department, acting under the authorizing statute, orders the following:

(1) The regulations of the Department, 7 Pa. Code Chapter 115 are amended by amending §§ 115.71, 115.82, 115.211, 115.271, 115.282, 115.283, 115.293, 115.321 and 115.444; by deleting § 115.302; and by adding §§ 115.451—115.465 to read as set for in Annex A, with ellipses referring to the existing text of the regulations.

(2) The Secretary of Agriculture shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General for approval as required by law.

(3) The Secretary of Agriculture shall certify and deposit this order and Annex A with the Legislative Reference Bureau as required by law.

(4) This order shall take effect June 22, 2009.

DENNIS C WOLFF,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 2064 (April 18, 2009).)*

**Fiscal Note:** Fiscal Note 2-158 remains valid for the final adoption of the subject regulation.

**Annex A**

**TITLE 7. AGRICULTURE**

**PART V. BUREAU OF PLANT INDUSTRY**

**CHAPTER 115. STANDARDS FOR SEED CERTIFICATION**

**Subchapter D. CORN—COMMERCIAL HYBRIDS**

**GENERAL REQUIREMENTS**

**§ 115.71. Definitions.**

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

*Commercial hybrid field corn*—Corn planted for the production of corn for food or feed purposes, or for other commercial or farm use except for seed. It may consist of any one of the following:

(i) *Double-Cross*—The first generation of a cross between two single crosses.

(ii) *Three-way or Line Cross*—The first generation of a cross between a single cross and an inbred line.

(iii) *Single-Cross*—A first generation cross between two inbred lines to be used for commercial production and not for the production of double, three-way and line crosses.

(iv) *Top Cross*—The first generation hybrid of a cross between an inbred line and an open-pollinated variety or the first generation hybrid between a single cross and an open-pollinated variety.

(v) *Inbred line*—A relatively true-breeding strain resulting from at least five successive generations of controlled self-fertilization or of backcrossing to a recurrent parent with selection, or its equivalent, for specific characteristics.

(vi) *Open-pollination*—Pollination that occurs naturally as opposed to controlled pollination, such as by detasseling, cytoplasmic male sterility, self-incompatibility or similar processes.

*Pollen-shedding tassels*—Tassels on main plants, portions of tassels or sucker tassels when 2 inches or more of the exposed central stem, side branches or a combination of the two have the anthers extended from the glumes.

*Receptive silk*—Any fresh turgid silk.

**FIELD STANDARDS**

**§ 115.82. Isolation requirements.**

(a) Fields in which commercial hybrid field corn are being produced shall be so located that the female, or seed parent is not less than 660 feet from other corn of a different kernel color or type (field, sweet, pop, flint, white or red) in all directions, including the diagonal.

(b) Small areas (not larger than 1% of the area of the seed producing field) of corn, closer than 660 feet to the seed producing field will not be considered contaminating, if the pollen is controlled. Failure to properly control pollen shedding of the small areas shall be cause for rejection.

(c) Large areas (greater than 1% of the area of the seed producing field) of corn, closer than 660 feet to the seed producing field will be cut to the ground before the seed parent has 3% receptive silks. Where the contaminating corn is of the same type, then this distance may be modified by the size of the crossing field, and by the planting of border rows of pollen or male parent.

(d) The following table indicates the minimum number of border rows required for fields of various sizes, when located at different distances from other corn:

<i>Minimum Distance From Contaminant</i>	<i>Minimum Numbers of Male Border Rows Required</i>	
	<i>0-20 Acres</i>	<i>&gt;20 Acres</i>
660	0	0
570	4	2
490	6	2
410	8	4
330	10	6
270	12	8
210	14	10
150	16	12
90	18	14
<90	24*	16**

\*minimum of 60' including border rows.

\*\*minimum of 40' including border rows.

(e) The requirements for outside male rows shall apply to all sides of the crossing-field exposed to contamination from other corn, except that a requirement for only two male rows may be disregarded where it would necessitate planting across the row-ends of the crossing-field.

(f) Border rows of male shall be adjacent to and not separated from the female rows.

(g) Sufficient seed of male should be obtained to plant the maximum number of outside male rows that would be required by any possible rearrangement of plantings by

neighbors, or by the grower himself in planting nearby fields of corn. The plot should be insured against any changes.

**Subchapter G. DEERTONGUE GRASS**

**SEED STANDARDS—DEERTONGUE GRASS**

**§ 115.211. Seed standards.**

The following seed standards apply:

	<i>Certified Class</i>
Pure Seed (minimum)	97%
Other crop seed	2%
*Weed seeds	1%
Inert matter (maximum)	3%
Germination (minimum)	70%

\* A maximum of nine restricted noxious weed seeds per pound is allowed.

**Subchapter J. POTATO  
GENERAL STANDARDS**

**§ 115.271. Seed source.**

Seed potatoes grown in this Commonwealth will be limited to 8 generations. Foundation G7 is the minimum acceptable source to produce Certified G8. When out-of-State source is used, tags shall indicate generation. Signed documentation will be accepted in lieu of tag. Plantlets and mini-tubers entered shall come from an authorized source. Inspections of plantlets shall be made at the discretion of the certification office.

**FIELD STANDARDS**

**§ 115.282. Diseases.**

(a) *Potatoes other than Prenuclear seed potatoes.* The Department will inspect fields of potatoes at least twice during the growing season. Other inspections, which may include digging, may be made. A final inspection shall be made at shipping time for grade.

(1) First field inspection will be made as early as possible to make accurate identification of diseases.

(2) Second or later inspections will take place at blossom time and before the vines are killed.

(3) Seed lots will be rejected if found to contain more than the following diseases:

<i>Disease</i>	<i>Maximum Percent Allowed</i>		
	<i>G1 &amp; G2</i>	<i>G3</i>	<i>G4-G8</i>
Mosaic	.25	.5	2
Leaf Roll	.25	.5	1
Spindle Tuber	.25	.5	1
Yellow Dwarf	.25	.5	1
Total Virus including Mosaic, Leaf Roll, Spindle Tuber and Yellow Dwarf	.50	1.0	3
Ring Rot	.00	.00	.00

(4) Maximum percentages allowed for diseases other than those listed in paragraph (3) will be determined by the certification office after identification.

(5) Ring rot, also referred to as *Clavibacter michiganense* subsp. *sepedonicum* (synonym: *Corynebacterium sepedonicum*), found at any time in bin or graded stock will be cause for rejection.

(b) *Prenuclear seed potatoes.* If *Erwinia caratovora* pv. *caratovora*, or *Erwinia caratovora* pv. *atroseptica*, or *Clavibacter michiganense* subsp. *sepedonicum* (synonym: *Corynebacterium sepedonicum*), or potato spindle tuber viroid, or potato leafroll virus, or potato virus A, M, S, X or Y is detected in a seed lot for which Prenuclear certification is sought, that particular seed lot will be rejected. Detection of virus vectors in a seed lot for which Prenuclear certification is sought will be grounds for rejection of the entire lot.

**§ 115.283. Varietal mixtures.**

The maximum percentage of varietal mixture allowed is as follows:

<i>Prenuclear</i>	0%
G1	0%
G2	0%
G3	.25%
G4-G8	.25%

**SEED STANDARDS**

**§ 115.293. Eligibility factors for tags.**

(a) To be eligible to produce and tag generation 1 through 7 for recertification, the entire farm production shall be in the Certification Program.

(b) If the disease reading is too high for generation being produced, seed may be tagged the generation to match reading.

(c) Certification tags will be issued at shipping time. Tubers, including Prenuclear class tubers, shall meet Pennsylvania Certified Grade which is comparable to U. S. Grade No. 1 Seed Potatoes. Title 7 of the Code of Federal Regulations 51.3000—51.3006 (relating to United States Standards for Seed Potatoes) describes the applicable criteria which shall be met for tubers to be eligible for a Blue or White Tag. Exception will be made for tubers less than 1 1/2 inch in diameter (known as "B" 's) if size is noted on Blue or White Tag. Tubers, other than Prenuclear class tubers, that meet all certification requirements except grade or size, or both, are eligible for a Green Tag, subject to a Buyer-Seller agreement. Green tagged seed is not eligible for recertification.

**Subchapter K. SMALL GRAIN  
GENERAL STANDARDS**

**§ 115.302. (Reserved).**

**Subchapter L. SOD  
INSPECTIONS**

**§ 115.321. Preplanting.**

(a) Certified sod shall be the vegetative increase of certified seed.

(b) Samples of seed shall be obtained by the certification office and checked before planting. Field boundaries shall be designated at the time of the preplanting inspection.

(c) The seed standards for sod quality grass seed are as follows:

<i>Kind</i>	<i>Maximum</i>			
	<i>Minimum Purity</i>	<i>Minimum Germination</i>	<i>Other Crop</i>	<i>Maximum Weed</i>
Kentucky Bluegrass	97%	80%	.1%	.02%

Kind	Minimum Purity	Minimum Germination	Maximum Other Crop	Maximum Weed
Red Fescue*	98%	90%	.1%	.02%
Chewings Fescue*	98%	90%	.1%	.02%
Hard fescue*	98%	90%	.1%	.02%
Turf-type perennial ryegrass	98%	90%	.1%	.02%
Turf-type tall fescue	98%	90%	.1%	.02%

\* Hereafter referred to as fine fescue

(1) Kinds of grasses shall be free of big bluegrass, Canada bluegrass, smooth brome, reed canary grass and clover. A maximum of .02% Canada bluegrass is permitted in Kentucky bluegrass.

(2) A maximum of 2.0% other Kentucky bluegrass varieties is permitted in a named Kentucky bluegrass variety.

(3) Samples shall be free of prohibited noxious weed seeds and undesirable grass seeds.

(4) A sod seed analysis based on the rules of the Association of Official Seed Analysts, c/o Illinois State Seed Laboratory, Post Office Box 4906, 801 Sangamen Avenue, Springfield, Illinois 62706 and section 3 Pa.C.S. § 7104 (relating to labels and labeling) shall be the basis of determining seed standards.

(5) A maximum of 27 ryegrass seeds per pound will be permitted in tall fescue. Ryegrass seeds are not permitted in other kinds.

(d) To be eligible for certification, a turfgrass shall be planted on sites approved by the certification agency.

(e) On land recently inspected for a certified sod crop, the preplant inspection may be waived and no fee charged.

**Subchapter S. TREES  
FIELD REQUIREMENTS**

**§ 115.444. Harvesting.**

(a) The following requirements apply to harvesting seed material:

(1) Certified or selected tree seed or fruit shall be collected directly from producing trees.

(2) Each container of seed or fruit shall be labeled with the name of the variety at all times.

(3) There shall be adequate safeguards against mixed identities at all times throughout processing and storage.

(4) Storage conditions shall maintain viability of the seed, according to requirements of the species.

(5) The analysis tag shall state the weight of seed in the container in addition to information required by 3 Pa.C.S. Chapter 71 (relating to the Seed Act).

\* \* \* \* \*

**Subchapter T. INTERAGENCY TURFGRASS**

- Sec. 115.451. Purpose.
- 115.452. Definitions.
- 115.453. Interagency standards and procedures.
- 115.454. Prior approval of cooperation.

- 115.455. Conditioner's application and requirements.
- 115.456. Conditioner's facilities.
- 115.457. Conditioner's required records.
- 115.458. Inspection of conditioning operations and records.
- 115.459. Appointment of responsible individual.
- 115.460. Sampling and testing by the Department.
- 115.461. Mixing procedures for certified turfgrass.
- 115.462. Minimum seed standards for interagency certification of turfgrass seed.
- 115.463. Interagency certification tags and tagging.
- 115.464. Rejection of interagency certification components' seed lots.
- 115.465. Fees.

**§ 115.451. Purpose.**

(a) The purpose of this subchapter is to provide a system for maintaining the genetic and mechanical purity of certified seed when repackaged or combined in mixtures of kinds and varieties.

(b) The requirements of this subchapter apply when the Department participates with an out-of-State certification agency in the seed certification process.

**§ 115.452. Definitions.**

In addition to the definitions found in § 113.1 (relating to definitions), the following words and terms, when used in this subchapter, have the following meanings unless the context clearly indicates otherwise:

*Component*—A specific lot of a single variety that is used in a mixture.

*Interagency certified mixture*—Different kinds or varieties of seed certified by the state of origin that have been mixed under the Department's supervision and found by the Department to have met the specific minimum seed standards in this subchapter.

*Mixing report*—A form used by the Department to list each component of a specific mixture and the lots and amounts used in the mixture.

*Official sample*—A sample taken by a representative of the Department using sampling techniques recognized by the Association of Official Seed Certifying Agencies.

*Sod quality*—Seed which has met the quality standards established by the state of origin for use in cultivated sod and has been so labeled by the state of origin.

**§ 115.453. Interagency standards and procedures.**

(a) Varieties eligible for interagency certification shall be those approved by a member of the Association of Official Seed Certifying Agencies.

(b) Only seed certification by member agencies of the Association of Official Seed Certifying Agencies or agencies recognized by it may be used in the interagency certification program.

(c) The seed certification standards as adopted by the Department for the kinds to be certified shall be applied to interagency certified seed. These standards are found in the provisions of this subchapter which relate to the kind of seed in question. In the absence of Pennsylvania standards, the seed standards of the State in which the seed was grown and certified shall be applied.

(d) Seed will not be recognized for final certification by the Department unless it is received in containers carrying documentary evidence of its eligibility supplied by another certifying agency including:

- (1) Variety and kind.
- (2) Amount of seed.
- (3) Class of seed.
- (4) Inspection or lot number traceable to the previous certifying agency's records.



**§ 115.454. Prior approval of cooperation.**

The Department will not require advance approval of another certifying agency to engage in interagency certification activities unless the original certifying agency prohibits or limits the certification by a statement on its tag.

**§ 115.455. Conditioner's application and requirements.**

(a) Conditioners desiring interagency certification of seed shall apply annually to the Department and shall meet the requirements of this subchapter.

(b) Conditioners shall notify the Department far enough in advance of the date of mixing to allow for sampling and testing of component lots by the Department.

(c) Conditioners shall be responsible for all applicable fees for application, sampling and testing according to 3 Pa.C.S. Chapter 71 (relating to the Seed Act).

(d) The identity of the seed shall be maintained at all times.

**§ 115.456. Conditioner's facilities.**

(a) Facilities shall be available to perform the function requested without introducing contaminants or admixtures.

(b) Equipment used for making mixtures of turf grasses shall have all areas which come into direct contact with the seed accessible for thorough cleaning by the conditioner and inspection by the Department.

**§ 115.457. Conditioner's required records.**

(a) Records of all movement of seed and procedures must be adequate to account for all incoming seed and seed that has passed final certification. The following records shall be included:

- (1) Receiving records consisting of:
  - (i) Variety and kind.
  - (ii) Name and address of shipper.
  - (iii) Shipper's lot number or inspection number.
  - (iv) Date of shipment.
  - (v) Date received.
  - (vi) Weight received.
  - (vii) Receiving lot number assigned by consignee.
  - (viii) Name and address of delivering carrier.
- (2) Records of mixing or rebagging consisting of:
  - (i) Variety and kind of each component.
  - (ii) Lot number of each component.
  - (iii) Lot number and name assigned to each mixture.
  - (iv) Weight of each bag and number of bags used in each component.
  - (v) Weight of each bag and number of bags in completed lot.
  - (vi) Date of mixing or rebagging.
- (3) Disposition or stock records of completed lot consisting of:
  - (i) Name of mixture and lot number.
  - (ii) Weight of bags and number of bags in final lot.
  - (iii) Invoice number and weight of each shipment made from the lot.
  - (iv) Balance of lot remaining after each shipment.

(4) Invoice or other sales records consisting of:

- (i) Name of mixture and lot number.
- (ii) Name and address of buyer or consignee.
- (iii) Date sold or shipped.
- (iv) Number of bags and weight of bags sold or shipped.

(b) Conditioners shall permit inspection by the Department of all records of all lots of the kind of seed certified, including both certified and noncertified lots.

**§ 115.458. Inspection of conditioning operations and records.**

The Department will make as many inspections of both seed and records as may be required to ascertain that only seed meeting the requirements of this subchapter is labeled with interagency certification tags.

**§ 115.459. Appointment of responsible individual.**

Approved conditioners who have met the requirements in §§ 115.456—115.458 (relating to conditioner's facilities; conditioner's required records; and inspection of conditioning operations and records) shall designate an individual who shall be responsible to the Department for performing duties that may be required.

**§ 115.460. Sampling and testing by the Department.**

(a) When mixing lots of seed for certification, the conditioner shall use only lots of seed preapproved by the Department. Before approving of a lot, the Department will:

- (1) Take an official sample of each component.
- (2) Perform tests necessary to verify the eligibility of each component lot.

(b) After the different components have been mixed under the supervision of the Department, the conditioner shall permit the Department to take an official sample of each mixture to retain for reference.

(c) Samples of component lots and certified mixes will be retained by the Department for 3 years.

**§ 115.461. Mixing procedures for certified turfgrass.**

(a) Before mixing, the conditioner shall ensure that:

- (1) Mixing equipment, pallets, scales and floor area adjacent to and around the mixing area are clean and free from seed and foreign material.
- (2) Sufficient quantities of new containers are marked with the name of the mixture.
- (3) Sufficient quantities of properly completed analysis tags are prepared.

(4) Analysis test reports for purity, germination and sod quality, if applicable, from the State-of-origin shall be supplied for the Department's records for each lot of each component used in the mixture.

(5) A mixing report shall be completed for the Department with the following information:

- (i) The business name, address and phone number of the conditioner.
- (ii) The lot number, State-of-origin and percentage of each component used.
- (iii) The name, lot number and date of the mixture.
- (iv) The weight of each package of the mixture and the total number of packages in the mixture.

(v) The starting and ending numbers of the certification labels used and the total number of certification labels issued.

(vi) A copy of the analysis label either printed on or attached to the report.

(vii) The signature of the designated representative of the conditioner and the signature of the Department's representative at the completion of the mixing and packaging process.

(6) Each component used is assembled in close proximity to the mixing area.

(7) Each container of each component is clean and sealed, with a certification tag attached.

(8) Damaged containers are not accepted.

(9) Sufficient personnel are available to complete the mixing process.

(b) Before mixing, a Department representative will do the following:

- (1) Inspect the equipment for cleanliness.
- (2) Inspect the mixing area for cleanliness.
- (3) Inspect the new containers provided for the mixture to ensure that they are appropriate.
- (4) Inspect the analysis tags for completeness and accuracy.
- (5) Inspect each component to ensure that the correct lots are present in the proper amounts, and that all containers of seed to be used in certified mixtures bear a certification tag.

(c) A Department representative shall be present during the mixing process and supervise the loading and bagging of the mixed lot after the components have been thoroughly mixed for the appropriate length of time.

(d) A Department representative will have the sole responsibility to:

- (1) Draw an official sample of the completed mixture.
- (2) Determine whether the mixer should be cleaned before the next seed mixture is made.

**§ 115.462. Minimum seed standards for interagency certification of turfgrass seed.**

(a) Turfgrass mixtures intended for use in this Commonwealth, certified sod and other States-certified sod must meet the following requirements:

- (1) Component lots shall be those designated as sod quality by the State-of-origin; the minimum seed standards found in § 115.321 (relating to preplanting); or the standards required by the state into which the mixture is to be shipped.
- (2) Varieties and mixtures of varieties may be approved for use by the state in which they are to be shipped.
- (3) It is the responsibility of the conditioner to inform the Department that a certain mixture is to comply with a certain states' standards.
- (4) The seed analysis tag must bear the statement "Eligible for Certified Sod," when appropriate.
- (b) For certified mixtures made for sod growers, other than those in subsection (a), the components used shall be sod quality.
- (c) The components for all other mixtures must comply with the following seed standards:

Kind	Min. Purity	Max. Other Varieties	Min. Germ	Max. Other Crop*	Max. Weed+
Kentucky Bluegrass	96%	2%	80%	.25%	.2%
Red Fescues	97%	2%	85%	.25%	.2%
Hard Fescues	97%	2%	85%	.25%	.2%
Tall Fescue Perennial	97%	2%	85%	.25%	.2%
Ryegrass	97%	2%	85%	.50%	.2%
Bentgrass**	98%	3%	85%	.25%	.2%
Rough Bluegrass	96%	2%	80%	.25%	.2%

\* Up to 18 seeds per pound is the maximum amount of the following species: Annual bluegrass (*Poa annua*), Big Bluegrass (*Poa ampla*), Rough bluegrass (*Poa trivialis*), Meadow fescue (*Festuca elatior*), Tall Fescue (*F. arundinacea*—except in lots containing tall fescue), Ryegrass (*Lolium spp.*—except in lots containing ryegrass), Bentgrass (*Agrostis spp.*—except in lots containing bentgrass), Timothy (*Phleum pratense*), Smooth Brome (*Bromus inermis*), Wild oat (*Avena fatua*), Foxtail (*Setaria spp.*), Panicum spp., Nutsedge (*Cyperus spp.*), Bermudagrass (*Cynodon dactylon*), Velvetgrass (*Holcus lanatus*), Orchardgrass (*Dactylis glomerata*). Up to 90 seeds per pound is the maximum amount permitted of the following objectionable weed seeds; Dock and Sorrel (*Rumex spp.*), Plantain (*Plantago spp.*), Black medic (*Medicago lupulina*), Chickweeds (*Cerastium spp. and Stellaria spp.*), Field Pennycress (*Thlaspi arvense*), Wild carrot (*Daucus carota*), Speedwell (*Veronica spp.*), Spurge (*Euphorbia spp.*), Wood sorrel (*Oxalis stricta*), Yarrow (*Achillea millefolium*), Clover (*Trifolium spp.*). In addition, no noxious weed seeds are permitted.

\*\* Bentgrass purity and germination standards may be 96% minimum pure seed and 80% germination for specific varieties as determined by the certifying agency of the state of origin.

(d) In an emergency, and at the discretion of the Department, seed lots failing to meet these standards for other than genetic reasons may be used for interagency certified mixtures. Use of those lots shall be made only when the Department determines that there is a serious shortage of seed meeting these standards.

**§ 115.463. Interagency certification tags and tagging.**

- (a) Certification tags issued by the Department for interagency certified seed will be serially numbered and show class of seed.
- (b) The analysis tags supplied by the conditioner must carry the name of the mixture and the number of the lot, show clearly the certifying agencies involved and the kinds and varieties of seed, as well as conform with 3 Pa.C.S. § 7104 (relating to labels and labeling).

**§ 115.464. Rejection of interagency certification components' seed lots.**

The Department will reject any certified component seed lot for interagency certification that fails to meet the seed standards as described in this subchapter or that exhibits seed damage or contamination. This damage or contamination may include:

- (1) Rodent or insect damage.
- (2) Moisture damage.

- (3) Disease.
- (4) Weed seed.
- (5) Other crop seeds.
- (6) Inert matter.

#### § 115.465. Fees.

Fees for interagency certification are set forth in 3 Pa.C.S. § 7109 (relating to fees).

[Pa.B. Doc. No. 09-924. Filed for public inspection May 22, 2009, 9:00 a.m.]

## DEPARTMENT OF AGRICULTURE

### [ 7 PA. CODE CH. 113 ]

#### General Provisions for Seed Certification

The Department of Agriculture (Department) amends Chapter 113 (relating to general provisions for seed certification) to read as set forth in Annex A.

##### *Statutory Authority*

The Department, under the authority of 3 Pa.C.S. Chapter 71 (relating to the Seed Act) (act) and under the specific authority of sections 7111 and 7117 of the act (relating to powers and duties of secretary and department; and rules and regulations) amends Chapter 113. The act replaces The Pennsylvania Seed Act of 1965 (3 P. S. §§ 285-1—285-11).

Section 7111 of the act authorizes and empowers the Department to enforce the provisions of the act and to “. . . prescribe, modify and enforce such reasonable rules, regulations, standards, tolerances and orders as in the judgment of the secretary shall be necessary to carry out the provisions of [the act].” See 3 Pa.C.S. § 7111(a). In addition, section 7111 of the act establishes specific powers and duties of the Department and provides for delegation of such authority. See 3 Pa.C.S. § 7111(b) and (c). Section 7117 of the act specifically delineates that the Department “. . . shall promulgate and enforce rules and regulations necessary for administration and implementation of [the act].” See 3 Pa.C.S. § 7117. Consistent with that authority and to institute regulations which are consistent with the provisions of the act, the Department is amending Chapter 113.

##### *Purpose of the Final-Form Regulation*

The regulations are required to establish regulations which are consistent with the act. The promulgation and implementation of these amended regulations are necessary to comply with the statute. The amended regulations will be in compliance with the new statute and will eliminate incompatibility and redundancy that occurs with the statute and the current regulations. In addition, changes in the regulation are proposed to conform to changes in the Federal Seed Act and Regulations Part 201.67—201.78, the Crop Standards and Procedures of the Association of Official Seed Certifying Agencies (AOSCA), and the new USDA State National Harmonization Program For Seed Potatoes.

The regulations were developed to ensure that the public health, safety and environment of the citizens of this Commonwealth are not negatively impacted by the marketing and use of certified seed. These regulations ensure that certified seed that farmers are purchasing and planting are true to their identity and meet established standards. Farmers and seed distributors buying,

planting and selling certified seed will benefit from these regulations which will ensure good quality, clean seed with integrity of variety.

##### *Comment and Responses*

Interested persons were invited to submit written comments regarding the proposed regulations within 30 days following publication at 38 Pa.B. 2256 (May 17, 2008). The Department received only one comment on the proposed regulations. The comment was from PennAg Industry and set forth its approval and support of the proposed rulemakings to the regulations at Chapter 113. The Department sent a letter to PennAg Industry informing it of the right to receive a copy of the final-form rulemaking. The Department received no comments from the Independent Regulatory Review Commission (IRRC). Because the comment received was positive and requested no changes to the proposed regulations, the Department has made no changes from the proposed regulation to the final-form rulemaking.

The Comment and Response will be published in the *Pennsylvania Bulletin* as part of this final-form Preamble and along with the Annex A. The Department will also make the rulemaking, including this Preamble and the Annex A available for review on the Department's web site at [www.agriculture.state.pa.us](http://www.agriculture.state.pa.us). Individuals who would like to request a hardcopy of the Annex A or Preamble may call Joe Garvey in the Department of Agriculture, Bureau of Plant Industry at (717) 787-4894.

##### *Comment*

PennAg Industries Association (PennAg) submitted a comment letter for these regulations in which PennAg expressed its support of the proposed rulemakings. PennAg appreciated the acknowledgement the Department gave the PennAg Seed Council in the regulations. PennAg stated that the regulations would continue to provide more uniformity within the seed industry, therefore benefiting the seed producers and marketers and consumers purchasing and using the products. PennAg also mentioned that the provisions in this chapter are part of a National seed industry initiative working toward the adoption of Recommended Uniform State Seed Laws (RUSSL). Along with RUSSL, the proposed rulemaking would allow for compliance and continuity with Federal seed regulation, the United States Department of Agriculture's Animal and Plant Health Inspection Service National harmonization program and certification standards of the Association of Official Seed Certifying Agencies. The proposed rulemaking would allow Pennsylvania's seed industry to remain part of the competitive seed market.

##### *Response*

The Department acknowledged PennAg's comment in writing. The Department appreciates PennAg's support of the regulations. No changes were made to the proposed rulemaking.

##### *Fiscal Impact*

##### *Commonwealth*

The final-form regulations will not impose additional fiscal impact upon the Commonwealth. The fee schedule and all associated fees are now established in the act. There are no new costs associated with these regulations. There are no adverse affects or costs associated with amending the regulations. The amended regulations create uniformity and consistency with the act. There will be no costs or savings to State government. There are no

additional State government staff resources necessary to implement these regulations.

*Political Subdivisions*

Local government is not associated with the implementation or enforcement of the regulations. Therefore, the final-form regulations will impose no additional work or costs and have no fiscal impact upon any political subdivision. The regulations will impose no additional burden of enforcement on political subdivisions.

*Private Sector*

The final-form regulations will impose no additional costs on the private sector. The fee schedule and all associated fees are now established in the act.

*General Public*

The final-form regulations will impose no direct costs and have no fiscal impact on the general public. Farmers and seed distributors buying, planting and selling certified seed will benefit from these rulemakings which will insure good quality, clean seed with integrity of variety, as well as, consistency with the requirements of the act and the Federal Seed Act and Regulations Part 201.67—201.78, the Crop Standards and Procedures of the AOSCA, and the new USDA State National Harmonization Program for Seed Potatoes.

*Paperwork Requirements*

The final-form regulations will not result in any increase in paperwork. Review and administrative procedures will be very similar to the existing system overseen by the Department.

*Effective Date*

Compliance with the rulemaking is required 30 days after publication of the regulations.

*Additional Information*

Further information is available by contacting the Department of Agriculture, Bureau of Plant Industry, 2301 North Cameron Street, Harrisburg, PA 17110-9408, Attn: Joe Garvey at (717) 787-4894.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the notice of proposed rulemaking published at 38 Pa.B. 2256 (May 2, 2008), to IRRC and to the Chairpersons of the House and Senate Agriculture and Rural Affairs Committees (Committees) for review and comment.

In compliance with section 5(b) of the Regulatory Review Act, the Department also provided the Commission and IRRC with copies of all comments received. In preparing this final-form regulation, the Department has considered all comments received from the Commission, the Committees and the public.

These regulations were deemed approved by the Committees on April 1, 2009. Under section 5(g) of the Regulatory Review Act, the final-form rulemakings were deemed approved by IRRC effective April 1, 2009.

*Findings*

The Department finds that:

(1) Public notice of intention to adopt this final-form regulation has been given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and their attendant regulations at 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law and all comments received were considered.

(3) No modifications to these regulations in response to comments received were necessary or made and therefore there is no enlargement of the purpose of the proposed regulation published at 38 Pa. B. 2256.

(4) The adoption of these regulations in the manner provided in this order is necessary and appropriate for the administration of the authorizing statute.

*Order*

The Department, acting under the authorizing statute, orders the following:

(1) The regulations of the Department, 7 Pa. Code Chapter 113, are amended by amending §§ 113.1, 113.3, 113.4, 113.22, 113.26, 113.34, 113.42—113.44, 113.51 and 113.53; by adding § 113.6; and by deleting § 113.23 to read as set for in Annex A.

(2) The Secretary of Agriculture shall submit this order and Annex A to the Office of General Counsel and Office of Attorney General for approval as required by law.

(3) The Secretary of Agriculture shall certify and deposit this order and Annex A with the Legislative Reference Bureau as required by law.

(4) This order shall take effect June 22, 2009.

DENNIS C WOLFF,  
*Secretary*

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 2064 (April 18, 2009).)

**Fiscal Note:** Fiscal Note 2-157 remains valid for the final adoption of the subject regulation.

**Annex A**

**TITLE 7. AGRICULTURE**

**PART V. BUREAU OF PLANT INDUSTRY**

**CHAPTER 113. GENERAL PROVISIONS FOR SEED CERTIFICATION**

**PRELIMINARY PROVISIONS**

**§ 113.1. Definitions.**

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

*Applicant*—An individual, partnership, association, cooperative or corporation applying for certification of a seed crop under this chapter.

*Breeder class seed*—Seed which is directly controlled by the originating or sponsoring plant breeder or institution, and which provides the source for the initial and recurring increase of Foundation seed.

*Certification office*—A unit of the Bureau of Plant Industry authorized by the Department to act as its representative in carrying out this chapter.

*Certified*—Seed classes, including Prenuclear seed potato, Breeder, Foundation, Registered and Certified which meet the required standard of quality.

*Certified class seed*—Seed which is the progeny of Foundation or Registered seed and is handled so that satisfactory genetic identity and purity for growing the desired product is maintained.

*Conditioner*—A processor or handler of seed after harvest.

*Department*—The Department of Agriculture of the Commonwealth.

*Field*—An individual area of land for the crop under inspection, which is clearly defined by distinct lines of demarcation, such as fences, roads, natural barriers, other crops, mowed or an uncropped area. A field is the basic unit of certification.

*Foundation class seed*—Seed which is the progeny of Breeder seed and is handled so that specific genetic identity and purity as designated by the originating or sponsoring plant breeder or experiment station is maintained. Foundation seed may be used to produce Foundation seed only with the approval of the originating or sponsoring plant breeder or experiment station.

*Grower*—The person directly involved in growing or cultivating the seed crop entered into the certification program.

*Inbred line*—A relatively true-breeding strain resulting from at least five successive generations of controlled self-fertilization or of back-crossing to a recurrent parent with selection, or its equivalent, for specific characteristics.

*Norm*—The official description of the characteristics of a variety.

*Off-type*—A plant which can be identified as not conforming to the official norm of a variety.

*Open-pollination*—Pollination that occurs naturally as opposed to controlled pollination, such as by detasseling, cytoplasmic male sterility, self-incompatibility or similar processes.

*Prenuclear seed potato*—Potato plants or potato tubers which are:

- (i) Produced in a laboratory or greenhouse.
- (ii) Propagated directly from tissue culture-grown plant material.

*Registered class seed*—Seed which is the progeny of Foundation seed and is handled so that genetic identity and purity suitable for the production of certified seed is maintained.

*Rogue*—An undesirable plant in a crop such as, off-type, other kind, other variety or weed.

*Seed Act*—3 Pa.C.S. Chapter 71 (relating to the Seed Act).

*Seed lot or lot of seed*—A definite quantity of seed identified by a lot number or other identification mark or label. With respect to Prenuclear seed potatoes, the term consists of plants derived from a single disease and variety-tested source and grown in a laboratory, or on one greenhouse bench or on some other discrete physical unit within a greenhouse to exclude mixing of soil, water or plant tissues between lots.

*Tissue culture*—The axenic growth of plant tissues in a synthetic medium under controlled environmental conditions.

### § 113.3. Responsibility and applicability.

- (a) The Department will act as the official seed certifying agency in this Commonwealth.
- (b) In conducting the seed certification program, the Department and the Bureau of Plant Industry will cooperate with the Pennsylvania State University, College of

Agriculture, Pennsylvania Foundation Seed Coop., the Seed Council of PennAg Industries Association and seed growers.

(c) This chapter applies to crops eligible for certification and constitutes the minimum seed certification requirements of the Department.

(d) In cases where there are no crop standards in this Commonwealth, the standards being used by a member of the Association of Official Seed Certifying Agencies will be used.

### § 113.4. Classes and sources of seed.

The following classes of seed are recognized for seed certification:

- (1) Prenuclear seed potato class.
- (2) Breeder class.
- (3) Foundation class.
- (4) Registered class.
- (5) Certified class.
- (6) Foundation G1-Foundation G7 seed potato classes.

### § 113.6. Limitations of generations for certified seed.

The number of generations through which a variety may be multiplied shall be limited to that specified by the originating breeder or owner and may not exceed two generations beyond the Foundation seed class with the following exceptions which may be made with the permission of the originating plant breeder, institution or a designee:

- (1) Recertification of the Certified class may be permitted when no foundation seed is being maintained.
- (2) The production of an additional generation of the Certified class may be permitted on a 1-year basis only when an emergency is declared by any official seed certifying agency stating that the Foundation and Registered seed supplies are not adequate to plant the needed Certified acreage of the variety. The additional generation of Certified seed to meet the emergency need is ineligible for recertification.

## APPLICATIONS

### § 113.22. Completion of application.

(a) *General requirements.* In completing the application for inspection and certification of a seed crop other than Prenuclear seed potatoes, an identification tag or label which was attached to the containers of the planted seed, bills of sale or other documentary evidence showing class and source of the seed planted shall be included. This is required whether the grower purchases eligible planting seed from another person or uses eligible seed of his own production.

(b) *Maintaining genetic purity and identity.* An applicant is responsible for maintaining genetic purity and identity of the crop at all stages of certification including seeding, harvesting, conditioning and labeling.

(c) *Field maps.* Applications shall be accompanied by maps showing the location of the fields and the boundaries of the crop to be inspected.

(d) *Requirements for Prenuclear seed potato certification.* An applicant for certification of Prenuclear seed potatoes shall file the following:

- (1) Written propagation records, procedural manuals, verified statements or other evidence or documentation

sufficient to verify that the potato plants or tubers have been propagated from tissue culture-grown plant material.

(2) Laboratory reports, test results, statements of varietal characteristics, verified statements or other evidence or documentation sufficient to verify that the tissue culture-grown plant material used in the propagation of seed potatoes has been tested annually for trueness-to-variety.

(3) Laboratory reports, test results, verified statements or other evidence or documentation sufficient to verify that the tissue culture-grown plant material used in the propagation of the seed potatoes has been tested annually for freedom from *Erwinia caratovora* pv. *caratovora*, *Erwinia caratovora* pv. *atroseptica*, *Clavibacter michiganense* subsp. *sepedonicum* (synonym: *Corynebacterium sepedonicum*), potato spindle tuber viroid, potato leafroll virus and potato viruses A, M, S, X and Y.

**§ 113.23. (Reserved).**

**§ 113.26. Fees.**

The applicant shall be responsible for the payment of fees as outlined in the Seed Act.

**INSPECTIONS**

**§ 113.34. Reinspection.**

A crop not meeting the appropriate field, greenhouse or laboratory inspection requirements in certain respects at the time of the initial inspection may be reinspected in accordance with the following:

- (1) A grower desiring reinspection shall make a request to the inspector or the Certification Office.
- (2) There is no guarantee that a second inspection will be made.
- (3) If the reinspection is made, the grower may be charged at a rate double that ordinarily charged, depending upon the circumstances involved and the recommendation of the inspector.

**CONTAINERS, LABELS AND TAGS**

**§ 113.42. Color code for tags.**

- (a) *Agricultural seed.*
  - (1) White tags shall designate the Foundation class of seed.
  - (2) Lilac tags shall designate the Registered class of seed.
  - (3) Blue tags shall designate the Certified class of seed.
  - (4) Green tags shall designate the Quality Assurance class of seed.
- (b) *Seed potatoes.*
  - (1) White tags shall designate the Prenuclear class of seed potatoes.
  - (2) Blue tags shall designate the Foundation class of seed potatoes.
  - (3) Green tags shall designate the Certified class of seed potatoes.
- (c) *Tree seed.*
  - (1) Green tags shall designate the Selected class of tree seed.
  - (2) Yellow tags shall designate the Source Identified class of tree seed.

**§ 113.43. Two-tag system.**

- (a) The two-tag system shall be used in this Commonwealth.
- (b) Prenuclear seed potato, Foundation, Registered and Certified tags supplied by the Department imply that the lot of seed so tagged has met the requirements for the seed class for which it was intended. These tags shall indicate seed kind and variety, other identification or other information designated by the certification office.

(c) Second, or analysis, tags shall be supplied by the grower and contain information such as variety, lot number, purity percentage, germination percentage, date of test and other information as required by the Seed Act.

**§ 113.44. Attachment of tags and labels.**

- (a) Official certification tags and labels may be purchased from the certification office and affixed to seed containers by the applicant or a representative of the Department.
- (b) Tags may be sewn into the top of the bag so that all information is visible.
- (c) Pressure sensitive labels may be applied near the top front of the bag.
- (d) Staples may be used with prior approval.
- (e) Tags and labels shall be attached in a manner which will prevent obvious removal and reattachment.

**GENERAL REQUIREMENTS**

**§ 113.51. Handling and blending of seed—conditioner's responsibilities.**

- (a) Prenuclear seed potato, Foundation, Registered and Certified classes of seed shall be handled to maintain the varietal purity and lot identification.
- (b) Seeding equipment, grain boxes, bins, elevating, harvesting and cleaning equipment used in handling seed shall be thoroughly cleaned before handling any variety or class of seed.
- (c) The following apply to the blending of seeds:
  - (1) Two or more lots of seed harvested from fields of the same variety may be blended provided field inspection requirements have been met.
  - (2) If the blend involves more than one seed class, the requirements for the certified class shall be applied.
  - (3) Blends and contents shall be reported to the certification office.
  - (4) Records of operations relating to certification shall be complete and adequate to account for incoming seed and final disposition of seed.
  - (5) Conditioners shall permit inspection by the certification office of records pertaining to all classes of certified seed.

(f) Conditioners shall designate an individual who is responsible to the Certification Office for performing the duties required by the office. In the absence of any other designated individual, the applicant shall be the responsible individual.

**§ 113.53. Seed testing.**

(a) A representative sample of the entire lot of seed, as it is to be offered for sale, will be drawn by a representative of the certification office and sent to the Department Seed Laboratory.

(b) Seed samples will be drawn, tested and analyzed in accordance with Chapter 111 (relating to seed testing, labeling and standards). The applicant will be charged the fee established in the Seed Act for the tests. In the event of unforeseen problems, samples may be sent to another laboratory approved by the Department.

(c) A copy of the analysis report will be sent to the seedsman and may be used for labeling purposes. If seed standards have been met, the report will also indicate final certification approval. Samples not meeting seed standards shall be reconditioned, after which another official sample will be drawn and the appropriate fee charged.

[Pa.B. Doc. No. 09-925. Filed for public inspection May 22, 2009, 9:00 a.m.]

are located either on or directly accessible from and adjacent to the gaming floor or the restricted areas servicing slot operations.

(ii) The term does not encompass areas or amenities exclusive to pari-mutuel activities, hotel activities including hotel rooms, catering or room service operations serving a hotel, convention, meeting and multipurpose facilities, retail facilities, food and beverage outlets and other amenities and activities not located on or adjacent to the gaming floor, or related to slot machine gaming operations.

\* \* \* \* \*

[Pa.B. Doc. No. 09-926. Filed for public inspection May 22, 2009, 9:00 a.m.]

# Title 58—RECREATION

## PENNSYLVANIA GAMING CONTROL BOARD

[ 58 PA. CODE CH. 401a ]

### Corrective Amendment to 58 Pa. Code Chapter 401a

The Pennsylvania Gaming Control Board (Board) has discovered a discrepancy between the agency text of 58 Pa. Code § 401a.3 (relating to definitions), as deposited with the Legislative Reference Bureau and published at 39 Pa.B. 235 (January 10, 2009) and the official text currently appearing in the *Pennsylvania Code*. The codification of the amendment set forth at 39 Pa.B. 235 was inadvertently omitted from the *Pennsylvania Code Reporter* (Master Transmittal Sheet 412, March 2009).

Therefore, under 45 Pa.C.S. § 901: The Board has deposited with the Legislative Reference Bureau a corrective amendment to 58 Pa. Code § 401a.3. The corrective amendment to 58 Pa. Code § 401a.3 is effective as of March 7, 2009, the date the defective official text was announced in the *Pennsylvania Bulletin*.

The correct version of 58 Pa. Code § 401a.3 appears in Annex A, with ellipses referring to the existing text of the section.

TROY BEAVERSON,  
*Pennsylvania Gaming Control Board*

#### Annex A

### TITLE 58. RECREATION

#### PART VII. GAMING CONTROL BOARD

##### Subpart A. GENERAL PROVISIONS

##### CHAPTER 401a. PRELIMINARY PROVISIONS

##### § 401a.3. Definitions.

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

\* \* \* \* \*

##### *Licensed facility—*

(i) The physical land-based location at which a licensed gaming entity is authorized to place and operate slot machines including the gaming floor, all restricted areas servicing slot operations, and food, beverage and retail outlets and other areas serving the gaming floor which

## PENNSYLVANIA GAMING CONTROL BOARD

[ 58 PA. CODE CHS. 431a, 435a, 437a,  
451a AND 465a ]

### Suppliers' Principal Place of Business; Temporary Credentials and Recordkeeping

The Pennsylvania Gaming Control Board (Board), under its 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. §§ 1311, 1311.1, 1311.2, 1317 and 1322, amends Chapters 431a, 435a, 437a, 451a and 465a to read as set forth in Annex A.

#### *Purpose of the Final-Form Rulemaking*

This final-form rulemaking sets forth requirements for suppliers' principal place of business; extends, from 120 days to 180 days, the time period for which a temporary credential issued to an applicant for a principal or key employee license is valid; corrects wording in § 437a.8 (relating to approved vendors list; prohibited vendors) and limits the requirement that records be maintained in this Commonwealth to suppliers and slot machine licenses.

#### *Explanation of Amendments to Chapters 431a, 435a, 437a, 451a and 465a*

Section 1317(b)(1.2) of the act (relating to supplier licenses) requires each supplier to establish and maintain a principal place of business in this Commonwealth. There has been some confusion on the part of suppliers as to what constitutes a principal place of business. To eliminate that confusion, the Board has amended § 431a.4 (relating to responsibilities of a supplier) to establish minimum requirements that must be met by a supplier when it establishes its principal place of business in this Commonwealth.

Under § 435a.8 (relating to temporary credentials for principals and key employees), applicants for a principal or key employee license whose presence is necessary at a licensed facility may be issued a temporary credential. These temporary credentials were valid for 120 days and could be extended if the Board determines that additional time was needed to complete the investigation of the applicant. While many investigations are completed in 120 days, a significant number are not. This has resulted in the Board having to issue a large number of extensions, which requires the issuance of a new temporary credential.

To reduce the need to issue a large number of new temporary credentials, the Board amended § 435a.8 to

extend the time period for which a temporary credential for an applicant for a principal or key employee license will be valid from 120 days to 180 days.

In § 437a.8(b), the Board replaced the word “vendor” with “vendors” to make the usage consistent with the rest of this section.

In § 451a.1 (relating to recordkeeping generally), amendments have been made which eliminate the requirement that records be maintained in this Commonwealth for all entities regulated by the Board, except suppliers and slot machine licensees.

In § 465a.6 (relating to retention, storage and destruction of books, records and documents) a cross-reference to § 451a.1 has been added.

#### *Comment and Response Summary*

Notice of proposed rulemaking was published at 38 Pa.B. 6496 (November 29, 2008).

The Board received comments from International Game Technology (IGT) during the public comment period. On January 28, 2009, the Independent Regulatory Review Commission (IRRC) also filed comments on the proposed rulemaking. All of these comments were reviewed by the Board and are discussed in detail as follows.

In its comments, IGT stated that it supports the Board's efforts to provide a process for out-of-State companies to request approval for alternate locations to store their records.

The Board appreciates IGT's expression of support.

IRRC noted that § 431a.4(a)(2) requires supplier licensees to keep all agreements, contracts and records at their principal place of business in this Commonwealth. In contrast, § 451a.1(c) allows licensees, including suppliers, to file a request for a waiver that would allow the licensee to store its records outside of this Commonwealth. To resolve this apparent conflict, IRRC recommended that language be added to § 431a.4(a)(2) that would allow a supplier to file a waiver request under § 451a.1(c).

The Board has not adopted this recommendation. Section 1317 requires each supplier to establish a principal place of business in this Commonwealth. Given this specific statutory requirement, the Board believes that it is also appropriate to require that suppliers maintain their records at this location.

#### *Additional Revisions*

Under the revisions contained in the proposed rulemaking, the Board was delegating the authority to review requests for maintaining records outside of this Commonwealth to the Bureau of Licensing. Based on further review and evaluation of the need for the Board to access records for audit and other purposes, the Board no longer believes that it is necessary for most entities regulated by the Board to maintain these records in this Commonwealth.

Under Chapters 441a and 465a (relating to slot machine licenses; and accounting and internal controls), slot machine licensees are required to keep extensive financial and operational records and copies of all agreements and contacts at the site of the licensed facility. The availability of these records and the reports that slot machine licensees are required to file with the Board should provide the Board with access to any information that it may need. Accordingly, the Board is deleting the existing and proposed provisions in Chapter 451a that require most entities regulated by the Board to maintain records in this Commonwealth and the provisions related to

requests to maintain records outside of this Commonwealth. It should be noted, however, that if the Board does need records from a regulated entity that does not maintain their records in this Commonwealth, the entity will still be required to make them available to the Board upon request.

The Board is also deleting the references to supplier and slot machine licensees in § 451a.1(a). As stated previously, since suppliers are required by statute to have a principal place of business in the Commonwealth, the Board does not believe it is unreasonable to require that suppliers keep their records at that location. Because Chapter 451a (relating to recordkeeping requirements) will no longer require that records be maintained in this Commonwealth and because recordkeeping requirements for slot machine licensees are addressed in Chapter 465a, there is no need to reference slot machine licensees in Chapter 451a.

Finally, to insure that slot machine licensees maintain all of the records that they have been required to maintain under § 451a.1 a cross-reference to that section has been added to § 465a.6.

#### *Affected Parties*

This final-form rulemaking will affect suppliers, applicants for a principal or key employee license and all regulated entities required to keep records and the Board.

#### *Fiscal Impact*

#### *Commonwealth*

Under this final-form rulemaking, the Board will have to issue fewer temporary credentials. While this will result in some reduction of costs for the Board, the amount is not anticipated to be significant. The Board issued approximately 300 temporary credentials to principal and key employee applicants last fiscal year. The Board will also no longer have to review requests to approval alternate record retention locations. However, because such requests are rare, this change is not expected to have a significant cost impact on the Board.

#### *Political Subdivisions*

This final-form rulemaking will have no fiscal impact on political subdivisions of this Commonwealth.

#### *Private Sector*

Suppliers will have to meet the minimum standards for their principal place of business in this Commonwealth. Since these requirements are minimal, the Board does not anticipate that they will impose any new significant costs on the four currently licensed suppliers. A few entities may experience some savings from the elimination of the requirement that they must store their records.

#### *General Public*

This final-form rulemaking will have no fiscal impact on the general public.

#### *Paperwork Requirements*

As stated previously, the Board will be less likely to need to issue a second temporary credential and entities will not have to file a request to store their records outside of this Commonwealth.

#### *Effective Date*

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



*Contact Person*

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

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 14, 2008, the Board submitted a copy of this proposed rulemaking, published at 38 Pa.B. 6496 (November 29, 2008) and a copy of the Regulatory Analysis Form to IRRC and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee (Committees).

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 Board has considered all comments received from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), the final-form rulemaking was deemed approved by the Committees on April 1, 2009. Under section 5.1(e) of the Regulatory Review Act (71 P. S. § 745.5a(e)) IRRC met on April 2, 2009 and approved the final-form rulemaking.

*Findings*

The Board finds that:

(1) Public notice of intention to adopt these amendments 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 the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) The final-form rulemaking is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II (relating to gaming).

*Order*

The Board, acting under 4 Pa.C.S. Part II, orders that:

(a) The regulations of the Board, 58 Pa. Code Chapters 431a, 435a, 437a, 451a and 465a, are amended by amending §§ 431a.4, 435a.8 and 437a.8 to read as set forth at 38 Pa.B. 6496; and by amending §§ 451a.1 and 465a.6 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Chairperson of the Board shall certify this order, 38 Pa.B. 6496 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

MARY DIGIACOMO COLINS,  
*Chairperson*

*(Editor's Note:* The amendment of § 465a.6 was not included in the proposal at 38 Pa.B. 6496 (November 29, 2008).)

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 2064 (April 18, 2009).)

**Fiscal Note:** Fiscal Note 125-95 remains valid for the final adoption of the subject regulations.

**Annex A****TITLE 58. RECREATION****PART VII. GAMING CONTROL BOARD****Subpart B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION****CHAPTER 451a. RECORDKEEPING REQUIREMENTS****§ 451a.1. Recordkeeping generally.**

(a) All manufacturer, junket enterprise, and management company licensees and all registered and certified vendors shall maintain adequate records of business operations which shall be made available to the Board upon request. These records include:

(1) Correspondence with the Board and other local, Commonwealth and Federal governmental agencies.

(2) Correspondence concerning gaming equipment with a manufacturer, supplier, management company or slot machine licensee.

(3) Copies of all promotional material and advertising.

(4) A personnel file on each current and former employee.

(5) Financial records of all transactions concerning slot machines and associated equipment with a manufacturer, supplier, management company or slot machine licensee.

(6) Copies of all tax returns, reports and other tax documents filed with a taxing entity of the Federal government, the Commonwealth or local taxing entity within this Commonwealth for 7 years or a longer period as prescribed by the taxing entity.

(7) Copies of all general accounting records.

(b) Except as provided in subsection (a)(6) regarding tax documents, the records listed in subsection (a) shall be maintained for at least 5 years.

(c) The records required to be maintained under subsection (a) shall be kept in a location secure from theft, loss or destruction.

**Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT****CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS****§ 465a.6. Retention, storage and destruction of books, records and documents.**

(a) For the purposes of this section, "books, records and documents" means any book, record or document pertaining to, prepared in or generated by the operation of the licensed facility including all forms, reports, accounting records, ledgers, subsidiary records, computer generated data, internal audit records, correspondence and personnel records required to be generated and maintained under § 451a.1 (relating to recordkeeping generally) or this part. This definition applies without regard to the medium through which the record is generated or maintained, for example, paper, magnetic media or encoded disk.

\* \* \* \* \*

[Pa.B. Doc. No. 09-927. Filed for public inspection May 22, 2009, 9:00 a.m.]

# PROPOSED RULEMAKING

## OFFICE OF VICTIMS' SERVICES

[ 37 PA. CODE CH. 411 ]

### Crime Victims Compensation

The Office of Victims' Services (OVS) of the Pennsylvania Commission on Crime and Delinquency (PCCD) proposes to amend §§ 411.1, 411.2, 411.17 and 411.42 to read as set forth in Annex A.

#### *Statutory Authority*

The proposed rulemaking is authorized under section 312(3) of the Crime Victims Act (act) (18 P. S. § 11.312(3)).

#### *Purpose of Chapter*

Chapter 411 sets forth regulations governing the processing of crime victim compensation claims, providing for reimbursement to crime victims of crime related expenses when no other resources are available.

#### *Purpose of Proposed Amendments*

The purpose of these proposed amendments to Chapter 411 is to increase reimbursement to crime victims in accordance with rising costs, expand eligibility for reimbursement and simplify claims processing procedures, while reducing the percentage that OVS may reimburse hospitals and other licensed health care providers to conform to the practice of other third party payors.

#### *Summary of Amendments*

Section 411.1 (relating to scope) has been amended to establish the effective date for the amendments.

Section 411.2 (relating to definitions) has been amended to increase the number of days a victim has to relocate under the definition of "immediate need" from 30 days to 120 days.

Section 411.17 (relating to emergency awards) has been amended to increase the maximum compensation allowed for an emergency award from \$1,500 to \$5,000 per claim.

Section 411.42 (relating to out-of-pocket loss) has been amended as follows:

Section 411.42(b) has been amended to reduce the percentage of the usual and customary charge for services rendered that OVS may reimburse to providers from 70% to 65% and to set the effective date for this percentage change. This reduction conforms to the practice of other third-party payors. This section has also been amended to allow reimbursement to a victim who has been billed in error for a forensic rape exam. The reimbursement for a forensic rape exam billed in error will be subject to the \$1,000 monetary limit.

Section 411.42(c) has been amended to increase the total award for funeral expenses from \$5,000 to \$6,500 and eliminate caps on individual expenses. The elimination of individual caps will allow the claimant flexibility in submitting expenses and increase the reimbursement to claimant on individual expenses within the \$6,500 maximum award. This section is also amended to add the cost of an urn as an eligible funeral expense.

Section 411.42(f) has been amended to increase the total reimbursement amount from \$1,000 per crime inci-

dent per household to \$1,000 for each direct victim within the household, when immediate relocation is necessary as a result of the crime. Since there may be more than one direct victim of a crime, this amendment allows each direct victim to receive compensation up to \$1,000 per household.

Section 411.42(g) has been amended to include travel reimbursement associated with attendance or participation in court proceedings and other circumstances if good cause is shown and for attendance of funeral services. The addition of "good cause" allows OVS discretion if a travel expense is not specifically listed in the regulation, but the travel was necessary as a result of the crime.

Section 411.42(h) has been amended to include food, paint or other materials used to deface property as eligible for crime scene cleanup reimbursement.

#### *Persons and Entities Affected*

Victims of crimes, as defined in the act, will benefit from the increase in reimbursement for funeral expenses in keeping with current costs for services and allowing flexibility for reimbursement within the \$6,500 maximum award. The number of days, as defined in immediate need, expands the relocation time frame, allowing victims sufficient time to relocate to become or remain safe.

Medical providers will be adversely affected because they will receive less reimbursement with the 65% rate. However, the 65% reimbursement rate conforms to the practice of other third-party payors.

#### *Fiscal Impact*

It is estimated that the recommended changes will aid 1,149 victims by increasing benefits that are available through victim's compensation. The fiscal impact to PCCD will consist of an estimated annual net savings of \$143,739. This calculation takes into account the estimated costs to PCCD from increased benefits of \$151,261 and savings to PCCD resulting from reducing the awards to medical providers from a 70% reimbursement rate to 65% on behalf of the victim (\$295,000).

Summary of Costs, Savings and Federal Reimbursements

Year One (2008/09)—No fiscal impact.

Year Two (2009/10)—It is estimated that implementation of this schedule will take place by December 1, 2009, therefore statistics are included for that part of the State Fiscal Year 2009/10. As the average time from the date of a crime incident until the date a claim is filed is 92 days, or 3 months, the costs have been projected for 4 months (March 1, 2010 to June 30, 2010). The savings from the reduction in the reimbursement rate for medical providers affects benefits for claims relating to services rendered on or immediately after the effective date of the regulation, therefore the savings have been projected for the entire 7 months (December 1, 2009 to June 30, 2010). Costs are estimated at \$126,051; savings are projected at \$172,083; or an overall savings of \$46,033.

Year Three (2010/11)—First full year of implementation. For this period, costs are projected at \$378,152 with savings estimated at \$295,000, or an overall cost of \$83,152.

VOCA Reimbursement—State victims compensation programs enjoy a 60% reimbursement that is eventually returned by the United States Department of Justice

(DOJ) under the Victims of Crime Act (VOCA) funding stream for allowable benefits paid under the program. As all of the rates set by the Office under the act are for benefits allowable under VOCA, the cost figures would need to be adjusted downward to reflect the 60% reimbursement that will be paid to PCCD by DOJ. Costs paid in 2009/10 will be reimbursed by VOCA in 2011/12; costs paid in 2010/11 will be reimbursed in 2012/13, and the like.

For year 2 (2009/10), the VOCA reimbursement will be \$75,630 resulting in an overall savings of \$121,663 (\$126,051 @ 60% = \$75,630 reimbursement) which will be paid by the DOJ in 2011/12. Therefore, the real cost of the increased benefits will actually be a savings of \$121,663 (\$46,033 + DOJ VOCA reimbursement of \$75,630 = \$121,663).

For year three (2010/11), the VOCA reimbursement will be \$226,891 resulting in an overall cost savings of \$143,739 (\$378,152 @ 60% = \$226,891 reimbursement) which will be paid by VOCA in 2012/13. Therefore, the real cost of the increased benefits will actually be a savings of \$143,739 (\$83,152 + DOJ VOCA reimbursement of \$226,891 = \$143,739).

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), OVS submitted a copy of these proposed amendments to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Judiciary Committees (Committees) on May 13, 2009. In addition to submitting the proposed amendments, OVS has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form. 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 amendments within 30 days of the close of the public comment period. The comments, recommendations or objections shall 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 Commission the General Assembly and the Governor of comments, recommendations or objections raised.

*Effective Date*

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

*Sunset Date*

No sunset date has been assigned. These regulations will be reviewed annually.

*Public Comments*

Interested persons are invited to submit written comments regarding the proposed amendments to the regulations to Lynn Shiner, Deputy Director, Office of Victims' Services, P. O. Box 1167, Harrisburg, PA 17108-1167, within 30 days of the publication of this notice in the *Pennsylvania Bulletin*.

*Contact Person*

The contact person for additional information regarding the proposed amendments of the regulations is Lynn Shiner at the previous address.

B.J. HORN,  
*Director*

**Fiscal Note:** 35-31. (1) General Fund; (2) Implementing Year 2008-09 is \$0; (3) 1st Succeeding Year 2009-10 is

\$0; 2nd Succeeding Year 2010-11 is \$83,000; 3rd Succeeding Year 2011-12 is \$87,000; 4th Succeeding Year 2012-13 is \$87,000; 5th Succeeding Year 2013-14 is \$87,000; (4) 2007-08 Program—\$12,283,000; 2006-07 Program—\$13,138,000; 2005-06 Program—\$12,188,000; (7) Crime Victims Reimbursements; (8) recommends adoption. Federal reimbursements are expected to cover a portion of these costs.

**Annex A**

**TITLE 37. LAW**

**PART VI. COMMISSION ON CRIME AND DELINQUENCY**

**CHAPTER 411. CRIME VICTIMS COMPENSATION**

**§ 411.1 Scope**

Except as otherwise provided, this chapter applies to claims for compensation relating to **[ crimes ] crime injuries** occurring on or after **[ August 27, 2002 ]** *(Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.)*

**§ 411.2 Definitions.**

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

\* \* \* \* \*

*Immediate need*—**[ Thirty ] One hundred and twenty** days from the date of the crime or **[ 30 ] 120** days from the date the victim is threatened by any change of circumstance or indicator of danger and a move or relocation is necessary to become or remain safe.

\* \* \* \* \*

**CLAIMS**

**§ 411.17. Emergency awards.**

\* \* \* \* \*

(c) The total amount of an emergency award will not exceed **[ \$1,500 ] \$5,000 per claim.**

\* \* \* \* \*

(e) OVS may reconsider an emergency award as a determination and may increase previous awards for emergency compensation up to **[ \$1,500 ] \$5,000 per claim.**

**SCHEDULE OF REIMBURSEMENT RATES AND COMPENSATION LIMITS**

**§ 411.42. Out-of-pocket loss.**

\* \* \* \* \*

(b) *Medical expenses.* The following provisions for payment of medical expenses apply:

(1) OVS will pay a hospital or other licensed health care provider at the rate of **[ 70% ] 65%** of the usual and customary charge for the service rendered.

(2) **This rate will apply to any bill for services incurred on or after \_\_\_\_\_ (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.)**

(3) Forensic rape examinations.

\* \* \* \* \*

(iv) **OVS will reimburse a direct victim who is erroneously billed and subsequently pays the cost**

of the forensic rape examination or medications directly related to the sexual offense. The reimbursement will be subject to the \$1,000 monetary limitation.

(c) *Funeral expenses.* Except as otherwise set forth in this subsection, OVS will reimburse for expenses relating to a funeral of a direct victim or intervenor. The total reimbursement amount for funeral expenses will not exceed [ \$5,000 ] \$6,500. [ Additionally, within that \$5,000 monetary limitation, reimbursement will be subject to the following limitations:

(1) Four thousand eight hundred dollars for funeral services, including the following ] Funeral expenses to be reimbursed are as follows:

\* \* \* \* \*

- (x) Casket or urn.
  - (xi) Minister, pastor, rabbi or other members of the clergy.
  - (xii) Monument.
  - (xiii) Floral arrangements.
  - (xiv) Funeral or memorial meal.
  - (xv) Clothing purchased for the deceased for the funeral or interment.
  - (xvi) Other miscellaneous expenses, including organist, programs, death certificates, obituary notice and notice of the time and place of the funeral or burial services.
- [ (2) Nine hundred dollars for a monument.
- (3) Three hundred dollars for floral arrangements.
- (4) Three hundred dollars for funeral or memorial meal.
- (5) One hundred and seventy-five dollars for clothing purchased for the deceased for the funeral or interment. ]

\* \* \* \* \*

(f) *Relocation expenses.* OVS will reimburse for expenses incurred by the temporary or permanent relocation of a direct victim and individuals residing in the direct victim's household when immediate relocation is necessary to protect their health and safety. This reimbursement will not exceed \$1,000 per household for each [ crime incident ] direct victim for the following:

\* \* \* \* \*

(g) *Travel expenses.* OVS will reimburse expenses associated with travel necessary and reasonable as determined by OVS to obtain medical care or counseling [ and, in ], attend or participate in criminal justice or protection from abuse proceedings, and other circumstances when good cause is shown by the claimant. [ in ] In the case of an injury that results in death, for travel in connection with making the funeral arrangements [ and ], transport of the body and attendance of funeral services as follows:

\* \* \* \* \*

(10) In the case of an injury that results in death, for travel in connection with the transport of the body [ and ], making funeral arrangements and attending the funeral services not to exceed 5 days.

(h) *Crime scene clean up.* The cost of cleaning the crime scene of a private residence up to a maximum of \$500.

\* \* \* \* \*

(3) Cleaning means to remove or attempt to remove blood and stains caused by [ other ] bodily fluids, food, paint or other materials used to deface property as a direct result of the crime or other dirt or debris caused by the processing of the crime scene.

\* \* \* \* \*

[Pa.B. Doc. No. 09-928. Filed for public inspection May 22, 2009, 9:00 a.m.]

# STATEMENTS OF POLICY

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

[ 25 PA. CODE CH. 16 ]

### Request for Scientific Information; Resorcinol and Sulfonates; Statement of Policy

The Department of Environmental Protection (Department) is seeking analytical test methods, data and pertinent scientific information for Benzene Metadisulfonic Acid (BDSA), Benzene Monosulfonic Acid (BSA), p-Phenol Sulfonic Acid (p-PSA), (collectively referred to as the sulfonates) and Resorcinol.

The Department plans to propose amendments to Chapter 16, Appendix A, Table 1A (relating to water quality criteria for toxic substances). The revision to Table 1A will incorporate site-specific ambient water quality criteria for BDSA, BSA, p-PSA and Resorcinol, which were requested by AMEC Earth & Environmental (AMEC), a consultant to Beazer East, Inc. (Beazer East). Documentation to support the request was submitted to the Department on April 11, 2008, by Babst, Calland, Clements and Zomnir, on behalf of Beazer East.

For further information contact Richard H. Shertzer, Chief, Division of Water Quality Standards, Bureau of Water Standards and Facility Regulation, 11th Floor, Rachel Carson State Office Building, P. O. Box 8467, Harrisburg, PA 17105-8467, (717) 787-9637 or Michelle Moses, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD user) or (800) 654-5988 (voice users).

Beazer East has implemented environmental investigations and remediation at sites in Butler and Armstrong Counties, in cooperation with the Department and United States Environmental Protection Agency (EPA). These

sites are located within an area approximately 60 square miles in size that has been designated by the Department under the Hazardous Sites Cleanup Act (HSCA) as the "Bear Creek Area Chemical Site" (BCACS). The Department has determined that environmental media (such as, soil and groundwater) within the BCACS have been impacted by the sulfonates and resorcinol. Currently, with respect to surface water, there are no ambient water quality criteria in Chapter 16 for the sulfonates or resorcinol.

Because water quality criteria have not been developed for the sulfonates or resorcinol by either the Department or the EPA, AMEC used the EPA's National guidelines to develop water quality criteria as stated in 25 Pa. Code § 16.22 (relating to criteria development).

The Department reviewed materials presented during a March 7, 2007, meeting with representatives of Beazer East, AMEC, Babst, Calland, Clements and Zomnir and draft reports prepared on behalf of Beazer East. The EPA performed an informal review of this documentation and the process used by AMEC. Based on comments forwarded to the Department from the EPA's Health and Ecological Criteria Division in the EPA Office of Science and Technology, it was determined that AMEC followed the EPA National Guidelines on toxicity testing and criteria development. However, based on a more thorough review of the calculations and data tables, the EPA provided additional recommendations to correct errors found in some reported values. AMEC revised its ambient water quality report at the request of Beazer East, and updated the report titled "Development of Ambient Water Quality Criteria for Benzene Metadisulfonic Acid, Benzene Monosulfonic Acid, p-Phenol Sulfonic Acid and Resorcinol." This report, dated April 3, 2008, incorporates revisions provided by the EPA and the Department.

Based on the results of studies presented by AMEC on behalf of Beazer East, using established EPA protocols, the Department plans to propose the following site-specific ambient water quality criteria for Sulfonates and Resorcinol. These criteria will apply to the BCACS located within Bear Creek basin (§ 93.9s), in Armstrong and Butler Counties.

<i>Compound</i>	<i>CAS Number</i>	<i>Acute AWQC Criterion Maximum Concentration (ug/l)</i>	<i>Chronic AWQC Criterion Continuous Concentration (ug/l)</i>
Benzene Metadisulfonic Acid	00098486	2592000	1620000
Benzene Monosulfonic Acid	00098113	1956000	1151000
p-Phenol Sulfonic Acid	00098679	3476000	1363000
Resorcinol	01084603	28000	7180

Analytical test methods, data and pertinent scientific information should be submitted to Richard H. Shertzer at the previous address, or may be submitted electronically by e-mail to RA-WQS@state.pa.us. A subject heading of "Request for Information—Resorcinol," and return name and address must be included in each transmission. Comments and scientific information must be received by June 22, 2009, to be considered in the development of the final criteria for Metadisulfonic Acid, Benzene Monosulfonic Acid, p-Phenol Sulfonic Acid and Resorcinol. Comments received by facsimile will not be accepted.

Persons with a disability may use the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD user) or (800) 654-5988 (voice users).

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 09-929. Filed for public inspection May 22, 2009, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF AGRICULTURE

### Peach and Nectarine Research Program

Under 3 Pa.C.S. §§ 4501—4513 (relating to Agricultural Commodities Marketing Act), a review referendum was held from March 17 to March 31, 2009, to determine if the producers affected by the Peach and Nectarine Research Program (Program) desired to continue the Program for an additional 5 years. To pass, a majority of eligible producers voting had to vote in favor of the Program's continuation. An impartial Teller Committee met on April 23, 2009, to count the ballots. The following

results were submitted by the Teller Committee: a total of 57 eligible votes were cast with 44 producers voting in favor of and 13 voting against the continuation of the Program. One additional ballot was invalid because it was unsigned. Votes favoring continuation of the Program by number of producers represented 77.2% of eligible votes and votes against continuation of the Program represented 22.8% of eligible votes. Because a majority of the votes were cast in favor of the program, the Program shall continue for 5 years, effective immediately.

DENNIS C WOLFF,  
*Secretary*

[Pa.B. Doc. No. 09-930. Filed for public inspection May 22, 2009, 9:00 a.m.]

## DEPARTMENT OF BANKING

### Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending May 12, 2009.

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

### BANKING INSTITUTIONS

#### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-4-2009	Marquette Savings Bank Erie Erie County	Erie	Filed
	Purchase of assets and assumption of liabilities of three branches of National City Bank, Cleveland, OH, located at:		
	210 Water Street Conneaut Lake Crawford County	349 North Street Meadville Crawford County	
	16086 Conneaut Lake Road Meadville Crawford County		

#### Branch Applications

##### Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-4-2009	First Commonwealth Bank Indiana Indiana County	<i>To:</i> 3045 US Route 30 West Latrobe Westmoreland County  <i>From:</i> 3954 US Route 30 West Latrobe Westmoreland County	Effective

**Branch Consolidations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-30-2009	Susquehanna Bank Lititz Lancaster County	<i>Into:</i> 1950 Old Philadelphia Pike Lancaster Lancaster County  <i>From:</i> 2034 Lincoln Highway East Lancaster Lancaster County	Effective
5-7-2009	Susquehanna Bank Lititz Lancaster County	<i>Into:</i> 1345 Baltimore Street Hanover York County  <i>From:</i> 2100 Utz Terrace Hanover York County (Limited Service Facility)	Filed
5-7-2009	Susquehanna Bank Lititz Lancaster County	<i>Into:</i> 270 Good Drive Lancaster Lancaster County  <i>From:</i> 2098 Spring Valley Road Lancaster Lancaster County	Filed
5-7-2009	Susquehanna Bank Lititz Lancaster County	<i>Into:</i> 502 North Main Street Spring Grove York County  <i>From:</i> 1000 Hanover Road York York County	Filed
5-7-2009	Susquehanna Bank Lititz Lancaster County	<i>Into:</i> 3130 Lititz Pike Lititz Lancaster County  <i>From:</i> 2568 Lititz Pike Lancaster Lancaster County	Filed
5-7-2009	Susquehanna Bank Lititz Lancaster County	<i>Into:</i> 3130 Lititz Pike Lititz Lancaster County  <i>From:</i> Brethren Village 3001 Lititz Pike Lancaster Lancaster County (Limited Service Facility)	Filed
5-7-2009	Susquehanna Bank Lititz Lancaster County	<i>Into:</i> 402 Eisenhower Drive Hanover York County  <i>From:</i> 600 Carlisle Street Hanover York County	Filed
5-7-2009	Susquehanna Bank Lititz Lancaster County	<i>Into:</i> 10900 Owings Mills Boulevard Owings Mills Baltimore County, MD  <i>From:</i> 10802 Red Run Boulevard Owings Mills Baltimore County, MD	Filed

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-1-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	190 Gamma Drive Pittsburgh Allegheny County	Closed
5-1-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	2900 East College Avenue State College Centre County	Closed

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-1-2009	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	3154 SR 257 Seneca Venango County	Closed

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS**

No activity.

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

STEVEN KAPLAN,  
*Secretary*

[Pa.B. Doc. No. 09-931. Filed for public inspection May 22, 2009, 9:00 a.m.]

## DEPARTMENT OF EDUCATION

### Availability of 2009-2010 Career and Technical Education Equipment Grants

Applications for equipment grant funds are invited. The project period is substantial approval date to June 30, 2010. The maximum amount per project is \$50,000 per grant award.

1. *Eligibility Requirements*

Funding is available on a competitive basis to career and technical education centers/area vocational-technical schools that offer approved career and technical education programs, school districts with approved career and technical education agriculture programs and school districts with eight or more approved career and technical education programs two of which must be trade and industrial programs.

2. *Application Deadline*

Applications are due Friday, June 26, 2009, by 5 p.m.

3. *How to Apply*

The Department of Education (Department) has implemented an Internet-based E-Grant system that requires eligible applicants to apply for funding online. The grant guidelines will be available on the Department's web site: [www.pde.state.pa.us](http://www.pde.state.pa.us). On the left side, click on Pre K-12 Schools, Career and Technical Education, Grants and Funding and Funding Sources. This page provides a listing of the various funding guidelines. Click on Equipment Grants.

4. *Questions Concerning the Grant Application*

Questions concerning the grant application should be addressed to John Bonchalk, General Vocational Education Advisor, Department of Education, Bureau of Career and Technical Education, Data Analysis, Assessment and Contracts Division, 333 Market Street, 11th Floor, Harrisburg, PA 17126-0333, (717) 772-4853, [jbonchalk@state.pa.us](mailto:jbonchalk@state.pa.us).

GERALD L. ZAHORCHAK, D. Ed.,  
*Secretary*

[Pa.B. Doc. No. 09-932. Filed for public inspection May 22, 2009, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

---

#### APPLICATIONS

---

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

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a



general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

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

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

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

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

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

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

## I. NPDES Renewal Applications

*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>
PA0100838	Barkeyville Borough WTP Routes 8 and 208 Intersection Barkeyville, PA 16127	Barkeyville Borough Venango County	UNT to the North Branch Slippery Rock Creek 20-C	Y
PA0222372	VFW Post 740 10613 PA Route 98 Edinboro, PA 16412	Franklin Township Erie County	A UNT to Little Elk Creek 15	Y

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

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

**PA0012572**, Industrial Waste, SIC 2631, **PaperWorks Industries, Inc.**, 5000 Flat Rock Road, Philadelphia, PA 19127. This facility is located in the City of Philadelphia, **Philadelphia County**.

The application is for renewal of an NPDES permit to discharge noncontact cooling water, backwash from river water intake screens, river water pump intake chamber cleaning water and stormwater runoff from PaperWorks Industries, Inc., located at 5000 Flat Rock Road in the City of Philadelphia, Philadelphia County. This is an existing discharge to Schuylkill River. At the point of discharge, the stream is in the State Water Plan Watershed 3F and is classified for WWF. The nearest downstream public water supply intake is for City of Philadelphia—Queen Lane water filtration plant is approximately 2.4 miles below the point of discharge.

The proposed effluent limit for Outfall 001 are based on an average discharge flow of noncontact cooling water at 5.73 mgd:

*Effluent Concentration limitations (mg/l)*

<i>Parameter</i>	<i>Average Month</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Temperature (° F)			110
pH (Standard Units)	Within limits of 6.0 to 9.0 Standard Units at all times		

The proposed effluent limits for Outfalls 008 are based on an average discharge flow of 0.88 mgd of river intake screen backwash and river water pump intake chamber cleaning water:

*Effluent Concentration limitations (mg/l)*

<i>Parameter</i>	<i>Average Month</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Total Suspended Solids			Monitor and Report
Oil and Grease			Monitor and Report
pH (Standard Units)	Within limits of 6.0 to 9.0 Standard Units at all times		

The proposed effluent limits for Outfalls 103, 105, 107 and 108 are as based on a storm event:

<i>Parameter</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	Monitor and Report
COD	Monitor and Report
Total Suspended Solids	Monitor and Report
Oil and Grease	Monitor and Report
Total Kjeldahl Nitrogen	Monitor and Report
Total Phosphorus (as P)	Monitor and Report
Iron, Dissolved	Monitor and Report
pH (Standard Units)	Monitor and Report

The EPA waiver is in effect.

Other Requirements:

1. No Temperature Changes Greater Than 2° F.
2. No Use of Chemical Additive Without Approval.
3. Change in Ownership.
4. Stormwater Requirements.
5. Laboratory Certifications.
6. PCBs Monitoring Requirements.

**PA0038296**, Industrial Waste, SIC 5171, **Sunoco Partners Marketing and Terminals, LP**, 1735 Market Street, Suite LL, Philadelphia, PA 19103-7583. This facility is located in Upper Moreland Township, **Montgomery County**.

The application is for renewal of an NPDES permit to discharge stormwater runoff and hydrostatic test water from Willow Grove Marketing terminal located at 3290 Sunset Drive in Upper Moreland Township, Montgomery County. This is an existing discharge to a UNT (Stream Code 02460) to Pennypack Creek. At point of discharge, stream is in the State Water Plan Watershed 3J and is classified for TSF and MF.

The proposed effluent limits for Outfall 001, based on an average storm event, are as follows:

*Effluent Concentration limitations (mg/l)*

<i>Parameter</i>	<i>Average Month</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Total Recoverable Petroleum Hydrocarbons	15		30

The proposed effluent limits for Outfalls 001, during Hydrostatic test water discharges, are as follows:

<i>Parameter</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (gpm)	Monitor and Report
Duration (Hours)	Monitor and Report
Dissolved Oxygen	Minimum of 5.0 mg/l
Total Suspended Solids	60
Oil and Grease	30
Iron	7.0
Benzene*	0.0025
Total BETX*	0.25
Ethylbenzene*	Monitor and Report
Toluene*	Monitor and Report
Xylene (Total)*	Monitor and Report
Total Residual Chlorine**	0.5 mg/l

<i>Parameter</i>	<i>Instantaneous Maximum (mg/l)</i>
pH (Standard Units)	Within limits of 6.0 to 9.0 Standard Units at all times

\* Not applicable to new pipelines and/or tanks.

\*\* Applicable only if chlorinated water is used as the source of test water.

The EPA waiver is in effect.

Other Requirements:

1. Product Contaminated Stormwater Runoff.
2. PPC Plan Requirements.
3. Hydrostatic Test Water Discharge Requirements.
4. Other Wastewater Discharge Associated with the Facility.

**PA0011428**, Industrial Waste, SIC 5171, **Hess Corporation**, 1 Hess Plaza, Woodbridge, NJ 07095-0961. This facility is located in City of Philadelphia, **Philadelphia County**.

The application is for renewal of an NPDES permit to discharge stormwater run-off from Hess Corporation—Philadelphia terminal located at 1630 South 51st Street, Philadelphia, PA. This is an existing discharge to Schuylkill River. At point of discharge, stream is in the State Water Plan Watershed 3F and is classified for WWF.

The proposed effluent limits for Outfall 001, based on an average storm event, are as follows:

<i>Parameter</i>	<i>Effluent Concentration limitations (mg/l)</i>		
	<i>Average Month</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Total Recoverable Petroleum Hydrocarbons	15		30
Benzene			Monitor and Report
Methyl Tert Butyl Ether			Monitor and Report

The proposed effluent limits for Outfalls 001, during Hydrostatic test water discharges, are as follows:

<i>Parameter</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (gpm)	Monitor and Report
Duration (Hours)	Monitor and Report
Dissolved Oxygen	Minimum of 5.0 mg/l
Total Suspended Solids	60
Oil and Grease	30
Iron	7.0
Benzene*	0.0025
Total BETX*	0.25
Ethylbenzene*	Monitor and Report
Toluene*	Monitor and Report
Xylene (Total)*	Monitor and Report
Total Residual Chlorine**	0.5 mg/l
pH (Standard Units)	Within limits of 6.0 to 9.0 Standard Units at all times

\* Not applicable to new pipelines and/or tanks.

\*\* Applicable only if chlorinated water is used as the source of test water.

The EPA waiver is in effect.

Other Requirements:

1. Product Contaminated Stormwater Runoff.
2. PPC Plan Requirements.
3. Hydrostatic Test Water Discharge Requirements.
4. Other Wastewater Discharge Associated with the Facility.
5. Groundwater Monitoring Requirements.

**PA0058831**, Industrial Waste, SIC 2033, **Queens Produce, LLC**, 554 Creek Road, Kennett Square, PA 19348. This facility is located in Kennett Township, **Chester County**.

Description of Proposed Activity: This application requests renewal of an NPDES permit to discharge 15,000 gpd of treated industrial wastewater from rinsing and cooking of mushrooms.

The receiving stream, East Branch Red Clay Creek, is in the State Water Plan Watershed 3I and is classified for: TSF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.015 mgd.

Parameters	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>					
(5-1 to 10-31)	1.1	2.3	9.0	18.0	22.5
(11-1 to 4-30)	2.3	4.5	18.0	36.0	45.0
Total Suspended Solids	1.3	2.5	10.0	20.0	25.0
NH <sub>3</sub> N					
(5-1 to 10-31)	0.2	0.4	1.5	3.0	3.8
(11-1 to 4-30)	0.4	0.8	3.0	6.0	7.5
NO <sub>2</sub> + NO <sub>3</sub>	1.3	2.5	10.0	20.0	25.0
Total Phosphorus	0.1	0.2	0.5	1.0	1.3
Dissolved Oxygen					
Fecal Coliform			50/100 ml		6.0 (Instantaneous Minimum)
Total Residual Chlorine			0.5		1.2
Temperature					110° F
Total Nitrogen *	Monitor and Report		Monitor and Report		
(years 1 and 2)					

\* Total Nitrogen = Total Kjeldahl-N + Nitrite-N + Nitrate-N

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

1. DMR to DEP.
2. Remedial Measures If Unsatisfactory Effluent.
3. BAT/ELG Reopener.
4. Cl<sub>2</sub> Requirements.
5. Proper Sludge Removal.
6. 2/Month Monitoring.
7. DMR for No Discharge.
8. Change of Ownership.
9. Instantaneous Maximum Limitations.
10. I-Maximum for Fecal Coliform.
11. Fecal Coliform 10% Rule.
12. Laboratory Certification.

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

**Application No. PA 0038598**, Industrial Waste, SIC Code 0921, **Susquehanna Aquacultures, Inc.**, P. O. Box 306, York Haven, PA 17370. This facility is located in East Manchester Township, **York County**.

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

The receiving stream, Susquehanna River, is in Watershed 7-F, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Wrightsville Water Supply Company located on the Susquehanna River, approximately 11 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 6.62 mgd are:

Parameter	Concentration (mg/l)		
	Average Monthly	Maximum Daily	Instantaneous Maximum
pH		From 6.0 to 9.0 inclusive	
Temperature		Monitor and Report	
Net Total Suspended Solids	30		60
Total Suspended Solids (Intake)	Monitor and Report		
Solids (Effluent)	Monitor and Report		
Net CBOD <sub>5</sub>	25		50
CBOD <sub>5</sub> (Intake)	Monitor and Report		
CBOD <sub>5</sub> (Effluent)	Monitor and Report		

*Chesapeake Bay Requirements*

	Concentration (mg/L)		Mass (lbs)
	Monthly Average	Quarterly	Annual
Ammonia-N	Report	Report	Report
Kjeldahl-N	Report	Report	XXX
Nitrate-Nitrite as N	Report	Report	XXX
Total Nitrogen	Report	Report	Report
Total Phosphorus	Report	Report	Report

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

The EPA waiver is not in effect.

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

**PA0101320**, Sewage, **Titusville Estates, LLC**, 21321 Campbell Road, Titusville, PA 16354. This existing facility is located in Oil Creek Township, **Crawford County**.

Description of Proposed Activity: New NPDES permit to discharge treated sewage from an existing mobile home park.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Emlenton Water Company located on the Allegheny River and is approximately 60 miles below point of discharge.

The receiving stream, the UNT to Pine Creek, is in Watershed 16-E and classified for: CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0075 mgd.

Parameter	Concentrations		
	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX		
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100 ml as a Geometric Average 2,000/100 ml as a Geometric Average	
Total Residual Chlorine	1.4		3.3
Dissolved Oxygen		minimum of 3.0 mg/l at all times	
pH		6.0 to 9.0 Standard Units at all times	

XX—Monitor and report on monthly DMRs.

The EPA waiver is in effect.

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

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

**WQM Permit No. 4609406**, Sewerage, **Berks—Montgomery Municipal Authority**, 136 Municipal Drive, P. O. Box 370, Gilbertsville, PA 19525-0370. This proposed facility is located in Douglass Township, **Montgomery County**.

Description of Action/Activity: Construction of a new comminutor building and modifications of influent piping.

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

**WQM Permit No. 0270413-A5**, Sewerage, **Moon Township Municipal Authority**, 1700 Beaver Grade Road, Moon Township, PA 15108. This existing facility is located in Moon Township, **Allegheny County**.

Description of Proposed Action/Activity: Application for permit amendment for the Leonard L. Nary Wastewater Treatment Plant at Montour Run.

**WQM Permit No. 3206401-A1**, Sewerage, **Guardian LTC Management, Inc.**, P. O. Box 240, Brockway, PA 15824. This existing facility is located in Armstrong Township, **Indiana County**.

Description of Proposed Action/Activity: Application for permit amendment to replace equalization tank.

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

**WQM Permit No. 2509403**, Sewerage, **North East Township Water and Sewer Authority**, 10300 West Main Street, P. O. Box 249, North East, PA 16428. This proposed facility is located in North East Township, **Erie County**.

Description of Proposed Action/Activity: The purpose of the project is to provide publicly owned sewer to portions of North East Township with documented malfunctioning privately owned onlot systems. This includes service to four different areas: Lake Erie Shoreline, Route 89 Subsystem, Southeast Subsystem and Western Subsystem.

**IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)****V. Applications for NPDES Wavier Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)****VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities**

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10-G539-R	Rouse/Chamberlin, LTD 500 Exton Commons Exton, PA 19341	Chester	East Nottingham Township	Little Elk Creek HQ-TSF-MF

*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>
PAI023509001	Thomas Yerke R. R. 6 Box 6315 Moscow, PA 18444	Lackawanna	Covington Township	Roaring Brook HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023909012	Jeffrey Chandler Chandmar Assoc. 6858 Sunflower Lane Macungie, PA 18062	Lehigh	Lower Macungie Township	Little Lehigh Creek HQ-CWF
PAI023907015(1)	Raymond Bartholomew Lighthouse Baptist Church of the Lehigh Valley 8700 Breinigsville Road Breinigsville, PA 18031	Lehigh	Weisenberg Township	Schaefer Run HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10S013R	LTS Development, LLC R. R. 5 Box 5348 East Stroudsburg, PA 18301	Monroe	Stroud Township Stroudsburg Borough	Brodhead Creek CWF, MF Cherry Creek HQ-CWF, MF
PAI024503019R	LTS Development, LLC Seven Bridge Road R. R. 5 Box 5348 East Stroudsburg, PA 18301	Monroe	Jackson Township	Pocono Creek HQ-CWF
PAI024509004	Iroquois Ridge Partners, LLP 600 Smith Hill Road Stroudsburg, PA 18360	Monroe	Pocono Township	Transue Run HQ-CWF Dry Sawmill Run HQ-CWF
PAI024509005	Monroe-Pike Land, LLC R. R. 5 Box 5199 East Stroudsburg, PA 18301	Monroe	Hamilton Township	McMichaels Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025209003	Danalex Developing Corp. 81-15 192nd Street Jamaica Estates, NY 11423	Pike	Delaware Township	Dingmans Creek HQ-CWF

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

Tioga County Conservation District: 50 Plaza Lane, Wellsboro, PA 16901, (570) 724-1801, Ext. 3.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI045909003	Robert Miller 486 Desing Road Liberty, PA 16930	Tioga	Liberty Township	Zimmerman Creek HQ-CWF

Central Office: Bureau of Abandoned Mine Reclamation, 400 Market Street, Floor 5, P. O. Box 8476, Harrisburg, PA 17105-8476.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI103709002	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476 (717) 783-1311	Lawrence	Slippery Rock Township	UNT to Hell Run EV

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

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

**STATE CONSERVATION COMMISSION**

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

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

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

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

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

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

**NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET—APPLICATIONS**

Agricultural Operation Name and Address	County	Total Acres	Animal Equivalent Units	Animal Type	Special Protection Waters (HQ or EV or NA)	Renewal/New
Curvin Martin 322 Hatchery Road Dalmatia, PA 17017	Northumberland	1	59.6	Ducks	None	Renewal
James Kurtz	Union	0	603.04	Swine	NA	New animal type

**PUBLIC WATER SUPPLY (PWS) PERMIT**

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied

for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice.

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

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

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

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

#### SAFE DRINKING WATER

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

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

**Permit No. 3609505**, Public Water Supply.  
 Applicant **Landis Homes**  
 Municipality Manheim Borough  
 County **Lancaster**  
 Responsible Official Craig G. Sensenig  
 Director of Maintenance  
 1001 East Oregon Road  
 Lititz, PA 17543-9205  
 Type of Facility Public Water Supply  
 Consulting Engineer Charles A. Kehew II, P. E.  
 James A. Holley & Associates,  
 Inc.  
 18 South George Street  
 York, PA 17401  
 Application Received April 2, 2009  
 Description of Action Installation of a sodium  
 hypochlorite disinfection and  
 phosphate booster system for a  
 consecutive system.

**Permit No. 2209502**, Public Water Supply.  
 Applicant **Camp Hebron**  
 Municipality Halifax Township  
 County **Dauphin**  
 Responsible Official Harlan A. Millette  
 Executive Director  
 957 Camp Hebron Road  
 Halifax, PA 17032

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 28, 2009  
 Description of Action Installation of sodium  
 hypochlorite disinfection at each  
 of the system's entry points.  
**Permit No. 2209503**, Public Water Supply.  
 Applicant **Halifax Area Water & Sewer  
 Authority**  
 Municipality Halifax Township  
 County **Dauphin**  
 Responsible Official Fred L. Ford, Chairperson  
 P. O. Box 443  
 Halifax, PA 17032  
 Type of Facility Public Water Supply  
 Consulting Engineer Harry E. Bingaman, P. E.  
 Glace Assoc., Inc.  
 3705 Trindle Road  
 Camp Hill, PA 17011  
 Application Received May 5, 2009  
 Description of Action Construction of a new treatment  
 building for Well No. 4.

#### LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

#### UNDER ACT 2, 1995

#### PREAMBLE 1

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

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



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

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

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

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

**Enterprises Rent-a-Car**, City of Philadelphia, **Philadelphia County**. Christopher Collet, ERM, 350 Eagleview Boulevard, Suite 200, Exton, PA 19341 on behalf of Scott Schusko, Enterprise Rent-a-Car, 170 North Radnor-Chester Road, Suite 200, Radnor, PA 19087 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of used benzene, arsenic and lead. The future use of the property is expected to continue to be commercial.

**Forman Mill Site**, City of Philadelphia, **Philadelphia County**. Bruce Middleman, P. G., Stantec, 450 South Gravers Road, Suite 105, Plymouth Meeting, PA 19462 on behalf of David O'Sullivan, The Great Atlantic and Pacific Tea Company, Inc., 2 Paragon Drive, Montvale, NJ 07645 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site has been impacted with the release of chlorinated solvents and inorganic. Following completion of the cleanup, the property is expected to be developed for use as a bank, and so the future use of the site will remain nonresidential.

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

**Fabian Residence**, 615 North Muhlenberg Street, Allentown City, **Lehigh County**. Jeremy Boly, Environmental Maintenance Company, Inc., 1420 East Mermaid Lane, Glenside, PA 19038 has submitted a Notice of Intent to Remediate (on behalf of his client, Matthew Fabian, 615 North Muhlenberg Street, Allentown, PA 18104), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of overpressurization of the property's aboveground storage tank. The applicant proposes to remediate the site to meet the Residential Statewide Health Standard. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future.

**Buckeye Terminals, LLC, Tank 102 Release Site**, 5198 Buckeye Road, Lower Macungie Township, **Lehigh County**. J. Matthew Brainard, Groundwater & Environmental Services, Inc., 440 Creamery Way, Suite 500, Exton, PA 19341 has submitted a Notice of Intent to Remediate (on behalf of his client, Buckeye Partners, LP, P. O. Box 368, Emmaus, PA 18049), concerning the remediation of soil found to have been impacted by unleaded gasoline due to a surface release from Tank 102 on the property. The applicant proposes to remediate the site to meet the Statewide Health Standard. The intended use of the property for the foreseeable future is to remain commercial as an active terminal which stores and distributes petroleum products. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future.

**Medeiros Property**, 20 North Cedar Street, Hazleton City, **Luzerne County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 has submitted a Notice of Intent to Remediate (on behalf of his client, Victor Medeiros, 1403 Beech Court, Hazle Township, PA 18202), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release due to an aboveground storage tank failure during a fuel oil delivery. The applicant proposes to remediate the site to meet the Statewide Health Standard. The intended future use of the site will remain residential. A summary of the Notice of Intent to Remediate was published in *The Hazleton Standard Speaker* on April 29, 2009. A Final Report was simultaneously submitted.

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

**Safe Harbor Former Incinerator Site**, Conestoga Township, **Lancaster County**. NTH Consultants, 444 Creamery Way, Suite 100, Exton, PA 19341, on behalf of Safe Harbor Water Power Corporation, 1 Powerhouse Road, Conestoga, PA 17516, submitted a Notice of Intent to Remediate site soils contaminated with metals and PAHs associated with the abandoned incinerator and debris soils. The site will be remediated to the residential Statewide Health Standard, and the future use of the property will be nonresidential.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Application Received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

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

**Permit Application No. 100148. Waste Management Disposal Service of Pennsylvania, Inc.**, 1000 New Ford Mill Road, Morrisville, PA 19067. This minor permit modification application is for revisions to the geosynthetic cap system materials at the G.R.O.W.S. Landfill, a municipal waste landfill located in Falls Township, **Bucks County**. The application was received by the Southeast Regional Office on May 4, 2009.

**Permit Application No. 101680. Waste Management Disposal Service of Pennsylvania, Inc.**, 1000 New Ford Mill Road, Morrisville, PA 19067. This minor permit modification application is for revisions to the

geosynthetic cap system materials at the G.R.O.W.S. North Landfill, a municipal waste landfill located in Falls Township, **Bucks County**. The application was received by the Southeast Regional Office on May 1, 2009.

**Permit Application No. 101494. Waste Management of Pennsylvania, Inc.**, 1000 New Ford Mill Road, Morrisville, PA 19067. This minor permit modification application is for revisions to the geosynthetic cap system materials at the Tullytown Resource Recovery Facility, a municipal waste landfill located in Tullytown Borough and Falls Township, **Bucks County**. The application was received by the Southeast Regional Office on May 1, 2009.

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

**Permit ID No. 300837. Reliant Energy Northeast Management Company**, 121 Champion Way, Suite 200, Canonsburg, PA 15317. Keystone Generating Station Ash/Mine Refuse Disposal Site, 313 Keystone Drive, Shelocta, PA 15774-7625. Application for a permit renewal of a residual waste disposal facility in Plumcreek Township, **Armstrong County** was received in the Regional Office on April 8, 2009.

#### DETERMINATION FOR APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

**Application for Determination of Applicability deemed complete 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**

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

**General Permit Application No. WMGR028 NC001A, Glenn O. Hawbaker, Inc.**, 711 East College Avenue, Bellefonte, PA 16823. The application for Determination of Applicability for the beneficial use of baghouse fines as an aggregate in the production of hot mix asphalt at their facility in Sping Township, **Centre County**, was deemed complete by the Williamsport Regional Office on April 24, 2009.

Comments concerning the application should be directed to James Miller, Environmental Program Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Persons interested in obtaining more information about the permit application may contact the Williamsport Regional Office, (570) 327-3740. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the applications.

### 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 regu-

lated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

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

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

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

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act (act) and regulations adopted under the act.

#### PLAN APPROVALS

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

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401. Sachin Shankar, New Source Review Chief, (484) 250-5920.*

**09-0196A: Abington Reldan Metals, LLC** (550 Old Bordertown Road, Fairless Hills, PA 19030) for construction of 12 ball mills, five sifters and two blenders exhausting to two baghouses at a new precious metal recovery facility in Falls Township, **Bucks County**. This facility is a non-Title V facility. This construction will result in PM being emitted into the atmosphere. The Plan Approval will contain recordkeeping requirements, monitoring requirements, operating conditions and performance testing requirements designed to keep the facility operating within the allowable emission limitations and all applicable air quality requirements.

**09-0196B: Abington Reldan Metals, LLC** (550 Old Bordentown Road, Fairless Hills, PA 19030) for construction of nine electric melt furnaces and five natural gas-fired melt furnaces exhausting to three baghouses at a new precious metal recovery facility, in Falls Township, **Bucks County**. This facility is a non-Title V facility. This construction will result PM being emitted into the atmosphere. The Plan Approval will contain recordkeeping requirements, monitoring requirements, operating conditions and performance testing requirements designed to keep the facility operating within the allowable emission limitations and all applicable air quality requirements.

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

**54-399-044: Hexcel Corp.** (P. O. Box 179, Pottsville, PA 17901-0179) for construction and operation of a metal parts cleaning process at their facility in East Norwegian Township, **Schuylkill County**.

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

**24-165A: Elkhorn Gas Processing, LLC** (5422 Highland Road, Lamont, PA 16365) for construction of a new gas processing facility including two inlet compressor engines in Jones Township, **Elk County**. This is a State-only facility.

---

**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.**

---

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Sachin Shankar, New Source Review Chief, (484) 250-5920.*

**09-0037G: CMS Gilbreth Systems, Inc.** (3001 State Road, Croydon, PA 19021) for modification of a new ten color Rotomec Rotogravure Printing Press (Source ID 204A); emissions from the press are controlled by the existing Regenerative Thermal Oxidizer in Bristol Township, **Bucks County**. Plan Approval No. 09-0037G supersedes Plan Approval No. 09-0037F. The modification revises the hours of operation and the precontrol VOC emission limit for the Source ID 204A. The post-control VOC emission limit has not been changed. The facility is an area source for HAPs, therefore not subjected to 40 CFR 63, Subpart KK. The facility is subjected to 25 Pa. Code § 129.67 for graphic arts systems. The plan approval modification will contain requirements to keep the facility operating within all applicable air quality requirements for this source.

**09-0209: Univar USA, Inc.** (4 Steel Road East, Morrisville, PA 19067) for an existing liquid organic chemical transfer and repackaging facility consisting of storage tanks along with bulk loading stations, rail unloading stations and drum loading stations. Univar USA would be a Natural Minor facility. Univar will not exceed the VOC and HAP thresholds. The Plan Approval will contain monitoring, recordkeeping and operating restrictions designed to minimize emissions and keep the facility operating within all applicable air quality requirements.

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

**08-313-038J: Global Tungsten & Powders, Corp.** (Hawes Street, Towanda, PA 18848-0504) for the proposed installation of a new Cameron Manufacturing and Design cyclone, model SC-3.6 to control PM emissions from existing Calciner No. 5 (Source ID P219) in the tungsten scrap department (009) at their North Towanda Township, **Bradford County** facility. This is a State-only facility.

The Department of Environmental Protection's (Department) review of the information contained in the application submitted by GTP indicates that the calciner controlled by the proposed cyclone will comply with all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the fugitive air contaminant emission requirement of 25 Pa. Code § 123.1, the PM emission limitation of 25 Pa. Code § 123.13 and the visible emission limitation of 25 Pa. Code § 123.41. The plan approval, if issued, will subsequently be incorporated into the State-only operating permit by means of an administrative amendment in accordance with 25 Pa. Code § 127.450 at a later date.

Based upon this finding, the Department proposes to issue a plan approval for the installation of the cyclone to control PM emissions from the calciner. The following is a summary of the conditions the Department proposes to place in the plan approval to ensure compliance with all applicable regulatory requirements:

1. Source ID P219 is a Harper Furnace model GU-30D180-RTA-20 tungsten carbide scrap calciner (Calciner 30-5), and the air contaminant emissions shall be controlled by a Cameron Manufacturing and Design, model SC-3.6 cyclone (Control ID C219A) followed by an Anderson 2000 Inc., model WAF-53 venturi scrubber (Control ID C219B) followed by a cyclonic entrainment separator with chevron mist eliminator (Anderson 2000, Inc., model VES-53). The fugitive emissions from Source ID P219 shall be controlled a Mikro-Pulsaire model 100S 1020 TR fabric collector (Control ID C220).

2. Under 25 Pa. Code § 123.13, no person may permit the emission into the outdoor atmosphere of PM from the exhaust of ID C219 associated with Source ID P219B in a manner that the concentration in the effluent gas exceeds 0.04 gr/dscf.

3. Under 25 Pa. Code § 123.21, no person may permit the emission into the outdoor atmosphere of SO<sub>x</sub> from a source in a manner that the concentration of SO<sub>x</sub>, expressed as SO<sub>2</sub>, in the effluent gas exceeds 500 ppm, by volume, dry basis.

4. The Cameron Manufacturing and Design, model SC-3.6 cyclone (Control ID C219A) shall be equipped with instrumentation to continuously monitor the pressure drop across the cyclone.

5. The permittee shall keep records of the pressure drop across the cyclone (ID C219A) associated with Source ID P219 at least once per operating day.

6. These records shall be kept on site for minimum of 5 years and shall be presented to the Department upon request.

7. The Department reserves the right to establish a pressure drop range for the Cameron Manufacturing and Design, model SC-3.6 cyclone (ID C219A) upon the issuance of an operating permit.

A copy of the plan approval application and the Department's review is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Re-

gional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at (570) 327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Manager, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

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

**62-172A: Glenn O. Hawbaker, Inc.—Brokenstraw—Plant No. 22** (711 East College Avenue, Bellefonte, PA 16823) to issue a plan approval to combine all the existing general permits into a plan approval, modify equipment at a sand and gravel plant and permit three portable plants to crush and screen materials as needed in Pittsfield Township, **Warren County**.

Notice is hereby given in accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), that the Department of Environmental Protection intends to issue a plan approval to combine all the existing general permits into a plan approval, modify equipment at a sand and gravel plant and permit three portable plants to crush and screen materials as needed at the Glenn O. Hawbaker, Inc., Brokenstraw Plant No. 22 in Pittsfield Township, Warren County.

This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State-only operating permit through an administrative amendment at a later date.

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

**AMS 09064: Seravalli, Inc.** (10059 Sandmeyer Lane, Philadelphia, PA 19116) for operation of a nonmetallic mineral processing plant consisting of an Extec Megabite C-12 concrete crusher with a 366 horsepower diesel engine and a Extec Robotrac screener powered by a 111 horsepower diesel engine in the City of Philadelphia, **Philadelphia County**. There will be a potential annual emission increase of 2 tons of NO<sub>x</sub> and 2 tons of PM for the facility. The Plan Approval will contain operating, testing, monitoring, recordkeeping and reporting requirements to ensure operation within all applicable requirements.

#### OPERATING PERMITS

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

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.*

**23-00016: PQ Corporation** (1201 West Front Street, Chester, PA 19013) for a renewal of the Title V Operating Permit in the City of Chester, **Delaware County**. The initial permit was issued July 6, 2000. PQ operates a glass manufacturing process. Under this permit renewal, Source IDs 036 and 104 are being removed and Source ID 037, which was installed under General Plan Approval/General Permit No. 23-302-141GP, is being incorporated into the Title V Operating Permit. Individual limits apply to the various sources at the facility. None of these limits will be changed. The facility is not subject to Compliance

Assurance Monitoring under 40 CFR Part 64. The Operating Permit will contain requirements to keep the facility operating within all applicable air quality requirements for this source.

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

**28-05015: IESI Blue Ridge Landfill Corp.** (1660 Orchard Road, Scotland, PA 17257) for operation of a refuse disposal facility in Greene Township, **Franklin County**. This action is a renewal of the Title V Operating Permit issued in 2004. The facility's major sources of emissions include fugitive PM and landfill gasses. The primary emissions also include combustion products from the flare used as a control device for the landfill gasses, which primarily emit NO<sub>x</sub> and CO from combustion of the landfill gasses as well as VOCs. The Title V operating permit contains monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

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

**46-00003: Stroehmann Bakeries, LC** (1810 East Ridge Pike, Norristown, PA 19404) for operation of various natural gas-fired sources (two boilers, 32 space heaters, a roll oven, a bread oven and a catalytic oxidizer), 11 inkjet printers and a cold parts cleaner at its facility, in Plymouth Township, **Montgomery County**. In lieu of renewing Title V Operating Permit (TVOP) No. 46-00003, Stroehmann is restricting VOC emissions from the facility to 24.9 tpy. As a result, the facility will be issued a non-Title V (State-only) Operating Permit. No major changes have occurred at the facility. The permit will include monitoring, recordkeeping, reporting and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

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

**39-00057: St. Luke's Hospital and Health Network** (1736 Hamilton Street, Allentown, PA 18104), for operation of a hospital with three boilers in Allentown City, **Lehigh County**. This is a State-only Synthetic Minor operating permit.

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

**24-00025: Alpha Sintered Metals, Inc.—Ridgeway Plant** (95 Mason Run Road, Ridgeway, PA 15853) to reissue a Natural Minor Operating Permit to operate this powdered metal part manufacturing facility, in Ridgeway Township, **Elk County**. The facility's primary emission sources include Sintering and Heat Treating Furnaces. The emissions of criteria pollutants from this facility are below major source levels.

#### COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation

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

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

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

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

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

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

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

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

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

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

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

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

#### *Coal Applications Received*

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

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (Total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (Total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Aluminum (Total) pH <sup>1</sup> Alkalinity greater than acidity <sup>1</sup>	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l greater than 6.0; less than 9.0	2.0 to 5.0 mg/l

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

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

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

**Permit Number 03060701 and NPDES Permit No. PA0235661, McVile Mining Company**, (301 Market Street, Kittanning, PA 16201), to revise the permit for the McVile Coal Refuse Disposal Area No. 2 in South Buffalo Township, **Armstrong County** to install a pipeline and sludge injection borehole into Clementine Mine No. 1. No additional discharges. Application received April 8, 2009.

**Permit Number 03870701 and NPDES Permit No. PA0214558, TJS Mining, Inc.**, (2340 Smith Road, Shelocta, PA 15774), to renew the permit for the Coal Refuse Disposal Area No. 2 in Plumcreek Township, **Armstrong County** and related NPDES permit. No additional discharges. Application received January 13, 2009.

**Permit Number 63901701 and NPDES Permit No. PA0001147, Consolidation Coal Company**, (Consol Energy, Inc., CNX Center, 1000 Consol Energy Drive, Canonsburg, PA 15317), to renew the permit for the Montour No. 4 Mine—Hahn Treatment Facility in Cecil Township, **Washington County** and related NPDES permit. No additional discharges. Application received April 3, 2009.

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

**32980112 and NPDES No. PA0234893, Alverda Enterprises, Inc.**, P. O. Box 245, Alverda, PA 15710, permit renewal for reclamation only of a bituminous surface mine in Pine and Green Townships, **Indiana County**, affecting 54.7 acres. Receiving stream: UNTs to Yellow Creek classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Central Indiana County Water Authority Yellow Creek SWI. Application received May 1, 2009.

**56040103 and NPDES No. PA0249581, Fieg Brothers**, 3070 Stoystown Road, Stoystown, PA 15563, permit renewal for the continued operation and restoration of a bituminous surface mine in Southampton Township, **Somerset County**, affecting 74.8 acres. Receiving stream: UNTs to North Branch Jennings Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 1, 2009.

**56070105 and NPDES No. PA0262421, Amerikohl Mining, Inc.**, 1384 SR 711, Stahlstown, PA 15687, revision of an existing bituminous surface mine to conduct mining activities including coal removal, E & S controls and a stream crossing in Black Township,

**Somerset County**, affecting 155.2 acres. Receiving stream: UNTs to/and Casselman River classified for the following uses: CWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received May 4, 2009.

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

**03980108 and NPDES Permit No. PA0202371, Stitt Coal Co., Inc.** (811 Garretts Run Road, Ford City, PA 16226). Renewal application for continued operation and reclamation of an existing bituminous surface mine, located in Kittanning Township, **Armstrong County**, affecting 83 acres. Receiving streams: Garretts Run and UNTs to Garretts Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received May 5, 2009.

**63090102 and NPDES Permit No. PA0251666, Neiswonger Construction, Inc.** (17592 Route 322, Strattanville, PA 16258). Application for commencement, operation and reclamation of a bituminous surface mine, located in Somerset Township, **Washington County**, affecting 82.3 acres. Receiving streams: UNTs to Center Branch of Pigeon Creek, classified for the following use: WWF. The potable water supplies with intakes within 10 miles downstream from the point of discharge: Eighty Four Mining Co., Mine 60 Reservoir, Ellsworth Borough Water Department, and Somerset Water Co. Application received May 7, 2009.

**26753065 and NPDES Permit No. PA0251674, Purco Coal, Inc.** (22 Van Vooris Lane, Monongahela, PA 16053). NPDES application for a passive treatment system to the postmining drainage, located in Stewart Township, **Fayette County**, affecting 27.4 acres. Receiving stream: UNT to Jonathan Run, classified for the following use: EV. There is not potable water supply intake within 10 miles downstream from the point of discharge. NPDES application received May 4, 2009.

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

**17793044 and NPDES No. PA0119334, River Hill Coal Company, Inc.** (P. O. Box 141, Kylertown, PA 16847), permit renewal for the continued operation and restoration of a bituminous surface mine in Karthaus Township, **Clearfield County**, affecting 112.0 acres. Receiving stream: UNT to Marks Run to Upper Three Runs, classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 16, 2009.

#### *Noncoal Applications Received*

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

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

\* The parameter is applicable at all times.

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

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

**Permit No. 11040301 and NPDES Permit No. PA0249556. Laurel Sand & Stone, Inc.,** P. O. Box 556, 210 East Main Street, Ligonier, PA 15658, renewal of NPDES Permit, Jackson Township, **Cambria County**. Receiving streams: UNTs to South Branch of Blacklick Creek, UNTs to Bracken Run and Shuman Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 1, 2009.

**Permit No. 44950803. Doug Sellers,** 211 Greenbrier Road, Lewistown, PA 17044, bond release on a small noncoal (industrial minerals) operation in Bratton Township, **Mifflin County**, affecting 5 acres. Receiving stream: no discharge. Application received May 1, 2009.

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

**63080601 and NPDES Permit No. PA0251682. Fayette Coal & Coke, Inc.** (195 Enterprise Lane, Connellsville, PA 15425). Application for commencement, operation and reclamation of large noncoal surface mine, located in Buffalo Township, **Washington County**, affecting 40.1 acres. Receiving streams: UNTs to Buffalo Creek, classified for the following use: HQ-WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received May 1, 2009.

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

**66880301C3 and NPDES Permit No. PA0594229. Reading Materials, Inc.,** (P. O. Box 1467, Skippack, PA 19474), depth correction to an existing quarry operation in Falls Township, **Wyoming County** affecting 328.6 acres, receiving streams: UNT to Falls Creek and Butter Mill Creek, classified for the following use: CWF. Application received May 4, 2009.

**7776SM1A1C6 and NPDES Permit No. PA0611883. Martin Stone Quarries, Inc.,** (P. O. Box 297, Bechtelsville, PA 19505), correction to an existing quarry operation to increase the permitted acreage from 205.0 to 349.35 acres, increase the depth of mining to -640 feet MSL and increase the NPDES discharge rate for treated mine drainage in Colebrookdale Township, **Berks County**, receiving streams: UNTs to Swamp Creek, classified for the following uses: TSF and MF. Application received May 7, 2009.

## FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

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

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

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

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

### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E17-451. EOG Resources, Inc.,** 2039 South Sixth Street, Indiana, PA 15801-6012. EOC Resources Punxsutawney Hunt Club Natural Gas Exploration, Development and Transmission Project, Lawrence, Pine and Union Townships, **Clearfield County**, United States

Army Corps of Engineers, Baltimore District (Huntley, PA Quadrangle Latitude: 41° 09' 50.20"; Longitude: 78° 27' 31.67").

EOG Resources, Inc. proposes to construct, operate, repair and maintain gas pipelines and road crossings for

natural gas well exploration, development and transmission that require encroachment of the following of five Exceptional Value wetlands and 10 HQ-CWF streams:

<i>Permit ID</i>	<i>Activity</i>	<i>Resource</i>	<i>Water Quality</i>	<i>Latitude</i>	<i>Longitude</i>
RA1-3	Pipeline Crossing	Tributary Alex Branch	HQ-CWF	41° 10' 09.58"	78° 26' 48.55"
RA2-2	Pipeline Crossing	Little Laurel Run	HQ-CWF	41° 10' 28.68"	78° 28' 16.09"
RA2-4	Pipeline Crossing	Little Laurel Run	HQ-CWF	41° 10' 50.14"	78° 28' 25.21"
RA2-5	Pipeline Crossing	Tributary Little Laurel Run	HQ-CWF	41° 10' 50.40"	78° 28' 25.67"
RA2-6	Temporary Road Crossing	Tributary Little Laurel Run	HQ-CWF	41° 10' 56.47"	78° 28' 28.61"
RA2-7	Pipeline Crossing	Tributary Little Laurel Run	HQ-CWF	41° 10' 56.47"	78° 28' 28.61"
RA2-10	Temporary Road Crossing	Tributary Little Laurel Run	HQ-CWF	41° 11' 18.77"	78° 28' 38.67"
RA2-11	Pipeline Crossing	Tributary Little Laurel Run	HQ-CWF	41° 11' 18.77"	78° 28' 38.67"
RA2-12	Temporary Road Crossing	Tributary Little Laurel Run	HQ-CWF	41° 10' 09.58"	78° 26' 48.55"
RA2-13	Pipeline Crossing	Tributary Little Laurel Run	HQ-CWF	41° 10' 09.58"	78° 26' 48.55"
RA2-1	Pipeline Crossing	Wetland	EV	41° 10' 27.91"	78° 28' 16.07"
RA2-3	Pipeline Crossing	Wetland	EV	41° 10' 48.35"	78° 28' 23.16"
RA2-8	Temporary Road Crossing	Wetland	EV	41° 11' 16.90"	78° 28' 38.29"
RA2-9	Pipeline Crossing	Wetland	EV	41° 11' 16.90"	78° 28' 38.29"
RA2-14	Clearing and Grubbing	Wetland	EV	41° 11' 16.90"	78° 28' 38.29"

All in-stream construction, repair and maintenance work shall be conducted in dry work conditions by boring, dam and pumping, fluming or diverting stream flow around work areas. Since Alex Branch and Little Laurel Run are WFT, no construction or future repair work shall be done in or along the stream channels between October 1 and December 31 without prior written approval from the Fish and Boat Commission. This permit also authorizes the construction, operation, maintenance and removal of temporary stream diversions, flumes, cofferdams, roadways and causeways necessary for pipeline construction and repair. With the exception of 0.03 acre of wetland conversion, all impacts incurred for activities authorized herein shall be temporary, and the permittee shall perform all activities strictly in accordance with the maps, plans, profiles, specifications provided for this authorization. The project is located along the western right-of-way of the McGeorge Road approximately 1.5 miles south of Tyler and McGeorge Roads intersection. The Department of Environmental Protection has deemed the 0.03 acre of permanent wetland impacts incurred by clearing and grubbing pipeline right-of-way as de minimis, for which replacement wetlands as mitigation of the impacts shall not be required.

**E19-275. Matthew J. Crone**, 292 Buckhorn Road, Bloomsburg, PA 17816. Crone stabilization/floodway structure, in Hemlock Township, **Columbia County**,

United States Army Corps of Engineers, Baltimore District (Millville, PA Quadrangle Latitude: 41° 02' 27"; Longitude: 76° 31' 36.1").

The applicant proposes to, authorize a previously moved 22 feet by 24 feet garage, to remain in the floodway of Hemlock Creek, CWF. The structure sits on a high bank and is approximately 40 feet off the edge of the roadway. This structure was originally moved to provide additional safety to the resident and to the traveling public on SR 44. The application also is requesting to place 150 linear feet of R-7 riprap and to maintain 85 linear feet of the riprap that is currently in place along the west/right bank. This rock is to stabilize the eroding stream banks along with preventing potential pond failure. Matthew Crone is also requesting that authorization for a walk bridge to be placed across the creek. The bridge is intended to have a span of 32 linear feet and a minimum underclearance of 7.5 feet from the bed of the stream. This structure is proposed to span from bank to bank and to be set on spread footers. This project is located 2 miles outside of Buckhorn along SR 44 at the intersection with Lovers Drive.

**E57-113. Charles and Ruth Baumunk**, 76 Route 4008, Forksville, PA 18616. Water Obstruction and Encroachment Joint Permit Application, in Laporte Township, **Sullivan County**, United States Army Corps of Engineers, Susquehanna River Basin District (Laporte, PA Quadrangle N: 41° 26' 43.7"; W: 76° 26' 16.4").



To construct and maintain a steel I-beam bridge having a span of 30 feet, a width of 14 feet and an average underclearance of 4 feet over Floodwood Creek, located 0.64 mile west of the intersection of SR 0220 and Thorndale Lane. This project proposes to permanently impact 14 linear feet of Floodwood Creek, which is designated a CWF stream and does not propose to impact any jurisdictional wetlands.

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

**E02-1609. Allegheny County Department of Public Works**, 501 County Office Building, 542 Forbes Avenue, Pittsburgh, PA 15219-2904. To remove and replace the existing Girty's Run Bridge in Reserve Township and Millvale Borough, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (Pittsburgh East, PA Quadrangle N: 19.3 inches; W: 14.8 inches, Latitude: 40° 28' 53"; Longitude: 79° 58' 53"). The applicant proposes to remove the existing structure (Girty's Run Bridge No. 16) and construct and maintain a new bridge consisting of a concrete box culvert having a span of 12.0 feet with an underclearance of 6.0 feet (1.0 foot depressed below the natural stream bed elevation) in the channel of a UNT to Girty's Run (WWF) for the purpose of improving highway safety. The project is located on Hoffman Road near the intersection of Hoffman Road, Stanton Avenue and Karen Drive and will impact approximately 140.0 linear feet of stream channel.

**E02-1610. Jefferson Hills Borough**, 925 Old Clairton Road, Jefferson Hills, PA 15025. To construct a stream restoration project in Jefferson Hills Borough, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (Glassport, PA Quadrangle N: 6.0 inches; W: 8.7 inches, Latitude: 40° 16' 59"; Longitude: 79° 56'

15"). The applicant proposes to construct and maintain a stream restoration project in and along the channel of Peters Creek (TSF) for a distance of approximately 600.0 linear feet and will consist of a cross rock vane, a dry stacked retaining wall, J-hook vanes, a thalweg, fill and a rock vane. The project is located on the east side of Peters Creek Road, approximately 800.00 feet southwest from the confluence of Peters Creek and Beam Run and will impact approximately 600.0 linear feet of stream channel.

**E65-930. Turtle Creek Watershed Association**, 325 Commerce Street, Wilmerding, PA 15148. To construct and maintain stream channel improvements in Murrysville, **Westmoreland County**, United States Army Corps of Engineers, Pittsburgh District (Murrysville, PA Quadrangle North: 12.0"; West 9.5", Latitude: 40° 26' 31", Longitude: 79° 41' 37"). The applicant proposes to construct and maintain approximately 2,200' of stream channel improvements consisting of channel reconstruction, rock cross veins, J-hook veins, riparian zone plantings and channel re-alignment, all on a UNT to Haymaker Run (HQ-CWF). The project is located approximately 1 mile north of US Route 22.

#### DAM SAFETY

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

**D40-225A. Beech Mountain Lakes Homeowners Association**, 1 Burkes Drive, Drums, PA 18222. To modify, operate and maintain Beech Mountain Lake Dam across Oley Creek (CWF), for the purpose of constructing an additional auxiliary spillway on the existing saddle dam to increase spillway capacity to safely pass the required design storm (Freeland, PA Quadrangle N: 9.7 inches; W: 7.05 inches) in Butler Township, **Luzerne County**.

## ACTIONS

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

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

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

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

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

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

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

### I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0062006 (Minor Sewage)	YMCA of Wilkes-Barre, Inc. Camp Kresge 40 West Northampton Street Wilkes-Barre, PA 18711	Luzerne County Dennison Township	Creasy Creek 05D	Y
PA-0063223 (Single-Family Residence)	Martha J. Vetter 1562 River Road Damascus, PA 18415-3003	Damascus Township Wayne County	Delaware River 1A	Y
PA0061671	Greenfield Township Sewer Authority P. O. Box 501 Carbondale, PA 18407	Greenfield Township Lackawanna County	UNT to Dundaff Creek 4F	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>
PA0028720 (Sew)	Reading Regional Airport Authority 2501 Bernville Road Reading, PA 19605	Berks County Bern Township	Schuylkill River 3-C	Y
PA0082708 (Sew)	Calamus Estates, LLP 652 Georgetown Road Ronks, PA 17572	Lancaster County Paradise Township	Calamus Run 7-K	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0024163 Sewage	Cambria Township Sewer Authority P. O. Box 247 Revloc, PA 15948	Cambria County Cambria Township	South Branch Blacklick Creek	Y
PA0204161 Sewage	Valley School of Ligonier P. O. Box 616 Ligonier, PA 15658	Westmoreland County Ligonier Township	Linn Run	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0101176	Harvey J. Wolfe 1547 Rosely Road St. Marys, PA 15857	City of St. Marys Elk County	UNT to the South Fork of West Creek 8-A	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>
PA0104451	Erie Forge & Steel, Inc. 1341 West 16th Street Erie, PA 16502	City of Erie Erie County	Cascade Creek 15	Y
PA0239453	Intech Metals 7028 Ridgway/St. Marys Road Ridgway, PA 15853	Ridgway Borough Elk County	Elk Creek 17-A	Y
PA0222836	Wendy L. Davis, SFTF 106 Bend Road New Wilmington, PA 16142	Wilmington Township Mercer County	UNT to the West Branch Little Neshannock Creek 20-A	Y
PA0210153	Morco Manufacturing 125 High Street Cochranton, PA 16314	Cochranton Borough Crawford County	UNT to French Creek 16-D	Y

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

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

**NPDES Permit No. PA0052761**, Sewage, **Buckingham SNF, LLC**, 820 Durham Road, Newtown, PA 18940. This proposed facility is located in Buckingham Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the transfer and renewal to discharge treated sewage effluent to a UNT to Mill Creek in Watershed 2F.

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

**NPDES Permit No. PA0026051, Amendment No. 1**, Sewage, **Borough of Chambersburg**, 100 South Second Street, Chambersburg, PA 17201. This proposed facility is located in Chambersburg Borough, **Franklin County**.

Description of Proposed Action/Activity: Authorization to discharge to Conococheague Creek in Watershed 13-C.

**NPDES Permit No. PA0261122**, Sewage, **John Luppino, Train Collectors Association**, P. O. Box 248, Strasburg, PA 17579-0248. This proposed facility is located in Paradise Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT Pequea Creek in Watershed 7-K.

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

**PA0023531**, Sewage, SIC 4952, **Borough of Danville**, 239 Mill Street, Danville, PA 17821. This existing facility is located in the Borough of Danville, **Montour County**.

Description of Proposed Activity: The amendment of a major NPDES permit for the wastewater treatment facility consisting of primary settling, contact stabilization, final settling and chlorine disinfection.

The receiving stream for Outfall 001, the Susquehanna River, is in the State Water Plan Watershed 5E and is classified for: WWF. The nearest public water supply surface water intake, owned by Merck and Company, Inc., is located on the Susquehanna River, 0.95 mile below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 3.62 mgd.

<i>Parameter</i>	<i>Concentration (mg/L)</i>				<i>Mass (lbs)</i>	
	<i>Monthly Average</i>	<i>Weekly Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>	<i>Monthly Load</i>	<i>Annual Load</i>
CBOD <sub>5</sub>	25	40		50		
Total Suspended Solids	30	45		60		
Total Chlorine Residual	0.5			1.6		
Fecal Coliforms (5-1 to 9-30) (10-1 to 4-30)	200 col/100 mL (2,000 col/100 mL) as a Geometric Mean					
pH	Within the range of 6.0 to 9.0					

### Chesapeake Bay Tributary Strategy Nutrient Requirements

<i>Parameter</i>	<i>Concentration (mg/L)</i>		<i>Mass (lbs)</i>	
	<i>Monthly Average</i>	<i>Monthly Load</i>	<i>Monthly Load</i>	<i>Annual Load</i>
Ammonia-N	Report	Report	Report	Report**
Kjeldahl-N	Report	Report	Report	
Nitrate-Nitrate as N	Report	Report	Report	
Total Nitrogen	Report	Report	Report	Report

<i>Parameter</i>	<i>Concentration (mg/L)</i>	<i>Mass (lbs)</i>	
	<i>Monthly Average</i>	<i>Monthly Load</i>	<i>Annual Load</i>
Total Phosphorus	Report	Report	Report
Net Total Nitrogen		Report	66,118*
Net Total Phosphorus		Report	8,816*

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

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

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

#### *Outfall S01—Stormwater—Best Management Practices*

In addition to the effluent limits and best management practices, the permit contains the following major permit conditions:

1. Chesapeake Bay Nutrient Requirements.
2. Requirements Applicable to Stormwater Outfalls.

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

**NPDES Permit No. PA0253740**, Sewerage, **Ingram Borough**, 40 West Prospect Street, Pittsburgh, PA 15205-2296. This proposed facility is located in Ingram Borough, **Allegheny County**.

Description of Proposed Action/Activity: Permit issuance for combined sewer outfall related discharges.

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

**NPDES Permit No. PA0092819**, Sewage, **Fair Winds Manor, LP**, 126 Iron Bridge Road, Sarver, PA 16055. This proposed facility is located in Winfield Township, **Butler County**.

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

**NPDES Permit No. PA0041564**, Sewage, **S2 Properties, Inc.**, P. O. Box 24509, Pittsburgh, PA 15234. This proposed facility is located in Lancaster Township, **Butler County**.

Description of Proposed Action/Activity: Issuance of a new permit to replace an expired permit.

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

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

**WQM Permit No. 3609402**, Sewage, **Peanut Investments, Inc., c/o Larry DeMarco**, 312 Paradise Lane, Ronks, PA 17572. This proposed facility is located in Paradise Township, **Lancaster County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of sewerage facilities consisting of septic tank, recirculation sand filter, pea gravel bed and subsurface disposal bed to treat 9,900 gpd.

**WQM Permit No. 0197406 09-1**, Sewage, **New Oxford Municipal Authority**, 409 Waterworks Road, New Oxford, PA 17350. This proposed facility is located in Oxford Township and New Oxford Borough, **Adams County**.

Description of Proposed Action/Activity: Amendment approval for the construction and modification of sewerage facilities consisting of modification of existing aeration basin with central clarifier to an aeration basin only, construction of new clarifier, upgrade of blower system to provide air for new design.

**WQM Permit No. WQG01360901**, Sewage, **John Luppino, Train Collectors Association**, P. O. Box 248, Strasburg, PA 17579-0248. This proposed facility is located in Paradise Township, **Lancaster County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of small flow sewage treatment facilities to serve the National Toy Train Museum.

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

**WQM Permit No. 3006201**, Industrial Waste, **Allegheny Energy Supply Company, LLC**, 800 Cabin Hill Drive, Greensburg, PA 15601. This proposed facility is located in Monongahela Township, **Greene County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of treatment facilities associated with the CCB Landfill expansion.

**WQM Permit No. 1108402**, Sewerage, **Dale Borough**, 810 Bedford Street, Johnstown, PA 15904. This proposed facility is located in Dale Borough, **Cambria County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a sanitary sewer system to separate existing combined sewer system.

The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania's State Revolving Fund has been identified as a possible funding source. The Department of Environmental Protection's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

**WQM Permit No. 6309402**, Sewerage, **Municipal Authority of the City of Monongahela**, 521 West Main Street, Monongahela, PA 15063. This proposed facility is located in the City of Monongahela, **Washington County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of sanitary sewers, force main and pump station to serve the City of Monongahela.

The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania's State Revolving Fund has been identified as a possible funding source. The Department of Environmental Protection's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

**WQM Permit No. 5608402**, Sewerage, **PBS Coals, Inc.**, P. O. Box 260, Friedens, PA 15541-0260. This proposed facility is located in Shade Township, **Somerset County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a sewage treatment plant.

**WQM Permit No. 8775S-A3**, Sewerage, **City of Clairton**, 551 Ravensburg Boulevard, Clairton, PA 15025. This existing facility is located in the City of Clairton, **Allegheny County**.

Description of Proposed Action/Activity: Permit amendment issuance to renovate existing Wilson Ejector Station.

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

**WQM Permit No. WQG018626**, Sewerage, **Cynthia and Joseph Selby**, 3090 Valley View Road, Sharpsville, PA 16150. This proposed facility is located in City of Hermitage, **Mercer County**.

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

**WQM Permit No. 6191402, Minor Amendment No. 1**, Sewerage, **Barkeyville Sewage, LLC**, 15 Bradley Street, Warren, PA 16365. This proposed facility is located in Barkeyville Borough, **Venango County**.

Description of Proposed Action/Activity: Issuance of permit. The permittee has requested that the rapid sand filter no longer be listed as a treatment unit.

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

**WQM Permit No. WQG02150901**, Sewerage, **Willistown Township**, 688 Sugartown Road, Malvern, PA 19355. This proposed facility is located in Willistown Township, **Chester County**.

Description of Action/Activity: Construction and operation of a municipally owned force main to serve the privately owned Devereux Foundation Pump Station.

**WQM Permit No. WQG02150902**, Sewerage, **The Devereux Foundation**, 655 Sugartown Road, Malvern, PA 19355. This proposed facility is located in Willistown Township, **Chester County**.

Description of Action/Activity: Construction and operation of a pump station to serve existing and proposed facilities at the Devereux Foundation—Mapleton Campus.

**WQM Permit No. 2309406**, Sewerage, **DEL CORA**, P. O. Box 999, Chester, PA 19016-0999. This proposed facility is located in City of Chester, **Delaware County**.

Description of Action/Activity: The relocation of an existing combined sewer overflow.

---

#### 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>
PAS10-G531-R	Heritage Building Group, Inc. 2500 York Road Jamison, PA 18929	Chester	East Coventry Township	UNT Schuylkill River and Pigeon Creek HQ
PAI01 1509001	IHM Immaculata—Villa Maria House of Studies 1140 King Road Immaculata, PA 19345	Chester	East Whiteland Township	UNT Ridley Creek HQ-TSF
PAI01 5109002	Essington Avenue Partners II, LP 2701 Renaissance Boulevard King of Prussia, PA 19406	Philadelphia	City of Philadelphia	Schuylkill Tidal Watershed B

*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>
PAI024805021(1)	Route 512 Associates, LLC 100 Gateway Drive Suite 310 Bethlehem, PA 18017	Northampton	East Allen Township	Monocacy Creek HQ-CWF
PAS10S119	Alpine Rose Resorts, Inc. 4626 Kathi Drive Bethlehem, PA 18017-8701	Monroe	Eldred Township	EV Wetlands, Aquashicola Creek and tributaries thereof HQ-CWF
PAI025808002	Elk Mountain Ski Resort, Inc. R. R. 2 Box 3328 Union Dale, PA 18470	Susquehanna	Herrick Township	East Branch Tunkhannock Creek HQ-CWF

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

*Tioga County Conservation District: 50 Plaza Lane, Wellsboro, PA 16901, (570) 724-1801, Ext. 3.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI045909002	Gary R. Butters Beutertown Road Subdivision Phase II 54 Railroad Street Mansfield, PA 16933	Tioga	Liberty Township	Zimmerman Creek HQ-CWF

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

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

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

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Groundwater Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

*General Permit Type—PAG-2*

*Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Bedminster Township Bucks County	PAG200 0909018	Pulte Homes 1100 Northbrook Drive Trevose, PA 19053	Deep Run WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

*Facility Location:  
Municipality &  
County*

*Permit No.*

*Applicant Name &  
Address*

*Receiving  
Water/Use*

*Contact Office &  
Phone No.*

Falls Township Bucks County	PAG200 0908112	Gamesa Wind US, LLC 400 Gamesa Drive Fairless Hills, PA 19030-5099	Delaware River WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Richland Township Bucks County	PAG200 0909004	309 Venture Partners, LP 120 West Germantown Pike Plymouth Meeting, PA 19428	Tohickon Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Doylestown Township Bucks County	PAG200 0909035	John Mains 77 Pine Run Road Doylestown, PA 18901	Queen Ann, Mill and Otter Creeks; Oxford Valley Mall and Silver Lakes and Delaware River	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Rockhill Township Bucks County	PAG200 0908076	The Log Cabin at Green Top Road, LLC 2465 Milford Square Pike Quakertown, PA 18951	UNT Tohickon Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bedminster Township Bucks County	PAG200 0908054	Telvil Corporation, Inc. 527 Main Street Harleysville, PA 19438	Deep Run WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Plumstead Township Bucks County	PAG200 0908085	Deborah M. Wagner 4655 Burnt House Hill Road Doylestown, PA 18902	Pine Run TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Northampton Township Bucks County	PAG200 0909016	Stanton Systems 50 Richard Road Ivyland, PA 18974	Little Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Middletown Township Bucks County	PAG200 0909001	Township of Middletown 3 Municipal Way Langhorne, PA 19047	Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Warminster Township Bucks County	PAG200 0909031	Warminster Township 1101 Little Lane Warminster, PA 18974	UNT Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Warrington Township Bucks County	PAG200 0909038	Warrington Township 852 Easton Road Warrington, PA 18976	Little Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
New Garden Township Chester County	PAG200 1509006	The Oppy Property, LP P. O. Box 368 Kennett Square, PA 19348	UNT West Branch Red Clay Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Caln Township Chester County	PAG200 1508041	Jand Enterprises 126 Aspen Drive Downingtown, PA 19335	Valley Run TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Schuylkill Township Chester County	PAG200 1508059	Eastern Die Cutting, Inc. 1000 Township Line Road Phoenixville, PA 19460	Tributary to French Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Parkesburg Borough Chester County	PAG200 1508003	T.R. White, Inc. 1380 Wilmington Pike Suite 209 West Chester, PA 19382	Little Buck Run TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

## NOTICES

2621

<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 Goshen Township Chester County	PAG200 1508032	Saunders Lane, LP 319 Westtown Road West Chester, PA 19382	East Branch Brandywine Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Coatesville Chester County	PAG200 1508070	S and I Coatesville, LP 111 Presidential Boulevard Suite 209 Bala Cynwyd, PA 19004	West Branch Brandywine Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Springfield Township Delaware County	PAG200 2309002	Kimco Realty Corporation 170 West Ridgely Road Suite 210 Lutherville, MD 21093	Whiskey Run WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Pottsgrove Township Montgomery County	PAG200 4608173	Tri County Urologic Assoc. 824 Main Street Suite 301 Phoenixville, PA 19460	Sprogels Run WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hatfield Township Montgomery County	PAG200 4609031	SJM Real Estate, LLC P. O. Box 373 7241 Hollywood Road Springhouse, PA 19477	West Branch Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Skippack Township Montgomery County	PAG200 4608135	Cindy J. Sole 2092 Hudnut Road Schwenksville, PA 19473	Perkiomen Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hatfield Township Montgomery County	PAG200 4609013	Produce Junction 2119 Center Square Road Swedesboro, NJ 08095	West Branch Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG201 5109005	The Church of Redeemer 2336 Wisteria Drive Suite 360 Snellville, GA 30078	Schuylkill River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Scranton Lackawanna County	PAG2003509008	George Roberts Department of Transportation District 4-0 55 Keystone Industrial Park Dunmore, PA 18512	Stafford Meadow Brook WWF	Lackawanna County Conservation District (570) 281-9495
North Union and East Union Townships Schuylkill County and Hazle and Black Creek Townships Luzerne County	PAG2005403032R	Eagle Rock Resort Attn: Randy Gracy 1031 Valley of Lakes Hazleton, PA 18202	Tomhicken Creek CWF Little Tomhicken Creek CWF Sugarloaf Creek CWF	Schuylkill County Conservation District (570) 622-3742
Butler Township Luzerne County	PAG2004009002	Beech Mountain Lakes Homeowners Association Attn: Larry Grove 1 Burkes Drive Drums, PA 18222	Oley Creek CWF	Luzerne County Conservation District (570) 674-7991



*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>
Union County Kelly Township	PAG2006009002	Evangelical Community Hospital Michael N. O'Keefe Hospital Drive Lewisburg, PA 17837	UNT to Buffalo Creek CWF	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Indiana County White Township	PAG2003209008	Department of Transportation Engineering District 10-0 2550 Oakland Avenue Indiana, PA 15701	McCarthy Run Whites Run CWF	Indiana County Conservation District (814) 445-4652
Washington County Canton and Chartiers Townships	PAG2006309014	Sam Stockton Chartiers Township 2 Buccaneer Drive Houston, PA 15342	Georges Run WWF	Washington County Conservation District (724) 228-6774
Butler County Butler Township	PAG2001009004	Shearer Road Business Park Diane Sheets Butler Economic Development Corporation	UNT Connoquenessing Creek WWF	Butler County Conservation District (727) 284-5270

*General Permit Type—PAG-3**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>
York County West Manchester Township	PAR803717	York County Transportation Authority d/b/a Rabbittransit 1230 Roosevelt Avenue York, PA 17404	UNT Willis Run WWF 7-H	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Dauphin County Swatara Township	PAR803666	Rolling Frito-Lay Sales, LP 408 Inverhaddon Trail Bel Air, MD 21014	Spring Creek SWF 7-C	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Blair County Antis Township	PAR803662	Rolling Frito-Lay Sales, LP 408 Inverhaddon Trail Bel Air, MD 21014	UNT to Sandy Run CWF 11-A	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Franklin County Greene Township	PAR803665	Rolling Frito-Lay Sales, LP 408 Inverhaddon Trail Bel Air, MD 21014	Conococheague Creek CWF 13-C	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lancaster County Lancaster City	PAR323512	Armstrong World Industries, Inc. P. O. Box 3001 Lancaster, PA 17603	Little Conestoga Creek WWF 7-J	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Springdale Borough Allegheny County	PAR216105	R. I. Lampus Company 816 R. I. Lampus Avenue P. O. Box 167 Springdale, PA 15144-0167	Allegheny River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Albion Borough Erie County	PAR208309	Altman Manufacturing, Inc. P. O. Box 67 Albion, PA 16401	Stormwater sewers to a UNT to the East Branch of Conneaut Creek	DEP—NWRO Water Management 230 Chestnut Street Meadeville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-4*

*Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Plumstead Township Bucks County	PAG040071	Gerald Bachinsky 5642 Old Durham Road Pipersville, PA 18947	Geddes Run Three Mile Run Watershed 2D	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Plumstead Township Bucks County	PAG040117	Peter and Mary Van Ellis 6179 Covered Bridge Road Pipersville, PA 18947	UNT to Tohickon Creek Three Mile Run Watershed 2D	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Glade Township Warren County	PAG048457	Richard Lauffenburger 3212 Cobham Park Road Warren, PA 16365	Glade Run 16-B	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
City of Hermitage Mercer County	PAG049437	Cynthia and Joseph Selby 3090 Valley View Road Sharpsville, PA 16150	UNT to Golden Run 20-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

**STATE CONSERVATION COMMISSION**

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

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

Persons aggrieved by any action may appeal under section 517 of Act 38, section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) to the Environmental Hearing Board, Second Floor, Rachael Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service at (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

**CAFO PUBLIC NOTICE SPREADSHEET—ACTIONS**

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Approved or Disapproved</i>
H. Lamar Zimmerman Rumar Farms 1908 Shumaker Road Manheim, PA 17545	Lancaster	100	373.98	Broilers	NA	Approved
Larry E. Breneman 774 Bunker Hill Road Strasburg, PA 17579	Lancaster	130.5	361.64	Swine	NA	Approved

## PUBLIC WATER SUPPLY (PWS) PERMITS

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

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

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

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

### SAFE DRINKING WATER

#### Actions taken under the Pennsylvania Safe Drinking Water Act

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

**Permit No. 4009511MA, Minor Amendment, Public Water Supply.**

Applicant	<b>United Water Pennsylvania, Inc.</b> 4211 East Park Circle P. O. Box 4151 Harrisburg, PA 17111
Borough or Township	Harveys Lake Borough
County	<b>Luzerne</b>
Type of Facility	PWS
Consulting Engineer	Arthur C. Saunders, P. E. United Water Pennsylvania, Inc. 4211 East Park Circle P. O. Box 4151 Harrisburg, PA 17111
Permit to Construct Issued	April 30, 2009

**Permit No. 4009512MA, Minor Amendment, Public Water Supply.**

Applicant	<b>United Water Pennsylvania, Inc.</b> 4211 East Park Circle P. O. Box 4151 Harrisburg, PA 17111
Borough or Township	Harveys Lake Borough
County	<b>Luzerne</b>
Type of Facility	PWS
Consulting Engineer	Arthur C. Saunders, P. E. United Water Pennsylvania, Inc. 4211 East Park Circle P. O. Box 4151 Harrisburg, PA 17111
Permit to Construct Issued	May 7, 2009

**Permit No. 2406411, Operations Permit, Public Water Supply.**

Applicant	<b>Nature's Way Purewater Systems, Inc.</b> 164 Commerce Road Dupont, PA 18641
Borough or Township	Dupont Borough
County	<b>Luzerne</b>
Type of Facility	BVRB
Consulting Engineer	James Palumbo, P. E. Quad Three Group 72 Glenmaura National Boulevard Moosic, PA 18507
Permit to Operate Issued	April 28, 2009

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

**Permit No. 3808506, Public Water Supply.**

Applicant	<b>Iona Swim Club</b>
Municipality	South Lebanon Township
County	<b>Lebanon</b>
Type of Facility	Installation of softening and nitrate treatment.
Consulting Engineer	Scott M. Rights, P. E. Steckbeck Engineering Associates 279 North Zinns Mill Road Lebanon, PA 17042
Permit to Construct Issued	May 8, 2009

**Permit No. 3809502 MA, Minor Amendment, Public Water Supply.**

Applicant	<b>City of Lebanon Authority</b>
Municipality	North Lebanon Township
County	<b>Lebanon</b>
Type of Facility	Installation of an altitude valve on the Sand Hill Tank along with some site modifications.

Consulting Engineer Laurence S. Zimmermann, P. E.  
Gannett Flemming, Inc.  
P. O. Box 67100  
Harrisburg, PA 17106-7100

Permit to Construct May 8, 2009  
Issued

**Operations Permit** issued to **Gerald Cox**, 7360504, Little Britain Township, **Lancaster County** on May 8, 2009, for the operation of facilities approved under Construction Permit No. 3608515.

**Operations Permit** issued to **Seven Twenty Four Corporation**, 3060534, Union Township, **Berks County** on May 5, 2009, for the operation of facilities approved under Construction Permit No. 0608519 MA.

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

**Permit No. 4300503-T1-MA3**, Public Water Supply.

Applicant **Aqua PA, Inc.**  
Township or Borough City of Hermitage  
County **Mercer County**  
Type of Facility Public Water Supply  
Consulting Engineer Peter J. Kusky, P. E.  
Permit to Construct May 11, 2009  
Issued

**Permit No. 2578503-T1-MA1**, Public Water Supply.

Applicant **Greene Township**  
Township or Borough Greene Township  
County **Erie County**  
Type of Facility Public Water Supply  
Consulting Engineer Mark J. Corey, P. E.  
Permit to Construct May 11, 2009  
Issued

**Transfer of Operations Permit** issued to **Carl E. Ames, d/b/a Ames Mobile Home Park**, PWSID No. 6200054, Oil Creek Township, **Crawford County**, May 8, 2009, for the operation of the public water system servicing Ames Mobile Home Park, according to specifications approved by Operation Permit No. 2007505, issued August 12, 2008.

**Operations Permit** issued to **Presque Isle Wine Cellars, Inc.; The Five Restaurant**, PWSID No. 6250995, North East Township, **Erie County**, May 8, 2009, for water treatment system servicing The Five Restaurant, as permitted under construction permit No. 2508501, issued October 29, 2008.

**Operations Permit** issued to **Pennsylvania American Water Company**, PWSID No. 6160001, Clarion Township, **Clarion County**, May 11, 2009, for operation of PAX mechanical mixer inside Clarion Township's 310,000-gallon water storage tank, as permitted under construction permit No. 8771-W-T1-MA3, issued December 15, 2008.

#### SEWAGE FACILITIES ACT PLAN APPROVAL

**Plan Approvals Granted under the Pennsylvania Sewage Facilities Act, Act of January 24, 1966, P. L. 1535, as amended, 35 P. S. § 750.5**

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

#### Plan Location:

Borough or Township	Borough or Township Address	County
Hamlin Township	P. O. 235 Hazel Hurst, PA 16733	McKean

*Plan Description:* The approved plan provides for the construction of a public sewage collection and conveyance system for the Lantz Corners/Route 6 and Campbelltown Road areas with treatment at the existing Mount Jewett STP and the construction of a sewage collection system and wastewater treatment plant to serve the Village of Kushequa. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

#### Plan Location:

Borough or Township	Borough or Township Address	County
Knox Borough	620 South Main Street Knox, PA 16232	Clarion

*Plan Description:* The approved plan initially provides for replacement of Knox Borough's collection and conveyance system, including the laterals. Once completed, a 6 month study of the sanitary sewage flows will provide information for Phase 2. By means of a special study, STP and collection system size and anticipated costs/user fees will be explored, culminating in the construction of a new STP. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 2

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

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial

investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania 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.*

**101—103 Cricket Avenue**, Lower Township, **Montgomery County**. Samuel Kucia, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401 on behalf of Samuel Galib, JAL Partners, 409 Boxwood Road, Bryn Mawr, PA 19010 has submitted a Remedial Investigation and Final Report concerning remediation of site soil and groundwater contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard and Site-Specific Standard.

**Wyeth Lab**, West Chester Borough, **Chester County**. Daniel P. Sheehan, Malcolm Pirnie, Inc., 824 Market Street, Suite 820, Wilmington, DE 19801 on behalf of Robert H. Taggart, Wyeth, 5 Giralda Farms, Madison, NJ 07940 has submitted a Remedial Investigation concerning remediation of site groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**211 Belmont Avenue Site**, Lower Merion Township, **Montgomery County**. Jeffery Walsh, Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Kevin Kyle, 211 Belmont Avenue Associated, LP, 2701 Renaissance Boulevard, Fourth Floor, King of Prussia, PA 19406 has submitted a Final Report concerning remediation of site groundwater and soil contaminated with leaded gasoline and lead. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**619—629 North Broad Street**, City of Philadelphia, **Philadelphia County**. Andrew Hubley, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401, Richard Werner, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401, Martin Liebhardt, Sunoco, Inc. (R & M), 350 Eagleview Boulevard, Exton, PA 19341 on behalf of Daniel Polett, Lexus of Chester Springs, 400 Pottstown Pike, Chester Springs, PA 19425 has submitted a Final Report concerning remediation of site soil contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Fleet Fuel Site**, East Pikeland Township, **Montgomery County**. Mike Faith, Lewis Environmental, 155 Railroad Plaza, Royersford, PA 19468 on behalf of Stephen Koons, Fleet Fuel Services, P. O. Box 444,

Phoenixville, PA 19460 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 Standard.

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

**Medeiros Property**, 20 North Cedar Street, Hazleton City, **Luzerne County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 has submitted a Final Report (on behalf of his client, Victor Medeiros, 1403 Beech Court, Hazle Township, PA 18202), concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release due to an aboveground storage tank failure during a fuel oil delivery. The report was submitted to document attainment of the Statewide Health Standard. A public notice regarding the submission of the Final Report was published in *The Hazleton Standard Speaker* on April 29, 2009. A Notice of Intent to Remediate was simultaneously submitted.

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

**Samuel Leese Property**, Paradise Township, **York County**. Herbert, Rowland and Grubic, Inc., 1820 Linglestown Road, Harrisburg, PA 17110, on behalf of Samuel and Margaret Leese, 1195 Old 220 Road, Milesburg, PA 16853 and EPS of Vermont, Inc., 5100 Paxton Street, Harrisburg, PA 17111-2520 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 Residential Statewide Health Standard.

**US Foodservice, Inc.**, Allegheny Township, **Blair County**. Delta Consultants, P. O. Box 415, Hershey, PA 17033, on behalf of US Foodservice, Inc., 6685 Crescent Drive, Norcross, GA 30071, submitted a Final Report concerning remediation of site soils contaminated with non-PCB transformer oil from electrical transformers. The report is intended to document remediation of the site to meet the Residential Statewide Health Standard. The site will remain commercial.

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

**American Rock Salt Co., LLC**, City of Dubois and Sandy Township, **Clearfield County**. EnSol, Inc., 661 Main Street, Niagara Falls, NY 14302 on behalf of American Rock Salt Co., LLC, P. O. Box 190, Mt. Morris, PA 14510 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with volatile and semivolatile compounds. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

**Centerville United Methodist Church**, Borough of Centerville, **Crawford County**. Environmental Remediation & Recovery, Inc., 4250 Route 6N, Edinboro, PA 16412 on behalf of Buffalo Structural Steel Corp., 60 Bryant Woods South, West Amherst, NY 14228 has submitted a Final Report concerning remediation of site soil and site groundwater contaminated with benzene, toluene, ethylbenzene, total xylenes, cumene, MTBE, naphthalene, 1,2,4-trimethylbenzene and 1,3,5-trimethylbenzene. The Report is intended to document remediation of the site to meet the Statewide Health Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 3

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

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

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

The Department has received the following plans and reports:

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

**Clemens Cleaners Hillcrest Shop Center**, Lansdale Borough, **Montgomery County**. Richard Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA

18073, Randy Clemens, Clemens Cleaners, 811 West 5th Street, Lansdale, PA 19446 on behalf of John Lloyd, HC Spectrum Partners, LP, 1690 Sumneytown Pike, Suite 240, Lansdale, PA 19446 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with PCE. The Final Report did not demonstrate attainment of the Site-Specific Standard and was placed on hold by the Department of Environmental Protection on April 28, 2009.

**120 Butcher Drive Site**, Lower Providence Township, **Montgomery County**. Michael Welsh, Applied Environmental Management, Inc., 16 Chester County Commons, Malvern, PA 19355, Robin Gardner, US Environmental, 409 Boot Road, Downingtown, PA 19335 on behalf of Joseph Carbone, Newbury Management, 31200 Northwestern Highway, Farmington Hills, MI 48334 has submitted a 90 day Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on April 29, 2009.

**Goshen Terrace Apartments**, West Goshen Township, **Chester County**. David Fennimore, Earth Data Northeast, 924 Springdale Drive, Exton, PA 19341, George Seidman, Earth Data Northeast, 924 Springdale Drive, Exton, PA 19341 on behalf of Steve Berger, Pennsylvania Management Corporation, P. O. Box 1036, Blue Bell, PA 19244 has submitted a Final Report concerning the remediation of site groundwater contaminated with chlorinated solvents and MTBE and unleaded gasoline. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on April 20, 2009.

**Dalke Residence**, Radnor Township, **Delaware County**. Ann Smith, Eldredge, Inc., 898 Fernhill Road, West Chester, PA 19380 on behalf of Jeffery Dalke, 410 Old Lane, Wayne, PA 19087 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil, diesel fuel. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on April 21, 2009.

**Calderon Residence**, Falls Township, **Bucks County**. Michael Raffoni, Reliance Environmental, Inc., 130 East Chestnut Street, Lancaster, PA 17602 on behalf of Jose Calderon, 27 Top Hill Lane, Levittown, PA 19054 has submitted a 90 day Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The 90 day Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on April 22, 2009.

**Sun Malvern Tanker Spill Site**, East Whiteland Township, **Chester County**. Krista Snyder, GES, Inc., 440 Creamery Way, Suite 500, Exton, PA 1934, Martin Liebhardt, Sunoco, Inc. (R & M), 350 Eagleview Boulevard, Suite 300, Exton, PA 19341 on behalf of Tony Bamonte, Liberty Property Trust, LP, 500 Chesterfield Parkway, Malvern, PA 19355 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with petroleum hydrocarbons. The Final Report demonstrated attainment of the Statewide Health Standard and Site-Specific Standard and was approved by the Department of Environmental Protection on April 23, 2009.

**269 Canal Road**, Falls Township, **Bucks County**. Trevan Houser, Land Resource Solutions, LLC, 1274 North Church Street, Moorestown, NJ 08057 on behalf of

Anthony Cino, Trevan J. Houseer, QEP, 1274 North Church Street, Moorestown, NJ 08057 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with inorganic, chlorinated solutions PCB's and other organics. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on April 21, 2009.

**56 West Lincoln Highway**, Middletown Township and Pennel Borough, **Bucks County**. Charlene Drake, React Environmental Professional Services Group, 6901 Kingsessing Avenue, Suite 210, Philadelphia, PA 19142 on behalf of Chris Neill, Primak Properties, LLC, 1065 East Moreland Street, 4th Floor, Charlotte, NC 28204 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with inorganic. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on April 20, 2009.

**Manhattan Bagel**, Glenolden Borough, **Delaware County**. Jennifer L. O'Reilly, GES, Inc., 440 Creamery Way, Suite 500, Exton, PA 19341, Stephanie Rose, GES, Inc., 440 Creamery Way, Suite 500, Exton, PA 19341 on behalf of John Hoban, Exxon Mobil Environmental Service Co., 220 Commerce Drive, Suite 205, Fort Washington, PA 19034 has submitted a Cleanup Plan and Risk Assessment Report concerning the remediation of site groundwater and contaminated with unleaded gasoline and MTBE. The Cleanup Plan and Risk Assessment Report were approved by the Department of Environmental Protection on May 5, 2009.

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

**Bethlehem Commerce Center—Lots 15 and 16**, 1805 East 4th Street, Bethlehem City, **Northampton County**. Kenneth G. Robbins, HDR Engineering, Inc., 1720 Spillman Drive, Suite 280, Bethlehem, PA 18015-2165 submitted a Cleanup Plan (on behalf of his client, Lehigh Valley Industrial Park, Inc., 1720 Spillman Drive, Suite 150, Bethlehem, PA 18015-2164), concerning the remediation of soils found to have been impacted by SVOCs (Benzo (a) Pyrene) and heavy metals (Total Chromium) as a result of historical manufacturing operations at the site. The report met the requirements of the Site-Specific Standard for soils and was approved by Central Office on April 7, 2009.

**Lakeside Energy/Hazleton Generation Facility**, 10 Maplewood Drive, Hazle Township, **Luzerne County**. Jeffrey C. Thomas, P. G., EPSYS, LLC, 1414 North Cameron Street, Suite A, Harrisburg, PA 17103 submitted a Final Report (on behalf of his client, Lakeside Energy, LLC, 150 North Michigan Avenue, Suite 2930, Chicago, IL 60601), concerning the remediation of soils found to have been impacted by fuel oil in April 2002 and in May 2003 and by glycol in November 2005 and in April 2006 as a result of accidental releases. The report demonstrated attainment of the Statewide Health Standard and was approved on January 16, 2009.

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

**Samuel Leese Property**, Paradise Township, **York County**. Herbert, Rowland and Grubic, Inc., 1820 Linglestown Road, Harrisburg, PA 17110, on behalf of Samuel and Margaret Leese, 1195 Old 220 Road, Milesburg, PA 16853 and EPS of Vermont, Inc., 5100 Paxton Street, Harrisburg, PA 17111-2520 submitted a

Residential Statewide Health Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report was approved by the Department of Environmental Protection on May 8, 2009.

**Kenneth Miller Residence**, Straban Township, **Adams County**. Environmental Maintenance Company, Inc., 1420 East Mermaid Lane, Glenside, PA 19038, on behalf of Kenneth Miller, 24 Montclair Road, Gettysburg, PA 17325, submitted a Residential Statewide Health Final Report concerning the remediation of site soils and surface water contaminated with kerosene. The report was approved by the Department of Environmental Protection on May 6, 2009.

**Former Mobil York Terminal/Goodling Bulk Plant**, North York Borough, **York County**. Groundwater & Environmental Services, Inc., 440 Creamery Way, Suite 500, Exton, PA 19341, on behalf of ExxonMobil Oil Corporation, Room CCM 09E, 1545 Route 22 East, Annandale, NJ 08801 and Rotz Development, LLC, 907 Roosevelt Avenue, York, PA 17404, submitted a Remedial Investigation Report, Risk Assessment Report and Cleanup Plan for site soils and groundwater contaminated with petroleum hydrocarbons. The reports were approved by the Department of Environmental Protection on May 8, 2009.

**Defense National Stockpile Center Marietta Depot**, East Donegal Township, **Lancaster County**. Parsons Corporation, 290 Elwood Davis Road, Suite 312, Liverpool, NY 13088, on behalf of General Services Administration, Property Disposal Division (4PR), 401 West Peachtree Street, Suite 820, Atlanta, GA 30308 and the Defense National Stockpile Center, 8725 John J. Kingman Road, Suite 3229, Fort Belvoir, VA 22060, submitted a Remedial Investigation Report for site soils, groundwater and surface water contaminated with metals. The report was approved by the Department of Environmental Protection on May 8, 2009.

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

**CC Express I80 MM 157 Diesel Spill**, Boggs Township, **Centre County**. Taylor GeoServices, 38 Bishop Hollow Road, Suite 200, Newtown Square, PA 19073 on behalf of CC Express, 409 Greenwood Avenue, Fort Wayne, IN 46808 has submitted a Final Report within 90 days of the release concerning remediation of site soil contaminated with diesel fuel. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on May 5, 2009.

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

**(CORRECTED) Erie Golf Course Expansion Parcel 33-186-553-25**, Millcreek Township, **Erie County**. Environmental Remediation & Recovery, Inc., 4250 Route 6N, Edinboro, PA 16412 on behalf of The City of Erie, 626 State Street, Erie, PA 16501, has submitted a Remedial Investigation Report and Cleanup Plan concerning remediation of site soil contaminated with arsenic and nonmedia solids including glass, rubber, wood, concrete and small metal containers. The Remedial Investigation Report and Cleanup Plan were approved by the Department of Environmental Protection on April 14, 2009.

## REGISTRATION FOR GENERAL PERMIT—RESIDUAL WASTE

Registration Approved under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Residual 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.

Registration Under General Permit No. **WMGR090R056**, York Building Products Co., Inc., P. O. 1708, York, PA 17405-1708.

General Permit Number WMGR090 authorizes the processing and beneficial use of reclaimed asphalt pavement materials as a roadway construction material. Central Office approved this registration for coverage under the general permit on May 7, 2009.

Persons interested in obtaining more information, or obtaining copies of the general permit should contact Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users should contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984.

### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits issued under the Solid Waste Management Act, of July 7, 1980, P. L. 380, 35 P. S. §§ 6018.101—6018.1003, the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

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

Permit ID No. **301310**, Tri-State Petroleum Recovery, Inc., 12 Creek Road, McKees Rocks, PA 15136. Permit renewal for a residual waste (waste oil, oily wastewater, spent antifreeze, used oil filters, spent lead-acid batteries) facility in Kennedy Township, **Allegheny County** issued by the Regional Office on May 7, 2009.

### AIR QUALITY

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

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

**45-310-055GP3: Simonds Excavating, Inc.** (301 Shepard Road, Sayre, PA 18840-9103) on May 5, 2009, to

construct and operate a Portable Crushing Operation with watersprays at their site in Smithfield Township, **Monroe County**.

**66-301-010GP14: RH Jones Crematory** (2 Twin Drive, Tunkhannock, PA 18657) on May 5, 2009, to install and operate a human remains crematory at their site in Tunkhannock Township, **Wyoming County**.

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

**GP1-22-03059: Keystone Central Storage, LP** (4900 Ritter Road, Mechanicsburg, PA 17055) on May 4, 2009, for a Small Gas and No. 2 Oil Fired Combustion Unit under GP1 in the City of Harrisburg, **Dauphin County**. This is a renewal of the GP1 permit.

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

**GP14-49-332: Cronrath-Grenoble Funeral Home** (121 South Main Street, Muncy, PA 17756) on April 14, 2009, to construct and operate the B & L Cremation Systems, Inc. model N-20 human cremation unit under the General Plan Approval and General Operating Permit for Human or Animal Crematories (BAQ-GPA/GP-14) in Watsontown Borough, **Northumberland County**.

**GP5-41-02C: Chief Gathering, LLC** (6051 Wallace Road Ext., Suite 210, Wexford, PA 15090) on April 27, 2009, to construct and operate a 375,000 Btu/hr glycol dehydrator under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at their Barto Compressor Station in Penn Township, **Lycoming County**.

**GP5-08-03B: Chesapeake Appalachia, LLC** (P. O. Box 6070, Charleston, WV 25362) on April 27, 2009, to construct and operate a 50 million standard cubic foot per day glycol dehydrator, 1 mmBtu/hr reboiler and a 3.5 mmBtu/hr line heater under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at their Granville Station in Granville Township, **Bradford County**.

**GP14-08-00023: Faithful Companions Pet Cemetery** (R. D. 2, Box 210, Ulster, PA 18850) on April 29, 2009, to construct and operate two Matthews Cremation Division model IE43-SPPIII animal cremation units under the General Plan Approval and General Operating Permit for Human or Animal Crematories (BAQ-GPA/GP-14) in Smithfield Township, **Bradford County**.

**GP5-18-188: Anadarko E&P Co., LP** (1201 Lake Robbins Drive, The Woodlands, TX 77380-1176) on May 8, 2009, to construct and operate a 145 brake horsepower natural gas-fired compressor engine equipped with a catalytic converter under the General Plan Approval and/or General Operating Permit for Natural Gas, Coal Bed Methane or Gob Gas Production or Recovery Facilities (BAQ-GPA/GP-5) at their COP Tract 653, Well 1000 Compressor Station in Beech Creek Township, **Clinton County**.

**GP1-18-00013: Clinton Hospital Corp.** (24 Cree Drive, Lock Haven, PA 17745) on April 17, 2009, to operate two dual-fired (natural gas and No. 2 oil) boilers under the General Plan Approval and General Operating Permit for Small Gas and No. 2 Oil Fired Combustion Units (BAQ-GPA/GP-1). The facility is in Lock Haven City, **Clinton County**.



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

**GP5-65-00964A: Rex Energy I, LLC** (476 Rolling Ridge Drive, Suite 300, State College, PA 16801-7639) on March 31, 2009, to allow the transfer of ownership and continued operation of a natural gas production facility at the Launtz Compressor Site located in Unity Township, **Westmoreland County**.

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

**GP-10-359A: Rex Energy I LLC—Yellow Creek Project** (736 Prospect Road, Route 528, Evans City, PA 16033) on May 5, 2009, to operate a natural gas fired compressor engine (BAQ-GPA/GP-5) in Forward Township, **Butler County**.

**GP-33-177B: Seneca Resources Corp.—Brookville South Station** (Pump Station Road, Brookville, PA 15825) on May 7, 2009, to operate natural gas fired compressor engines (BAQ-GPA/GP-5) in Knox Township, **Jefferson County**.

**GP-62-154A: Range Resources-Appalachia, LLC—Swart Compressor Station** (Jinks Road, Spring Creek, PA 16436) on May 4, 2009, to operate a natural gas fired compressor engine (BAQ-GPA/GP-5) in Spring Creek Township, **Warren County**.

---

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

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Sachin Shankar, New Source Review Chief, (484) 250-5920.*

**09-0179: Bucks County Furniture, LTD** (174 Keystone Drive, Telford, PA 18969) on May 7, 2009, to operate a surface coating processor and control equipment in West Rockhill Township, **Bucks County**.

**09-0126C: Air Liquide Electronics US, LP** (19 Steel Road West, Morristown, PA 19067) on May 7, 2009, to operate an ammonia purification system in Falls Township, **Bucks County**.

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

**06-05079D: United Corrstack, LLC** (720 Laurel Street, Reading, PA 19602-2718) on May 5, 2009, to construct a 482 mmBtu/hr circulating fluidized bed boiler and a 30 mW steam turbine adjacent to the company's existing plant in the City of Reading, **Berks County**. This plan approval was extended.

**06-05085A: New Morgan Landfill Co., Inc.** (420 Quarry Road, Morgantown, PA 19543) on May 4, 2009, to expand the existing municipal solid waste landfill controlled by a gas collection system and three ground flares in New Morgan Borough, **Berks County**. This plan approval was extended.

**06-05105A: Green GAS Pioneer Crossing Energy, LLC** (2400 Boston Street, Suite 348, Baltimore, MD 21224) on May 4, 2009, to construct an electric generation plant at their Pioneer Crossing Landfill in Exeter Township, **Berks County**. This plan approval was extended.

**06-05109A: Atlas Minerals & Chemicals** (1127 Valley Road, P. O. Box 38, Mertztown, PA 19539) on May 1, 2009, to install a second asphalt processing line in Longswamp Township, **Berks County**. This plan approval was extended.

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

**11-00241A: State Correctional Institution at Cresson** (P. O. Box 598, Camp Hill, PA 17001-0598) on May 7, 2009, allow additional time to complete construction of the biomass boiler and associated equipment at SCI Cresson Center, located in Cresson Township, **Cambria County**. The new expiration date for this plan approval is November 13, 2010. This Plan Approval has been extended.

---

**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.**

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

**35-00028: Moses Taylor Hospital** (700 Quincy Avenue, Scranton, PA 18510) on May 11, 2009, to re-issue a State-only (Natural Minor) Operating Permit for operation of three boilers at their facility in the City of Scranton, **Lackawanna County**.

**35-00048: Pioneer Aggregates, Inc.** (202 Main Street, Laflin, PA 18702) on May 7, 2009, to re-issue a State-only (Natural Minor) Operating Permit for operation of a rock crushing operation and associated air cleaning devices at their Simpson Stone Quarry in Fell Township, **Lackawanna County**.

**40-00104: Brdaric Excavating, Inc.** (913 Miller Street, Luzerne, PA 18709) on May 8, 2009, to issue a State-only (Natural Minor) Operating Permit for operation of a rock crushing operation and associated air cleaning devices at their facility in Kingston Township, **Luzerne County**.

**48-00064: Ungerer and Company** (110 North Commerce Way, Bethlehem, PA 18017) on May 6, 2009, to issue a State-only (Synthetic Minor) Operating Permit for operation of spray driers and associated air cleaning devices at their facility in Hanover Township, **Northampton County**.

**54-00047: Pennsy Supply, Inc.** (1001 Paxton Street, Harrisburg, PA 17104) on May 11, 2009, to re-issue a State-only (Synthetic Minor) Operating Permit for operation of a rock crushing operation and associated air cleaning devices at their Summit Station Quarry in Wayne Township, **Schuylkill County**.

**45-00021: Pocono Medical Center** (602 East Brown Street, East Stroudsburg, PA 18301-3094) on May 6, 2009, to renew a State-only Operating Permit for operation of two boilers at their hospital in East Stroudsburg, **Monroe County**.

**54-00070: H.M.M.K., LLC—d/b/a Foster Materials** (2052 Lucon Road, Skippack, PA 19474) on May 12, 2009, to issue a State-only (Natural Minor) Operating Permit for operation of a rock crushing operation and associated air cleaning devices at their facility in Foster Township, **Schuylkill County**.

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

**06-03069: Highway Materials, Inc.** (P. O. Box 1667, Blue Bell, PA 19422-0465) on May 5, 2009, to operate their Temple Quarry in Alsace Township, **Berks County**. This is a renewal of the State-only operating permit.

**34-05004: Jay Fulkroad & Sons, Inc.** (R. R. 1, Box 3060, McAlisterville, PA 17049-9600) on May 5, 2009, for operation of a limestone crushing plant and two batch asphalt plants in Fayette Township, **Juniata County**.

**36-03129: Kalas Manufacturing, Inc.** (25 Main Street, Denver, PA 17517-1609) on May 5, 2009, for operation of their existing battery terminal manufacturing facility in Denver Borough, **Lancaster County**. This is a renewal of the State-only operating permit.

**67-03056: SKF USA, Inc.** (20 Industrial Drive, Hanover, PA 17331-9582) on May 4, 2009, for operation of its spherical roller bearing manufacturing facility in Penn Township, **York County**. This is a renewal of the State-only operating permit.

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

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.*

**09-00015: Rohm and Haas Co.—Bristol Facility** (200 Route 413, Bristol Township, Bucks County, PA 19007) on May 6, 2009, for an administrative amendment to the Title V Operating Permit at their Bristol facility in Bristol Township, **Bucks County**. The facility is a diverse chemical manufacturing plant with a variety of continuous and batch-type processes. In general, the plant specializes in various acrylate polymerization reactions to produce products such as emulsions, plastics, coatings and resins. The permit is being amended to incorporate changes approved under the following plan approvals: Plan Approval 09-0015G to revise the limit for emissions of NO<sub>x</sub> and CO from the regenerative thermal oxidizer; Plan Approval 09-0015H for the installation of a carbon adsorption system to replace the existing waste water treatment plant scrubber (Source C03).

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

**18-00026: First Quality Products, Inc.** (Clinton County Industrial Park, 121 North Road, McElhatten, PA 17748) on May 8, 2009, to incorporate, by means of administrative amendment, the conditions established in Plan Approval 18-315-002A, issued on July 3, 2007, for the construction of two adult brief machines (Lines 31 and 32) at the McElhatten facility located in Wayne Township, **Clinton County**.

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

**32-00059: Reliant Energy Northeast Management Co.** (121 Champion Way, Canonsburg, PA 15317-5817) on May 7, 2009, for an administrative amendment to the Title V permit for Conemaugh Generating Station, in West Wheatfield Township, **Indiana County**, to update the facility's responsible official and telephone number

information, to clarify source testing requirements for Source No. 039 and No. 041 and to correct a typographical error regarding the performance of visible emissions monitoring for Source No. 039 and No. 041 whenever these sources are combusting fuel oil.

**Operating Permits Denied, Terminated, Suspended or Revoked under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.431 and 127.461.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.*

**09-00088: Chicago Steel** (80 Roebing Road, Fairless Hills, PA 19030-5000) on May 8, 2009, requested revocation of their non-Title V operating permit for the operation of a steel cleaning process and fume scrubber in Falls Township, **Bucks County**. This operating permit was revoked because of a permanent shutdown of operations at the facility.

**ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS**

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

*Coal Permits Actions*

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

**Permit Number 33901602 and NPDES Permit Number PA0214604, AMFIRE Mining Company, LLC,** (One Energy Place, Latrobe, PA 15650), to renew the permit for the Brockway Tipple in Snyder Township, **Jefferson County** and related NPDES permit. No additional discharges. Application received December 22, 2008. Permit issued May 5, 2009.

**Permit Number 56911602 and NPDES Permit Number PA0214400, Berwind Coal Sales Company,** (509 15th Street, Windber, PA 15963-1603), to renew the permit for the Huskin Run Tipple in Shade Township, **Somerset County** and related NPDES permit. No additional discharges. Application received December 9, 2008. Permit issued May 5, 2009.

**Permit Number 10841302 and NPDES Permit Number PA0002780, ArcelorMittal Pristine Resources, Inc.,** (P. O. Box 36, 129 Bethlehem Road, Revloc, PA 15948), to renew the permit and related NPDES permit for reclamation only and to revise the permit for the Fawn Mine No. 91 in Clinton Township, **Butler County** to install an above-ground pipeline for

underground sludge disposal. Surface Acres Proposed 2.5. No additional discharges. Application received October 25, 2006. Permit issued May 8, 2009.

**Permit Number 10841302 and NPDES Permit Number PA0002780, ArcelorMittal Pristine Resources, Inc.,** (P. O. Box 26, 129 Bethlehem Road, Revloc, PA 15948), to revise the permit for the Fawn Mine No. 91 in Clinton Township, **Butler County** and related NPDES permit to construct a water treatment plant for mine water discharge treatment and increase effluent limits to existing NPDES discharge. Surface Acres Proposed 5.9. Receiving stream: Lardintown Run, classified for the following use: TSF. Application received July 14, 2008. Permit issued May 8, 2009.

**Permit Number 11841301 and NPDES Permit Number PA0001317, ArcelorMittal Pristine Resources, Inc.,** (P. O. Box 26, 129 Bethlehem Road, Revloc, PA 15948), to renew the permit for the Cambria Slope Mine No. 33 in Cambria, Allegheny, Munster, Portage, Summerhill and Croyle Townships, **Cambria County** and related NPDES permit for reclamation and water treatment. No additional discharges. Application received October 11, 2005. Permit issued May 8, 2009.

**Permit Number 32831602 and NPDES Permit Number PA0214515, General Trade Corporation,** (One 8th Street, Braddock, PA 15104), to renew the permit for The Central Preparation Plant in West Wheatfield Township, **Indiana County** and related NPDES permit. No additional discharges. Application received March 24, 2008. Permit issued May 8, 2009.

**Permit Number 56071301 and NPDES Permit Number 0235814, RoxCOAL, Inc.,** (P. O. Box 149, Friedens, PA 15541), to operate the Horning Deep Mine in Stonycreek Township, **Somerset County** a new underground mine and related NPDES permit. Surface Acres Proposed 116.5, Underground Acres Proposed 2469.1, Subsidence Control Plan Acres Proposed 869.7. Receiving stream: UNT to Glades Creek, classified for the following use: WWF. Application received August 15, 2007. Permit issued May 8, 2009.

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

**32813031 and NPDES No. PA0125547. Indiana Investments, Inc.,** 4469 McCreight Road, Shelocta, PA 15774, permit renewal for reclamation only of a bituminous surface and auger mine in Center Township, **Indiana County**, affecting 97.0 acres. Receiving streams: UNT to/and Tearing Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received December 26, 2008. Permit issued May 4, 2009.

**11940102 and NPDES No. PA0212725. E. P. Bender Coal Company, Inc.,** P. O. Box 594, Main and Lehmier Streets, Carrolltown, PA 15722, permit renewal for reclamation only of a bituminous surface auger and coal refuse disposal mine in Reade Township, **Cambria County**, affecting 133 acres. Receiving streams: UNTs to/and Powell Run and UNT to Clearfield Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received February 27, 2009. Permit issued May 4, 2009.

**32930107 and NPDES No. PA0212687. TLH Coal Company,** 4401 Pollock Road, Marion Center, PA 15759, permit renewal for reclamation only of a bituminous surface mine in Grant Township, **Indiana County**, affecting 93.3 acres. Receiving streams: UNTs to/and East Run classified for the following use: HQ-CWF. There are

no potable water supply intakes within 10 miles downstream. Application received March 9, 2009. Permit issued May 4, 2009.

**32040101 and NPDES No. PA024958. Twin Brook Coal, Inc.,** P. O. Box 225, Clymer, PA 15728, permit renewal for reclamation only of a bituminous surface and auger mine in Green Township, **Indiana County**, affecting 41.0 acres. Receiving streams: UNT to Dixon Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 12, 2009. Permit issued May 4, 2009.

**56663094 and NPDES No. PA0606031. Croner, Inc.,** P. O. Box 260, Friedens, PA 15541, permit renewal for reclamation only of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 182.0 acres. Receiving streams: UNTs to/and Blue Lick Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 19, 2009. Permit issued May 4, 2009.

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

**65030103 and NPDES Permit No. PA0250481. Sosko Coal Company, Inc.** (716 Ruffsdale Alverton Road, Mt. Pleasant, PA 15666). Permit renewed for continued reclamation only of a bituminous surface mining site located in East Huntingdon Township, **Westmoreland County**, affecting 100 acres. Receiving streams: Stauffer Run and UNT to Stauffer Run. Application received February 13, 2009. Renewal issued May 4, 2009.

**26890103 and NPDES Permit No. PA0591327. Durant Excavating Company** (18 North Ross Street, Masontown, PA 15461). Permit renewed for continued operation and reclamation of a bituminous surface mining site located in Nicholson Township, **Fayette County**, affecting 32 acres. Receiving streams: UNTs to Cats Run to Monongahela River. Application received February 27, 2009. Renewal issued May 6, 2009.

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

**17930117 and NPDES No. PA0219584. RES Coal, LLC** (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15849), revision of an existing bituminous surface mine to add auger mining in Goshen Township, **Clearfield County**, affecting 329.8 acres. Receiving stream: UNT to Surveyor Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received January 23, 2009. Permit issued April 30, 2009.

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

**54830107C. Selkirk Enterprises, Inc.,** (10 Gilberton, Road, Gilberton, PA 17934), correction to an existing anthracite surface mine operation to 4.99 acres to the permit for a total of 2,211.99 permitted acres, receiving stream: West Branch Schuylkill River. Application received October 17, 2008. Correction issued May 4, 2009.

*Noncoal Permit Actions*

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

**64000301 and NPDES Permit No. PA0224073. Reading Materials, Inc.,** (P. O. Box 1467, Skippack, PA

19474), commencement, operation and restoration of a quarry operation and NPDES Permit for discharge of treated mine drainage in Lebanon Township, **Wayne County** affecting 178.7 acres, receiving stream: UNT to Big Brook. Application received March 24, 2000. Permit issued May 6, 2009.

**06920301C3 and NPDES Permit No. PA0595641. Martin Stone Quarries, Inc.**, (P. O. Box 297, Bechtelsville, PA 19505), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Washington Township, **Berks County**, receiving stream: Swamp Creek and UNT to Swamp Creek. Application received March 25, 2009. Renewal issued May 8, 2009.

**58092803. B.S. Quarries, Inc.**, (R. R. 3, Box 324A-1, Montrose, PA 18801), commencement, operation and restoration of a quarry operation in New Milford Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received February 9, 2009. Permit issued May 8, 2009.

#### ACTIONS ON BLASTING ACTIVITY APPLICATIONS

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

##### *Blasting Permits Actions*

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

**21094116. M & J Explosives, Inc.**, P. O. Box 608, Carlisle, PA 17013-0608, blasting activity permit issued for single dwelling development in North Middleton Township, **Cumberland County**. Blasting activity permit end date is April 30, 2010. Permit issued April 29, 2009.

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

**02094003. City of Pittsburgh** (200 Ross Street, Pittsburgh, PA 15219). Blasting activity permit for demolition of the Davis Avenue Bridge over Woods Run Avenue, located in the City of Pittsburgh, **Allegheny County**. The blasting is expected to take place on May 6, 2009. Blasting activity permit issued: May 5, 2009.

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

**48094105. Hayduk Enterprises, Inc.**, (257 Riverside Drive, Factoryville, PA 18419), construction blasting for a hotel in Bethlehem Township, **Northampton County** with an expiration date of December 31, 2009. Permit issued May 5, 2009.

### FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

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

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

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

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

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

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

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

#### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E54-330. Department of Conservation and Natural Resources**, 8th Floor, Rachel Carson State Office Building, P. O. Box 8551, Harrisburg, PA 17105-8551. Pine Grove Township, **Schuylkill County**, United States Army Corps of Engineers, Baltimore District.

To authorize the following water obstructions and encroachments associated with the Schuylkill County portion of Swatara State Park Trail Project:

1. (Swopes Valley Pedestrian Bridge) To construct and maintain a 12-foot wide, two span steel truss pedestrian bridge across Swatara Creek (CWF) having spans of 138 feet and 106 feet and an average underclearance of 15 feet. Riprap scour protection will be placed at the abutments and center pier. The bridge is located on Swopes Valley Road (T-390) at the intersection of Old State Road (T-635) (Pine Grove, PA Quadrangle Latitude: 40° 31' 25"; Longitude: 76° 28' 05") in Pine Grove Township, Schuylkill County.

2. (Mill Creek Pedestrian Bridge) To construct and maintain a single span steel truss pedestrian bridge across Mill Creek (CWF) having a span of 88 feet and an approximate underclearance of 15 feet. The bridge is located approximately 150 feet downstream of SR 0443 (Pine Grove, PA Quadrangle Latitude: 40° 31' 37"; Longitude: 76° 28' 04") in Pine Grove Township, Schuylkill County.

3. (Bear Hole Run Culvert Replacement) To remove the existing structure and to construct and maintain a road crossing of Bear Hole Run (CWF) consisting of two 7.5' by 4.5' elliptical reinforced concrete pipes with riprap aprons and concrete endwalls, the first pipe having a length of approximately 40 feet and the second pipe having a length of approximately 50 feet with the upstream end of the second shifted approximately 30 feet to the east to accept flow from a side channel. Both pipes are depressed 1-foot below streambed elevation. The road crossing is located on Old State Road (T-635) approximately 0.7 mile west of its intersection with Swopes Valley Road (T-390) (Pine Grove, PA Quadrangle Latitude: 40° 31' 18"; Longitude: 76° 28' 53") in Pine Grove Township, Schuylkill County.

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

**E18-440. Lock Haven University**, 301 West Church Street, Room 107, Lock Haven, PA 17745. Operation and Maintenance of Lusk Run Access Road, Lock Haven City, **Clinton County**, United States Army Corps of Engineers, Baltimore District (Lock Haven, PA Quadrangle Latitude: 41° 08' 36.6"; Longitude: 77° 28' 12.3").

The Department of Environmental Protection gives the applicant consent to operate and maintain an access road within the 100-year floodplain of Lusk Run for the operation of an existing stream enclosure. Construction of the existing access road was previously completed through GP 111807503. The project is located along the southwestern right-of-way of Susquehanna Avenue approximately 1,320-feet southeast of Hill Street and Susquehanna Avenue intersection. This permit was issued under section 105.13(e) "Small Projects."

**E41-595. Chief Gathering, LLC**, 6051 Wallace Road Extension, Suite 210, Wexford, PA 15090. Water Obstruction and Encroachment Joint Permit, in Mifflin and Watson Townships, **Lycoming County**, United States Army Corps of Engineers, Susquehanna River Basin District (Waterville, PA Quadrangle N: 41° 15' 59.5"; W: 77° 17' 22.3").

To construct and maintain a 1.22 mile natural gas pipeline to be located in eastern Watson and southwestern Mifflin Townships, Lycoming County, PA. The proposed pipeline extends generally east to west. There will be four impacts from the natural gas pipeline installation. The first impact of 0.025 acre will be an open cut and backfill of a UNT to the North Fork of Tombs Run. Three impacts will occur adjacent to SR 973. Directional boring will be utilized to avoid the impacts to the North Fork of Tombs Run, the wetland on the southwestern side of SR 973 and the UNT to the North Fork of Tombs Run, which flows through the wetland. Construction will involve clearing and grubbing a width of 60-feet the entire length of the pipeline. Approximate disturbance area of 8.83 acres is expected from this project. A 30-foot wide permanent right of way will be reserved for operation and maintenance of said pipeline. The project is located along SR 973, 4,800-feet southwest of the intersection of T-444,

Ridge Road and SR 973, (Waterville, PA Quadrangle N: 41° 15' 59.5"; W: 77° 17' 22.3") in Mifflin and Watson Townships, Lycoming County. This project proposes to have a minimal impact on Tombs Run, which is designated a HQ-CWF and minimal impact to jurisdictional wetlands.

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

**E24-252, Jeffrey L. Buchheit, Elk County Freshwater Association**, 10 Erie Avenue, Saint Marys, PA 15837. Ellithorpe Run Treatment System, in Highland Township, **Elk County**, United States Army Corps of Engineers, Pittsburgh District (James City, PA Quadrangle N: 41° 34' 55"; W: 78° 49' 8").

The applicant proposes to construct and maintain a passive water treatment system on a UNT to Ellithorpe Run situated approximately 2,000 feet upstream from its confluence with Ellithorpe Run (James City, PA Quadrangle N: 41° 34' 55"; W: 78° 49' 8"). The treatment system proposes to mitigate the impacts of acid deposition by alkaline addition. The applicant proposes to conduct the following activities associated with the construction of the passive water treatment system.

1. To install and maintain across the UNT to Ellithorpe Run a reinforced concrete dam having dimensions of 25 feet wide by 1 1/2 feet thick and having a maximum height of 2.95 feet.

2. To install and maintain an intake structure consisting of a screened pipe upstream of the dam to divert a portion of stream flow to the treatment system.

3. To install and maintain a passive water treatment system involving a combination aerobic limestone basin and anaerobic vertical flow wetland within 50 feet of the top of the western bank of the UNT to Ellithorpe Run.

4. To install and maintain a rock lined channel downstream of the treatment facility to return the treated flow to the UNT to Ellithorpe Run.

The UNT to Ellithorpe Run is a perennial stream classified as HQ-CWF.

**E27-083, Department of Transportation, District 1-0**, 255 Elm Street, Oil City, PA, SR 1003, Section B01 Lynch Bridge, in Howe Township, **Forest County**, United States Army Corps of Engineers, Pittsburgh District (Lynch, PA Quadrangle N: 41° 36' 06.3"; W: 79° 02' 58.6").

To remove the existing steel through truss bridge and to construct and maintain a steel girder bridge having two clear, normal spans of 97.5 feet and 96.2 feet and an underclearance of 12 feet across Tionesta Creek approximately 75 feet upstream of the existing bridge on SR 1003; Section B01, Segment 0110, Offset 2852 at its intersection with SR 0666.

#### **EROSION AND SEDIMENT CONTROL**

The following Erosion and Sediment Control Permits have been issued.

Any person aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth agencies), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with

the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

If individuals want to challenge this action, their appeal must reach the Board within 30 days. Individuals do not need a lawyer to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. If individuals cannot afford a lawyer, individuals may qualify for free pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

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

<i>ESCP No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
ESCGP-1 5809802 (2)	Cabot Oil & Gas Corp. L. L. Tonkin 900 Lee Street East Huntington Square Charleston, WY 25301	Susquehanna	Springville and Dimock Townships	Meshoppen Creek CWF
<i>Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.</i>				
<i>ESCP No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
ESCGP-1 0809811-6	Fortuna Energy, Inc. 203 Colonial Drive Suite 101 Horseheads, NY 14845	Bradford	Troy Township	South Branch Sugar Creek TSF
ESCGP-1 4108806-1	Chief Oil & Gas, LLC 6051 Wallace Road Suite 210 Wexford, PA 15090	Lycoming	Penn Township	Sugar Run/Gregs Run CWF
ESCGP-1 5309801	Pennsylvania General Energy Company, LLC 120 Market Street Warren, PA 16365	Potter	Keating Township	Healey Hollow HQ-CWF Right Fork Reed Run HQ-CWF UNT to Brown Hollow HQ-CWF

**SPECIAL NOTICES**

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

**APPENDIX B  
Notice for *Pennsylvania Bulletin***

**Notice of Projects under the Environmental Good Samaritan Act**

The Environmental Good Samaritan Act (27 Pa.C.S.A. §§ 8001—8114) provides certain protections and immunities from civil liability for landowners and persons who voluntarily undertake reclamation and abatement projects to address land and water adversely affected by mining or oil or gas extraction or exploration for natural resources and left in an unreclaimed condition or left discharging water pollution. For landowners and persons to qualify for immunity, the projects must be approved by the Department of Environmental Protection (Department).

The following project proposals have been received by the Department. A copy of the proposal is available for inspection at the Pottsville District Mining Office.

**PROJECT PROPOSALS RECEIVED**

**EGS35001 US Army Reserve Proposed Military Construction Project, Marvin Property Business**

**Park Site**, submitted by the US Army Corp of Engineers, Louisville District. The project is located in City of Scranton, **Lackawanna County**.

Written comments or objections may be submitted by any person or any office or head of any Federal, State or local Government Agency or Authority to the Department of Environmental Protection, District Mining Operations, Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2522 within 30 days of this publication.

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

[Pa.B. Doc. No. 09-933. Filed for public inspection May 22, 2009, 9:00 a.m.]

**Ambient Air Monitoring Network Plan for the City of Philadelphia; Available for Public Comment**

Under 40 CFR Part 58 (relating to ambient air quality surveillance) requires State and local air pollution control

agencies to adopt and submit to the Environmental Protection Agency (EPA) Regional Administrator an Annual Monitoring Network Plan (AMNP) on July 1, 2009. 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 the EPA. The EPA will also provide an opportunity for review and comment prior to approving or disapproving a Monitoring Network Plan submitted by a State and local air pollution control agency.

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 ten air monitoring stations that house instruments that measure ambient levels of air pollutants. Included in this AMNP is the plan for an NCore multipollutant station in the network to start by January 1, 2011.

The proposed AMNP is available for public inspection on the City's web site 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 Henry Kim, Chief of Program Services at (215) 685-9439.

Written comments on the proposed AMNP should be sent to Henry Kim, Chief of Program Services, Air Management Services, 321 University Avenue, 2nd Floor, Philadelphia, PA 19104 or [henry.kim@phila.gov](mailto:henry.kim@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 comments by June 22, 2009.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 09-934. Filed for public inspection May 22, 2009, 9:00 a.m.]

**Environmental Laboratory Accreditation Proficiency Test Study Requirements**

In accordance with 25 Pa. Code § 252.501(a) (relating to proficiency test study requirements), the Department of Environmental Protection (Department) is providing the following list of new fields of accreditation (FOA) for which proficiency test (PT) studies are available. To obtain or maintain a field of accreditation (FOA), the Department requires that an environmental laboratory successfully participate in PT studies when available.

The following Fields of Proficiency Testing (FoPT) listing updates the previous listings published at 36 Pa.B. 2006 (December 30, 2006) and 39 Pa.B. 2009 (March 21, 2009). The new FoPT listings are effective immediately. Note that this listing of FoPTs includes additions to those previously printed on December 30, 2006, and March 21, 2009. Environmental laboratories seeking to maintain accreditation for a FOA that has been added to the tables by this notice must successfully complete a PT study for that analyte(s) by April 30, 2010. Environmental laboratories seeking accreditation for total Coliform presence/absence methods are now required to verify and report Fecal Coliform and E.coli separately. Environmental laboratories seeking initial accreditation or laboratories seek-

ing to add FOAs to their current Scope of Accreditation must successfully complete a PT study before accreditation is granted. Accredited environmental laboratories must successfully complete at least one PT study for each FOA, where available, once every 12 months to maintain accreditation. Additional information regarding the proficiency test study requirements is contained in 25 Pa. Code Chapter 252, Subchapter E (relating to proficiency test study requirements).

Updates to the following additions will be published in the *Pennsylvania Bulletin* as revisions are made. Questions concerning this notice, including the lists of proficiency testing currently available, should be directed to Aaren S. Alger, Department of Environmental Protection, Bureau of Laboratories, (717) 346-8212, [aaalger@state.pa.us](mailto:aaalger@state.pa.us).

JOHN HANGER,  
*Secretary*

**Pennsylvania State (Chapter 252) Accreditation Fields of Proficiency Testing Drinking Water Effective May 1, 2009**

<i>Matrix</i>	<i>Analyte</i>
	<b>Microbiology</b>
Drinking Water	Fecal Coliform (P/A)
Drinking Water	E.coli (P/A)

**Pennsylvania State (Chapter 252) Accreditation Fields of Proficiency Testing Nonpotable Water Effective May 1, 2009**

<i>Matrix</i>	<i>Organism/Technology</i>	<i>Endpoint/Analyte</i>
	<b>Whole Effluent Toxicity Testing (WETT) Fathead minnow (Pimephales promelas)</b>	
NPW	48-hr Acute, nonrenewal, 25° C, MHSF	LC50
NPW	48-hr Acute, nonrenewal, 25° C, 20% DMW	LC50
NPW	7-day Chronic, daily renewal, MHSF	NOEC Survival
NPW	7-day Chronic, daily renewal, MHSF	IC25 (ON) Growth
NPW	7-day Chronic, daily renewal, MHSF	NOEC (ON) Growth
NPW	7-day Chronic, daily renewal, 20% DMW	NOEC Survival
NPW	7-day Chronic, daily renewal, 20% DMW	IC25 (ON) Growth
NPW	7-day Chronic, daily renewal, 20% DMW	NOEC (ON) Growth
	<b>Ceriodaphnia dubia</b>	
NPW	48-hr Acute, renewal, 25° C, MHSF	LC50
NPW	48-hr Acute, renewal, 25° C, 20% DMW	LC50
NPW	7-day Chronic, daily renewal, MHSF	NOEC Survival

<i>Matrix</i>	<i>Organism/Technology</i>	<i>Endpoint/Analyte</i>
NPW	7-day Chronic, daily renewal, MHSF	IC25 Reproduction
NPW	7-day Chronic, daily renewal, MHSF	NOEC Reproduction
NPW	7-day Chronic, daily renewal, 20% DMW	NOEC Survival
NPW	7-day Chronic, daily renewal, 20% DMW	IC25 Reproduction
NPW	7-day Chronic, daily renewal, 20% DMW	NOEC Reproduction

**Daphnia magna**

NPW	48-hr Acute, nonrenewal, 25° C, MHSF	LC50
-----	--------------------------------------	------

**Daphnia pulex**

NPW	48-hr Acute, nonrenewal, 25° C, MHSF	LC50
-----	--------------------------------------	------

**Mysid (Mysidopsis bahia, Americamysis bahia)**

NPW	48-hr Acute, nonrenewal, 25° C, 40-fath SW	LC50
NPW	7-day Chronic, daily renewal, 40-fath SW	NOEC Survival
NPW	7-day Chronic, daily renewal, 40-fath SW	IC25 (ON) Growth
NPW	7-day Chronic, daily renewal, 40-fath SW	NOEC (ON) Growth

**Inland silverside (Menidia beryllina)**

NPW	48-hr Acute, nonrenewal, 25° C, 40-fath SW	LC50
NPW	7-day Chronic, daily renewal, 40-fath SW	NOEC Survival
NPW	7-day Chronic, daily renewal, 40-fath SW	IC25 (ON) Growth
NPW	7-day Chronic, daily renewal, 40-fath SW	NOEC (ON) Growth

**Sheepshead minnow (Cyprinodon variegatus)**

NPW	48-hr Acute, nonrenewal, 25° C, 40-fath SW	LC50
NPW	7-day Chronic, daily renewal, 40-fath SW	NOEC Survival
NPW	7-day Chronic, daily renewal, 40-fath SW	IC25 (ON) Growth
NPW	7-day Chronic, daily renewal, 40-fath SW	NOEC (ON) Growth

[Pa.B. Doc. No. 09-935. Filed for public inspection May 22, 2009, 9:00 a.m.]

**Extension of Pennsylvania NPDES General Permit for Stormwater Discharges Associated With Construction (PAG-2)**

Under the authority of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and sections 1905-A, 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-5, 510-17 and 510-20), the Department of Environmental Protection (Department) is, by this notice, extending for 6 months the availability of the current National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated With Construction Activities (PAG-2, 2002 amendment). The current PAG-2 permit is scheduled to expire at midnight June 7, 2009. The extension will be effective on June 8, 2009, and expires at midnight December 7, 2009, unless rescinded by the Department at an earlier date. The Department is extending the availability of this permit to adequately complete preparation of the renewal of PAG-2.

The existing PAG-2 permit documents will continue to be available from the Department's regional offices and local county conservation districts until they are replaced or updated. In addition, the permit documents are on file at the Department of Environmental Protection, Bureau of Watershed Management, 10th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17101. This package is also available on the Department's web site.

The permit documents can also be obtained by contacting Barbara Beshore at [bbeshore@state.pa.us](mailto:bbeshore@state.pa.us) or at (717) 772-5961. Persons with a disability may use the Pennsylvania AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 09-936. Filed for public inspection May 22, 2009, 9:00 a.m.]

**Laboratory Accreditation Advisory Committee; Meeting Cancellation**

The Laboratory Accreditation Advisory Committee meeting scheduled for Thursday, June 11, 2009, has been cancelled.

The next regularly scheduled meeting will be held on September 10, 2009, 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 web site at <http://www.dep.state.pa.us>.

Questions concerning this meeting cancellation can be directed to Aaren S. Alger at (717) 346-8212 or [aaalger@state.pa.us](mailto:aaalger@state.pa.us).

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 09-937. Filed for public inspection May 22, 2009, 9:00 a.m.]



## Pennsylvania's Climate Change Advisory Committee

The Department of Environmental Protection (Department) announces the following meetings of Pennsylvania's Climate Change Advisory Committee (Committee):

Monday, June 29, 2009, from 10 a.m. to 3 p.m.

Friday, July 17, 2009, from 10 a.m. to 3 p.m.

The Committee meeting will be held in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105. The public may participate by attending the meeting or by first dialing (800) 704-9804 and then entering access code 677 722 44# for connection to the conference call.

The Committee is required by the Pennsylvania Climate Change Act (71 P.S. §§ 1361.1—1361.8) for purposes of advising the Department on implementation of the act. These activities include, but are not limited to designating a voluntary greenhouse gas registry, delivering a greenhouse gas inventory report, creating an impacts assessment and developing a climate change action plan.

Questions concerning this meeting should be directed to Kim Hoover, Office of Energy and Technology Deployment, P. O. Box 8772, Harrisburg, PA 17105-8772, (717) 772-5161, [khoover@state.pa.us](mailto:khoover@state.pa.us)

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Kim Hoover at (717) 772-5161 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,  
*Secretary*

[Pa.B. Doc. No. 09-938. Filed for public inspection May 22, 2009, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Application of Abington Memorial Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Abington Memorial Hospital has requested an exception to the requirements of 28 Pa. Code § 51.6 (relating to identification of personnel).

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](mailto:paexcept@health.state.pa.us).

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

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation

to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 09-939. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Application of Alle-Kiski Medical Center—Allegheny Valley Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Alle-Kiski Medical Center—Allegheny Valley 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 Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication: 2.4.3.2.1 (relating to daily living unit).

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

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 09-940. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Application of Brandywine Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Brandywine Hospital has requested an exception to the requirements of 28 Pa. Code § 123.25 (relating to regulations for control of anesthetic explosion hazards).

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

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

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

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 09-941. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Application of Conyngham Valley Surgicenter for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Conyngham Valley Surgicenter has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

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 this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

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

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 09-942. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Application of DuBois Regional Medical Center—Brookville Family Medical Practice for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that DuBois Regional Medical Center—Brookville Family Medical Practice 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 Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 3.1-5.2.11 (relating to corridor width) and 3.1-2.1.1.1.1(1) (relating to minimum floor area).

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

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

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

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact 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).

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 09-943. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Application of DuBois Regional Medical Center—Charles Medical Center, Suite C for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that DuBois Regional Medical Center—Charles Medical Center, Suite C 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 Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 3.1-5.2.11 (relating to corridor width) and 3.1-2.1.1.1.1(1) (relating to minimum floor area).

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

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

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

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact 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).

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 09-944. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Application for Exception to 28 Pa. Code § 127.32

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that the following facilities have requested an exception to the requirements of 28 Pa. Code § 127.32 (relating to written orders):

Bryn Mawr Hospital  
Jeanes Hospital  
Lankenau Hospital  
Lewistown Hospital  
Paoli Hospital  
Penn Presbyterian Medical Center  
Sunbury Community Hospital  
Susquehanna Health

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

These facilities are requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

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

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 09-945. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Application of Geisinger Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Geisinger Medical Center 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 Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 5.3.2.5, 2.5.1.1 and 2.5.1.2 (relating to patient change areas in the endoscopy suite).

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

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

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

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact 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).

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 09-946. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Application of Muncy Valley Hospital for Exception

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

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 this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

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

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 09-947. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Application of Sunbury Community Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Sunbury Community Hospital has requested an exception to the requirements of 28 Pa. Code § 123.25(2) (relating to regulations for control of anesthetic explosion hazards).

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

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

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

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 09-948. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Application of Surgery Center of Allentown for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Surgery Center of Allentown has requested an exception to the requirements of 28 Pa. Code § 551.21(d) (relating to criteria for ambulatory surgery).

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.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

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

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 09-949. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Application of Susquehanna Endoscopy Center, LLC for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Susquehanna Endoscopy Center, LLC has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

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 this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

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

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 09-950. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Application of Temple University Hospital—Episcopal Campus for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Temple University Hospital—Episcopal Campus 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 Hospitals and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 10.1.4 (relating to vacuum, oxygen and air outlets in Fast Track area).

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

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

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

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact 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).

EVERETTE JAMES,  
Secretary

[Pa.B. Doc. No. 09-951. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Application of University of Pennsylvania/Penn Radiation Oncology at Doylestown for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that University of Pennsylvania/Penn Radiation Oncology at Doylestown has requested an exception to the requirements of 28 Pa. Code § 101.31 (relating to hospital requirements).

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 this exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

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

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 09-952. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Application of Wellspan Surgical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Wellspan Surgical Center has requested an exception to the requirements of 28 Pa. Code § 551.21(d) (relating to criteria for ambulatory surgery).

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.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

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

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 09-953. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Application of Wellspan Surgical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Wellspan Surgical Center has requested an exception to the requirements of 28 Pa. Code § 569.35 (relating to general safety precautions).

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

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

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

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 09-954. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Application of West Shore Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that West Shore Surgery Center has requested an exception to the requirements of 28 Pa. Code § 551.21(d) (relating to criteria for ambulatory surgery).

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.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

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

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 09-955. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Decisions on Requests for Exceptions to Health Care Facility Regulations

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), effective June 6, 1998, the Department of Health (Department) has published in the *Pennsylvania Bulletin* all requests by entities licensed under the Health Care Facilities Act (35 P. S. §§ 448.101—448.904b), for exceptions to regulations contained in 28 Pa. Code Part IV, Subparts B—G.

Section 51.33(d) provides that the Department will publish notice of all approved exceptions on a periodic basis. The Department has determined that it will publish notice of all exceptions, both approved and denied. The following list contains the decisions made on exception requests published in the *Pennsylvania Bulletin* from January 2009 through March 2009. Future publications of decisions on exception requests will appear on a quarterly basis.

Requests for additional information on the exception requests and the Department's decision should be made to the relevant division of the Department. Inquiries regarding hospitals and ambulatory surgical facilities shall be addressed to the Division of Acute and Ambulatory Care, Joanne Salsgiver, Acting Director, Room 532, Health and Welfare Building, Harrisburg, PA 17120. Inquiries regarding long-term care facilities shall be addressed to the Division of Nursing Care Facilities, William Bordner, Director, Room 528, Health and Welfare Building, Harrisburg, PA 17120. Persons requiring special assistance for speech and/or hearing impairment should call V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

#### Hospitals

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Chambersburg Hospital	28 Pa. Code § 51.6(c)	staff identification	12/13/08	granted
Waynesboro Hospital	28 Pa. Code § 51.6	staff identification	03/07/09	granted
Butler Memorial Hospital	28 Pa. Code § 51.23	PET scanning services	03/07/09	denied
Easton Hospital	28 Pa. Code § 51.23	PET scanning services	02/14/09	granted
Gettysburg Hospital	28 Pa. Code § 51.23	PET scanning services	02/21/09	granted
Lewistown Hospital	28 Pa. Code § 101.31	hospital requirements	01/24/09	granted
The Children's Institute	28 Pa. Code § 101.31	hospital requirements	02/14/09	denied
Evangelical Community Hospital	28 Pa. Code § 101.172	patient limits	02/14/09	denied
HealthSouth Regional Specialty Hospital	28 Pa. Code § 103.31	CEO	12/13/08	granted for 3 months
Robert Packer Hospital	28 Pa. Code § 107.2	medical staff	12/20/08	not necessary
Penn State Hershey Rehabilitation Hospital	28 Pa. Code § 107.26	tissue committee	02/14/09	granted
Select Specialty Hospital Johnstown	28 Pa. Code § 107.26	tissue committee	12/03/08	granted
Southwest Regional Medical Center	28 Pa. Code § 107.26	tissue committee	02/14/09	granted
Southwest Regional Medical Center	28 Pa. Code § 107.32	meetings and attendance	01/24/09	granted
St. Mary Medical Center	28 Pa. Code § 107.32	medical staff meetings		denied
Elk Regional Hlth Center	28 Pa. Code § 107.62	oral orders	01/31/09	granted/denied in part
West Penn Allegheny Health System—Allegheny Gen Hospital	28 Pa. Code § 115.25	infant footprints	03/21/09	granted
Canonsburg General Hospital	28 Pa. Code § 123.25	explosion hazards	12/20/08	granted
Charles Cole Memorial Hospital	28 Pa. Code § 123.25	explosion hazards	04/25/09	granted
Lancaster Regional Medical Center	28 Pa. Code § 123.25	explosion hazards	03/14/09	granted
Mercy Hospital Scranton	28 Pa. Code § 123.25	explosion hazards	03/07/09	granted
Southwest Regional Medical Center	28 Pa. Code § 123.25	explosion hazards	12/13/08	granted
Washington Hospital	28 Pa. Code § 123.25	explosion hazards	11/29/08	granted
Westfield Medical Center	28 Pa. Code § 123.25	explosion hazards	04/25/09	granted
ACMH Hospital	28 Pa. Code § 127.32	written orders	12/13/08	granted
Altoona Regional Health System	28 Pa. Code § 127.32	written orders	02/21/09	granted
Brookville Hospital	28 Pa. Code § 127.32	written orders	12/13/08	granted

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Chambersburg Hospital	28 Pa. Code § 127.32	written orders	03/28/09	granted
Children's Hospital of Pittsburgh of UPMC	28 Pa. Code § 127.32	written orders	12/20/08	granted
Doylestown Hospital	28 Pa. Code § 127.32	written orders	02/14/09	granted
Easton Hospital	28 Pa. Code § 127.32	written orders	04/25/09	granted
Edgewood Surgical Hospital	28 Pa. Code § 127.32	written orders	04/25/09	granted
Elk Regional Health Center	28 Pa. Code § 127.32	written orders	12/20/08	granted
Excelsa Frick Hospital	28 Pa. Code § 127.32	written orders	03/07/09	granted
Excelsa Latrobe Hospital	28 Pa. Code § 127.32	written orders	03/07/09	granted
Fulton County Medical Center	28 Pa. Code § 127.32	written orders	04/25/09	granted
Gettysburg Hospital	28 Pa. Code § 127.32	written orders	03/21/09	granted
Grand View Hospital	28 Pa. Code § 127.32	written orders	04/25/09	granted
Hamot Medical Center	28 Pa. Code § 127.32	written orders	02/21/09	granted
Heart of Lancaster Regional Medical Center	28 Pa. Code § 127.32	written orders	02/14/09	granted
Heritage Valley Beaver	28 Pa. Code § 127.32	written orders	01/24/09	granted
Heritage Valley Sewickley	28 Pa. Code § 127.32	written orders	01/24/09	granted
Holy Redeemer Hospital and Medical Center	28 Pa. Code § 127.32	written orders	02/14/09	granted
Holy Spirit Hospital	28 Pa. Code § 127.32	written orders	01/24/09	granted
JC Blair Memorial Hospital	28 Pa. Code § 127.32	written orders	02/21/09	granted
Jennersville Regional Hospital	28 Pa. Code § 127.32	written orders	03/28/09	granted
Lancaster General Hospital	28 Pa. Code § 127.32	written orders	04/25/09	granted
Lancaster Regional Medical Center	28 Pa. Code § 127.32	written orders	02/17/09	granted
Lehigh Valley Hospital and Lehigh Valley Hospital Muhlenberg	28 Pa. Code § 127.32	written orders	04/25/09	granted
Magee-Womens Hospital	28 Pa. Code § 127.32	written orders	02/14/09	granted
Marian Community Hospital	28 Pa. Code § 127.32	written orders	01/24/09	granted
Memorial Hospital—York	28 Pa. Code § 127.32	written orders	03/28/09	granted
Mercy Fitzgerald Hospital	28 Pa. Code § 127.32	written orders	04/25/09	granted
Mercy Hospital Scranton	28 Pa. Code § 127.32	written orders	02/21/09	granted
Mercy Philadelphia Hospital	28 Pa. Code § 127.32	written orders	04/25/09	granted
Mercy Suburban Hospital	28 Pa. Code § 127.32	written orders	02/14/09	granted
Millcreek Community Hospital	28 Pa. Code § 127.32	written orders	02/21/09	granted
Miners Medical Center	28 Pa. Code § 127.32	written orders	12/13/08	granted
Monongahela Valley Hospital, Inc.	28 Pa. Code § 127.32	written orders	03/21/09	granted
Montrose General Hospital	28 Pa. Code § 127.32	written orders	04/25/09	granted
Mount Nittany Medical Center	28 Pa. Code § 127.32	written orders	12/20/08	granted
Penn State Milton S. Hershey Medical Center	28 Pa. Code § 127.32	written orders	03/14/09	granted
Pinnacle Health	28 Pa. Code § 127.32	written orders	12/13/08	granted
Pottstown Memorial Medical Center	28 Pa. Code § 127.32	written orders	04/25/09	granted
Robert Packer Hospital	28 Pa. Code § 127.32	written orders	03/21/09	granted
Roxborough Memorial Hospital	28 Pa. Code § 127.32	written orders	03/28/09	granted
St. Christopher's Hospital for Children	28 Pa. Code § 127.32	written orders	12/13/08	granted

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Saint Vincent Health Center	28 Pa. Code § 127.32	written orders	03/28/09	granted
St. Mary Medical Center	28 Pa. Code § 127.32	written orders	04/25/09	granted
The Bloomsburg Hospital	28 Pa. Code § 127.32	written orders	04/25/09	granted
The Ellwood City Hospital	28 Pa. Code § 127.32	written orders	03/14/09	granted
The Washington Hospital	28 Pa. Code § 127.32	written orders	03/28/09	granted
UPMC Bedford	28 Pa. Code § 127.32	written orders	02/21/09	granted
UPMC Braddock	28 Pa. Code § 127.32	written orders	02/21/09	granted
UPMC Mercy	28 Pa. Code § 127.32	written orders	04/25/09	granted
UPMC Northwest	28 Pa. Code § 127.32	written orders	12/13/08	granted
UPMC Presbyterian Shadyside	28 Pa. Code § 127.32	written orders	12/13/08	granted
UPMC South Side	28 Pa. Code § 127.32	written orders	04/25/09	granted
UPMC St. Margaret	28 Pa. Code § 127.32	written orders	02/21/09	granted
Warren General Hospital	28 Pa. Code § 127.32	written orders	12/20/08	granted
Waynesboro Hospital	28 Pa. Code § 127.32	written orders	03/28/09	granted
West Penn Allegheny Health System—Allegheny General Hospital	28 Pa. Code § 127.32	written orders	03/21/09	granted
York Hospital	28 Pa. Code § 127.32	written orders	03/28/09	granted
Jersey Shore Hospital	28 Pa. Code § 131.22	treatment orders	12/20/08	granted
Bucktail Medical Center	28 Pa. Code § 131.22	treatment orders	12/20/08	granted
Soldiers & Sailors Memorial Hospital	28 Pa. Code § 137.12(d)	delivery suite	03/14/09	granted
Meadville Medical Center	28 Pa. Code § 138.15	high risk cardiac	02/21/09	granted w/conditions
Uniontown Hospital	28 Pa. Code §§ 138.15 & 138.18(b)	high risk cardiac	02/21/09	granted
Excelsa Health Westmoreland Hospital	28 Pa. Code § 138.18	EPS Studies		granted after reconsideration
Waynesboro Hospital	28 Pa. Code § 143.4 & 143.7	podiatric patients	02/14/09	denied
Altoona Regional Health System	28 Pa. Code § 153.1	2.1.1.4 (desk), 2.2.1	11/15/08	withdrawn
DuBois Regional Medical Center—Brookville Hospital Campus	28 Pa. Code § 153.1	3.1-5.2.1.1 (corridor width)	12/20/08	granted
DuBois Regional Medical Center—Charles Medical Center	28 Pa. Code § 153.1	3.1-5.2.1.1 (corridor width)	12/20/08	granted
Elk Regional Health Center	28 Pa. Code § 153.1	3.1, 2.1.3.1 (space requirements)	03/28/09	granted
Elk Regional Health Center	28 Pa. Code § 153.1	3.1-2.1.7.5 (soiled workroom)	03/28/09	not necessary
Hospital of the University of Pennsylvania	28 Pa. Code § 153.1	2.1-3.4.2.1(1)	12/20/08	granted
Main Line Surgery	28 Pa. Code § 153.1	2.4.2 stepdown recovery	03/28/09	granted
Pinnacle Health @ Harrisburg Hospital	28 Pa. Code § 153.1	2.1-5.3.2.4 clearance	01/10/09	granted
Southwest Regional Medical Center	28 Pa. Code § 153.1	2.3-2.2.1.1	03/14/09	granted
Southwest Regional Medical Center	28 Pa. Code § 153.1	3.1.1.5 handwashing	02/21/09	granted
St. Luke's Hospital	28 Pa. Code § 153.1	2.1-10.3 electrical		denied
St. Luke's Quakertown Hospital	28 Pa. Code § 153.1	2.1-10.3 (NFPA 70)		denied
Center for Cosmetic Surgery PC, d/b/a The Skin Center	28 Pa. Code § 153.1	3.7-5.2.1.1 (corridor width)	11/22/08	granted



<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
The Children's Hospital of Philadelphia	28 Pa. Code § 153.1	7.2.A5 toilet room doors	03/14/09	denied
The Western Pennsylvania Hospital	28 Pa. Code § 153.1	2.1.2.1(2) (clearances)	02/21/09	granted
Thomas Jefferson University	28 Pa. Code § 153.1	3.2.2.4(3) borne infection	03/14/09	denied
Trevoze Specialty Care Surgical Center	28 Pa. Code § 153.1	3.7-2.4.1.1(2) PACU	10/18/08	granted in part/not necessary
UPMC Braddock	28 Pa. Code § 153.1	10.1.4.2 vacuum	03/21/09	not necessary
UPMC Mercy Hospital	28 Pa. Code § 153.1	2.1-3.1.1.1(1)	10/18/08	granted in part/not necessary
UPMC Presbyterian Shadyside	28 Pa. Code § 153.1	2.1.2.1 (space requirements)	02/21/09	granted
UPMC Presbyterian Shadyside	28 Pa. Code § 153.1	2.1-5.5.4.2	02/21/09	granted
West Penn Allegheny Health System The Western Pennsylvania Hospital	28 Pa. Code § 153.1	2.4-2.1.1.2.(1)	03/21/09	granted
<b>Ambulatory Surgical Facilities</b>				
Bethlehem Endoscopy Center	28 Pa. Code § 551.3	definitions	02/14/09	granted
Brandywine Valley Endoscopy Center	28 Pa. Code § 551.3	definitions	12/20/08	granted
Saint Vincent Endoscopy Center, LLC	28 Pa. Code § 551.3	definitions	02/21/09	denied
SAM Surgery Center	28 Pa. Code § 551.3	definitions	02/14/09	denied
The Pain & Surgical Center of Langhorne	28 Pa. Code § 551.3	definitions	02/21/09	denied
The PMA Gastroenterology Center	28 Pa. Code § 551.3	definitions	03/14/09	granted
Blue Bell Ambulatory Surgery Center	28 Pa. Code § 551.21	criteria for ambulatory surgery	03/28/09	granted
Center for Specialized Surgery	28 Pa. Code § 551.21	criteria for ambulatory surgery	12/01/07	granted subject to terms
Lackawanna Surgery Center	28 Pa. Code § 551.21	criteria for ambulatory surgery	12/13/08	granted
Lee Ambulatory Surgery Facility	28 Pa. Code § 551.21	criteria for ambulatory surgery	12/20/08	denied
Mount Nittany Surgical Center	28 Pa. Code § 551.21	criteria for ambulatory surgery	03/07/09	granted
Northwood Surgery Center	28 Pa. Code § 551.21	criteria for ambulatory surgery	03/28/09	denied
Physicians Surgery Center Lancaster Regional	28 Pa. Code § 551.21	criteria for ambulatory surgery	04/19/08	granted
Surgical Specialty Center	28 Pa. Code § 551.21	criteria for ambulatory surgery	03/21/09	denied
Surgery Center at Limerick	28 Pa. Code § 551.22	criteria for ambulatory surgery	02/14/09	denied
UPMC Mercy SouthSide Surgery Center	28 Pa. Code § 553.1, 555.2; 555.3	principle, medical staff	03/28/09	granted
Warminster Surgical Center	28 Pa. Code § 553.31	administrative responsibilities	01/24/09	granted
SAM Surgery Center	28 Pa. Code § 555.31	principle	02/14/09	denied
Ambulatory Surgery Center of Pennsylvania Hospital	28 Pa. Code § 569.35	general safety precautions	04/25/09	granted
Geisinger Endoscopy & Surgery Center	28 Pa. Code § 569.35	general safety precautions	02/21/09	granted

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Holy Redeemer Ambulatory Surgery Center	28 Pa. Code § 569.35	general safety precautions	10/04/08	granted
Warminster Surgical Center	28 Pa. Code § 569.35	general safety precautions	12/20/08	granted
Westfield Surgery Center	28 Pa. Code § 569.35	general safety precautions	02/14/09	granted
Carlisle Outpatient Surgery Center	28 Pa. Code § 569.35	general safety precautions	03/28/09	granted
St. Christopher Hospital for Children	28 Pa. Code § 569.35	general safety precautions	01/24/09	granted
Surgery Center of Lancaster	28 Pa. Code § 569.35	general safety precautions	01/24/09	granted
UOC Surgical Services	28 Pa. Code § 569.35	general safety precautions	04/25/09	granted
Carlisle Outpatient Surgery Center	28 Pa. Code § 571.1	3.7-5.2.2.2 ceiling finishes	03/28/09	not necessary
Mahoning Valley Ambulatory Surgery Center	28 Pa. Code § 571.1	3.7-A2.3.3	02/14/09	granted
Susquehanna Endoscopy Center	28 Pa. Code § 571.1	3.9.2.2	12/13/08	not necessary
<b>Nursing Care Facilities</b>				
Neshaminy Manor Home	28 Pa. Code § 201.3	definitions	12/06/08	granted
Jefferson Manor Health Center	28 Pa. Code § 201.3	definitions	01/03/09	granted
Presbyterian Home of Greater Johnstown	28 Pa. Code § 201.3	definitions	01/17/09	granted
UPMC McKeesport Long-Term Care Facility	28 Pa. Code § 201.18	management	01/31/09	granted
Progressive Care Center at Braddock	28 Pa. Code § 201.18	management	01/31/09	granted
Renaissance Gardens at Maris Grove	28 Pa. Code § 201.18	management	02/21/09	temp. granted
Harrison Senior Living of Christiana	28 Pa. Code § 205.6(a)	function of building	12/06/08	granted
Wyncote Church Home	28 Pa. Code § 205.6	function of building	02/21/09	granted
Renaissance Gardens at Maris Grove	28 Pa. Code § 205.6	function of building	02/21/09	granted
Rest Haven—York	28 Pa. Code § 205.9	corridors	09/27/08	granted
St. Joseph's Manor	28 Pa. Code § 205.19	windows & windowsills	02/21/09	granted
Manorcare Health Services Lancaster	28 Pa. Code § 205.25	kitchen	11/01/08	granted
Kindred Hospital Pittsburgh North Shore	28 Pa. Code § 205.27	lounge and recreation rooms	02/21/09	granted
Millcreek Comm Hospital Transitional Care Unit	28 Pa. Code § 205.36	bathing facilities	11/22/08	granted
St. Joseph's Manor	28 Pa. Code § 205.36	bathing facilities	02/21/09	granted
Longwood at Oakmont Health Care Center	28 Pa. Code § 205.67	electric requirements	12/20/08	granted
Village Vista Manor	28 Pa. Code § 205.67	electric requirements	01/03/09	granted
Longwood at Oakmont Health Care Center	28 Pa. Code § 205.67	electrical requirements	01/03/09	granted
Kepler Home, Inc.	28 Pa. Code § 211.12(f)(1)	nursing services	08/23/08	temp. granted

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 09-956. Filed for public inspection May 22, 2009, 9:00 a.m.]

**Long-Term Care Nursing Facilities; Requests for Exception**

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.3 (relating to definitions).

Messiah Village  
100 Mount Allen Drive  
Mechanicsburg, PA 17055

The following long-term care nursing facility is seeking an exception to 28 Pa. Code §§ 205.6(a) and 205.26(e) (relating to function of building; and laundry).

Coldstream Crossing  
3000 Balfour  
Phoenixville, PA 19460  
FAC ID 21760201

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, 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 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who desire to comment in an alternative format (for example, large print, audiotape, Braille), should contact the Division of Nursing Care Facilities at the address listed previously or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,  
*Secretary*

[Pa.B. Doc. No. 09-957. Filed for public inspection May 22, 2009, 9:00 a.m.]

**DEPARTMENT OF PUBLIC WELFARE**

**Federal Poverty Income Guidelines for 2009**

The Department of Public Welfare (Department) announces the implementation in this Commonwealth of the 2009 Federal Poverty Income Guidelines (FPIGs) which were issued by the Department of Health and Human Services and published at 74 FR 4199 (January 23, 2009).

The FPIGs are the basis for the income eligibility limits for several categories of Medicaid whose regulations are published in 55 Pa. Code (relating to public welfare) and administered by the Department. These categories include Healthy Beginnings for Pregnant Women and Qualified Children (55 Pa. Code Chapter 140, Subchapter A (relating to the categorically needy healthy beginnings program for pregnant women and qualified children)), Healthy Horizons for the Elderly and Disabled (55 Pa. Code Chapter 140, Subchapter B (relating to eligibility provisions for the healthy horizons program for the elderly/disabled)) and Extended Medical Coverage under the Categorically Needy TANF-Related Categories (55 Pa. Code Chapter 140, Subchapter C (relating to eligibility provisions for EMC under the categorically needy program for TANF-related categories)).

The percentages for the Medicaid categories of Healthy Beginnings and Healthy Horizons are set forth as follows:

These percentages apply as follows:

Healthy Beginnings—

- a. 185% for pregnant women and infants up to 1 year of age.
- b. 133% for children age 1—5 years of age.
- c. 100% for children age 6 and older.

Healthy Horizons—

- a. 100% for persons eligible for the categorically needy, Medicare Buy-In, and Medicare cost-sharing benefits.
- b. 120% for persons eligible for the Specified Low-Income Medicare Beneficiaries.
- c. 135% for persons eligible for the Qualifying Individuals Beneficiaries benefits.

Persons	100% of FPIG		120% of FPIG		133% of FPIG		135% of FPIG	
	Month	Annual	Month	Annual	Month	Annual	Month	Annual
1	\$903	\$10,830	\$1,083	\$12,996	\$1,201	\$14,404	\$1,219	\$14,621
2	\$1,215	\$14,570	\$1,457	\$17,484	\$1,615	\$19,379	\$1,640	\$19,670
3	\$1,526	\$18,310	\$1,831	\$21,972	\$2,030	\$24,353	\$2,060	\$24,719
4	\$1,838	\$22,050	\$2,205	\$26,460	\$2,444	\$29,327	\$2,481	\$29,768
5	\$2,150	\$25,790	\$2,579	\$30,948	\$2,859	\$34,301	\$2,902	\$34,817
6	\$2,461	\$29,530	\$2,953	\$35,436	\$3,273	\$39,275	\$3,323	\$39,866
7	\$2,773	\$33,270	\$3,327	\$39,924	\$3,688	\$44,250	\$3,743	\$44,915
8	\$3,085	\$37,010	\$3,701	\$44,412	\$4,102	\$49,224	\$4,164	\$49,964
Each Additional Person	\$312	\$3,740	\$374	\$4,488	\$415	\$4,975	\$421	\$5,049

Persons	185% of FPIG		200% of FPIG		235% of FPIG		250% of FPIG	
	Month	Annual	Month	Annual	Month	Annual	Month	Annual
1	\$1,670	\$20,036	\$1,805	\$21,660	\$2,121	\$25,451	\$2,257	\$27,075
2	\$2,247	\$26,955	\$2,429	\$29,140	\$2,854	\$34,240	\$3,036	\$36,425
3	\$2,823	\$33,874	\$3,052	\$36,620	\$3,586	\$43,029	\$3,815	\$45,775
4	\$3,400	\$40,793	\$3,675	\$44,100	\$4,319	\$51,818	\$4,594	\$55,125
5	\$3,976	\$47,712	\$4,299	\$51,580	\$5,051	\$60,607	\$5,373	\$64,475
6	\$4,553	\$54,631	\$4,922	\$59,060	\$5,783	\$69,396	\$6,153	\$73,825
7	\$5,130	\$61,550	\$5,545	\$66,540	\$6,516	\$78,185	\$6,932	\$83,175
8	\$5,706	\$68,469	\$6,169	\$74,020	\$7,248	\$86,974	\$7,711	\$92,525
Each Additional Person	\$577	\$6,919	\$624	\$7,480	\$733	\$8,789	\$780	\$9,350

There are different resource limits for each of the Healthy Horizons programs.

Additional information on the programs is available at the county assistance offices.

This notice shall take effect upon publication in the *Pennsylvania Bulletin* and apply retroactively to January 23, 2009.

*Public Comments*

Interested persons are invited to submit written comments regarding this notice to the Department of Public Welfare, Office of Income Maintenance, Edward J. Zogby, Director, Bureau of Policy, Room 431, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-4081. Comments received within 30 calendar days will be reviewed and considered for any subsequent revision of the notice.

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

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-594. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 55. PUBLIC WELFARE**

**PART II. PUBLIC ASSISTANCE MANUAL**

**Subpart C. ELIGIBILITY REQUIREMENTS**

**CHAPTER 140. SPECIAL MA ELIGIBILITY PROVISIONS**

**Subchapter C. ELIGIBILITY PROVISIONS FOR EMC UNDER THE CATEGORICALLY NEEDY PROGRAM FOR AFDC/AFDC-U RELATED CATEGORIES**

**APPENDIX A**

**EXTENDED MEDICAL COVERAGE (EMC) MONTHLY INCOME LIMITS**

**185% OF THE 2009 FEDERAL POVERTY INCOME GUIDELINES**

Family Size	185% of the Federal Poverty Income Guidelines
1	\$1,670
2	\$2,247

Family Size	185% of the Federal Poverty Income Guidelines
3	\$2,823
4	\$3,400
5	\$3,976
6	\$4,553
7	\$5,130
8	\$5,706
Each Additional Person	\$577

[Pa.B. Doc. No. 09-958. Filed for public inspection May 22, 2009, 9:00 a.m.]

**DEPARTMENT OF TRANSPORTATION**

**Proposed Disadvantaged Business Enterprise Goals for Participation in Federally-Funded Highway, Aviation and Transit Contracts for Federal Fiscal Year 2010**

The Department of Transportation (Department) is providing notice of its proposed Disadvantaged Business Enterprise (DBE) goals for Federal Fiscal Year (FFY) 2010. The goals for DBE participation cover contracts assisted with Federal highway, transit and aviation funds. The proposed methodologies used in determining the DBE goals are available for inspection and upon request at the Department, Bureau of Equal Opportunity; see contact information as follows. The proposed FFY 2010 goals are as follows:

- The overall goal for Federally-assisted highway contracts is 5.00%.
- The overall goal for Federally-assisted transit contracts is 6.58%.
- The overall goal for Federally-assisted aviation contracts is 13.10%.

Methodologies used in determination of the goals are available for inspection during normal business hours at the Department of Transportation, Bureau of Equal Op-

portunity, 400 North Street, 5th Floor, Harrisburg, PA 17120-0041, (717) 787-5891, (800) 468-4201, <http://pasdc.hbg.psu.edu/pasdc/dot/>.

The information will be available for inspection for 30 days from the date of this notice. The Department will accept written comments on the proposed goals for 45 days from the date of this notice. Comments, questions or suggestions regarding this notice may be directed in writing to Jocelyn I. Harper, Director, Bureau of Equal Opportunity, Department of Transportation, P. O. Box 3251, Harrisburg, PA 17105-3251, fax (717) 772-4026.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 09-896. Filed for public inspection May 15, 2009, 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 7, 2009, and announced the following:

#### Action Taken—Regulations Approved:

Department of State #16-42: Alteration of Local Election Districts (amends 4 Pa. Code Chapter 191)

### Approval Order

Public Meeting held  
May 7, 2009

*Commissioners Voting:* Arthur Coccodrilli, Chairperson; George D. Bedwick; Nancy Sabol Frantz, Esq., by Phone; Karen A. Miller; John F. Mizner, Esq., by Phone

*Department of State—Alteration of Local Election Districts; Regulation No. 16-42 (#2716)*

On August 14, 2008, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of State (Department). This rulemaking amends 4 Pa. Code Chapter 191. The proposed regulation was published in the August 23, 2008, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on April 2, 2009.

This regulation adds provisions to establish efficient reporting of changes to local election districts by each county board of elections and for the reporting of election data for the local election districts within each county.

We have determined this regulation is consistent with the statutory authority of the Department (25 P. S. § 2750) and the intention of the General Assembly. Having considered all of the other criteria of the Regula-

tory 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. 09-959. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 645.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
7-432	Environmental Quality Board Administration of the Storage Tank and Spill Prevention Program	4/13/09	5/13/09
	39 Pa.B. 1300 (March 14, 2009)		

### Environmental Quality Board Regulation #7-432 (IRRC #2753)

### Administration of the Storage Tank and Spill Prevention Program

May 13, 2009

We submit for your consideration the following comments on the proposed rulemaking published in the March 14, 2009 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Environmental Quality Board (Board) to respond to all comments received from us or any other source.

#### General.—Reasonableness; Clarity.

The United States Environmental Protection Agency, Region III (EPA) submitted comments requesting that the Board revise this proposed rulemaking to make it consistent with EPA guidelines. EPA's suggested amendment would require operator retraining if an underground storage tank system is determined to be out of compliance. The Board should amend the regulation to be consistent with EPA guidelines or explain the reason that it is deviating from these guidelines.

**1. Section 245.436. Operator training.—Protection of public safety; Reasonableness; Clarity.**

We have five concerns with this regulation.

First, FirstEnergy requested clarification on whether its 24-hour emergency contact number would meet the Board's requirements in Subsection (a)(3)(iii). The Board should explain whether FirstEnergy's emergency contact number would be sufficient and what would need to be done to ensure that these requirements are satisfied.

Second, under Subsections (e)(1) and (3), FirstEnergy asserts that it would be difficult to maintain a current list of Class C operators and phone numbers because of the high turnover rate for these operators. It suggests that if a company has a 24-hour emergency contact number, that number could be used in lieu of a Class C contact list at each facility. If the posting of a 24-hour emergency contact number would sufficiently address public safety and environmental concerns, the Board should include this option in the final-form regulation.

Third, a commentator expressed multiple concerns that public safety is not protected by allowing tank installers or inspectors to act as the educated tank operator under Subsections (b)(2)(iv)(A) and (B). The Board should explain how the public safety is protected by these provisions.

Fourth, Subsection (b)(3) requires the Class C operator to notify the Class A or B operator and emergency responders "when necessary." In its comments, Sunoco states that it interprets this provision as requiring notification only "as appropriate or necessary depending on the type of incident or emergency." The regulation is vague in that it doesn't identify the instances in which notification to the Class A or B operator is mandatory. In the final-form regulation, the Board should clarify the circumstances which require mandatory notification.

Finally, Subsection (e)(2) contains the phrase "readily available" in two places. What does the Board consider to be "readily available"? Must the documents be kept onsite? This should be clarified in the final-form regulation.

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 09-960. Filed for public inspection May 22, 2009, 9:00 a.m.]

## INSURANCE DEPARTMENT

**Aetna Health, Inc.—Individual Advantage HMO Plans Rate Filing; Rate Filing**

On May 8, 2009, Aetna Health, Inc. submitted a filing for the Individual Advantage Plans, requesting an overall aggregate rate increase of 9.7%. Rate increases will range from 2.5% to 20%. The filing will affect approximately 28,499 subscribers and generate additional revenue of approximately \$12 million annually. An effective date of October 1, 2009, is requested.

In addition, benefits for members with the HMO 10, Superior and Standard plans will be modified to align with the HMO 15 plan.

Unless formal administrative action is taken prior to August 6, 2009, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) web site at [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Department's Harrisburg Regional Office.

Interested parties are invited to submit written comment's, suggestions or objections to Rashmi Mathur, Actuary, Bureau of Accident and Health Insurance, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120, [rmathur@state.pa.us](mailto:rmathur@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 09-961. Filed for public inspection May 22, 2009, 9:00 a.m.]

**Agency Contract Termination of Evans N. Fishel under Act 143; ECM Insurance Group; Doc. No. AT09-05-005**

A prereview telephone conference initiated by this office is scheduled for June 23, 2009, at 10 a.m. A date for a review shall be determined, if necessary, at the prereview telephone conference.

Motion preliminary to those at the review, protests, petitions to intervene or notice of intervention, if any must be filed on or before June 8, 2009, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before June 22, 2009.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-3873.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 09-962. Filed for public inspection May 22, 2009, 9:00 a.m.]

**Highmark, Inc. and Highmark Blue Cross Blue Shield; Provider Reimbursement Adjustments to Allowances—UCR and PremierBlue; Rate Filing**

On May 11, 2008, the Insurance Department (Department) received from Highmark Blue Cross Blue Shield and Highmark Blue Shield filing number 1-Pricing (Provider Reimbursement) 09-HI requesting to adjust the base UCR Level II allowances and PremierBlue Shield preferred provider program Fee Schedule allowances for select procedures.

Highmark requests approval to implement the increases effective immediately upon approval, subject to notification and disclosure requirements.

Unless formal administrative action is taken prior to August 5, 2009, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.ins.state.pa.us](http://www.ins.state.pa.us). 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, [csandersjo@state.pa.us](mailto:csandersjo@state.pa.us) within 15 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 09-963. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' policies. The administrative hearing will be held in the Insurance Department's regional office in Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Leonard Johnson; file no. 09-216-68656; Keystone Insurance Company; Doc. No. PH09-05-010; June 18, 2009, 1 p.m.

Appeal of George and Barbara Scherbak; file no. 09-214-68408; Saucon Mutual Insurance Company; Doc. No. PH09-05-012; June 18, 2009, 11 a.m.

Parties may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending.

Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated represen-

tatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-3873.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 09-964. Filed for public inspection May 22, 2009, 9:00 a.m.]

## MILK MARKETING BOARD

### Sunshine Meetings for Fiscal Year 2009-2010

<i>Date</i>	<i>Room</i>	<i>Time</i>
July 1, 2009	202 Agriculture Building Harrisburg, PA 17110	1 p.m.
August 5, 2009	202 Agriculture Building Harrisburg, PA 17110	1 p.m.
September 2, 2009	202 Agriculture Building Harrisburg, PA 17110	1 p.m.
October 7, 2009	202 Agriculture Building Harrisburg, PA 17110	1 p.m.
November 4, 2009	309 Agriculture Building Harrisburg, PA 17110	1 p.m.
December 2, 2009	202 Agriculture Building Harrisburg, PA 17110	1 p.m.
January 6, 2010	202 Agriculture Building Harrisburg, PA 17110	1 p.m.
February 3, 2010	202 Agriculture Building Harrisburg, PA 17110	1 p.m.
March 3, 2010	202 Agriculture Building Harrisburg, PA 17110	1 p.m.
April 7, 2010	202 Agriculture Building Harrisburg, PA 17110	1 p.m.
May 5, 2010	202 Agriculture Building Harrisburg, PA 17110	1 p.m.
June 2, 2010	202 Agriculture Building Harrisburg, PA 17110	1 p.m.

KEITH BIERLY,  
*Secretary*

[Pa.B. Doc. No. 09-965. Filed for public inspection May 22, 2009, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Local Exchange Carrier Services

**A-2009-2105210. IDT America, Corp.** Application of IDT America, Corp. for approval to provide Competitive Local Exchange Carrier Services to the public in the service territory of Frontier Communications of Breezewood, LLC.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before June 8, 2009. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

*Applicant:* IDT America, Corp.

*Through and By Counsel:* Carl Billek, Senior Regulatory Counsel, IDT America, Corp., 520 Broad Street, Newark, NJ 07102-3111

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 09-966. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Rescission Order

Public Meeting held  
April 30, 2009

*Commissioners Present:* James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

*Pennsylvania Public Utility Commission; Law Bureau Prosecutory Staff v. One Voice Communications, Inc. (2006 Annual Rpt); Doc. No. C-2008-2036552; A-311051F0004*

### Rescission Order

On March 19, 2009, the Commission entered a Default Order at this docket against One Voice Communications, Inc. (the "Respondent"), a competitive local exchange carrier certificated at A-311051F0004, for failure to file its 2006 Annual Report. The Default Order was published in the *Pennsylvania Bulletin* on April 4, 2009, at 39 Pa.B. 1791. Even before publication in the *Bulletin*, however, the Respondent, by letter dated March 30, 2009, submitted its 2006 Annual Report and a check in the amount of \$250 payable to the Commonwealth of Pennsylvania to satisfy the late fee previously assessed against the Respondent for failure to file its 2006 Annual Report in a timely manner. The Respondent also filed a Petition to Rescind Default Order and Reinstate Operating Authority on the same date. In its petition, based upon its own internal investigation, the Respondent believed that it had submitted its 2006 and 2007 annual reports in June 2008 via regular mail and was unaware that the 2006 report was missing. Additionally, the Respondent determined that its internal mailroom processes needed to be revised to ensure all correspondence are routed to the proper personnel for timely response. Finally, the Respondent advised in its letter that it has hired a third-party company to assist it in preparing and filing the annual reports in order to ensure timely filing of all future reports; *Therefore,*

*It Is Ordered That:*

1. The Default Order entered March 19, 2009, is hereby rescinded.

2. A copy of this Order be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 09-967. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by June 8, 2009. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

**Applications of the following for approval to *begin* operating as *common carriers* for transportation of *persons* as described under each application.**

**A-2009-2103305. (Corrected) Alvin Powell, t/a A P Taxi** (1350 Penn Avenue, Scranton, Lackawanna County, PA 18509)—persons, upon call or demand, in the County of Monroe.

**A-2009-2106675. Dada's 3, LLC** (7724 Mount Carmel Road, Verona, Allegheny County, PA 15147)—a limited liability company of the Commonwealth, for the begin right to transport, as a common carrier, by motor vehicle, persons, in limousine service, between points in Allegheny County, and from points in Allegheny County to points in the Counties of Butler, Beaver, Washington and Westmoreland, and return. *Attorney:* Joshua M. Farber, Esquire, Meyer, Unkovic & Scott, LLP, 535 Smithfield Street, Suite 1300, Pittsburgh, PA 15222.

**Application of the following for *amendment* to the certificate of public convenience approving the operation of motor vehicles as *common carriers* for transportation of *household goods* by *transfer of rights* as described under the application.**

**A-2009-2106643. Gardner Moving Company** (757 Millers Run Road, McDonald, Allegheny County, PA 15057)—a corporation of the Commonwealth—household goods in use, from points in Allegheny County, to points in Pennsylvania: *So As To Permit*—of household goods in use from points in that portion of the County of Allegheny which is south of the Ohio and Monongahela Rivers, to other points in Pennsylvania within 40 miles by the usually traveled highways of the limits of said portion of the County of Allegheny, and vice versa, provided no haul shall exceed a distance of 40 miles from the point of origin to point of destination, which is to be a transfer of all rights authorized under the certificate issued at A-00100420 to Thomas M. Clayton, t/a Foster Transfer and Storage Company. *Attorney:* John A. Pillar, 680 Washington Road, Suite B101, Pittsburgh, PA 15228.



*Pennsylvania Public Utility Commission; Bureau of Transportation and Safety v. Tri-Star Enterprises, Inc., t/a Car One & Supershuttle; Doc. No. C-2009-2074371*

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 Tri-Star Enterprises, Inc., t/a Car One & Supershuttle, respondent maintains its principal place of business at 333 Jenkintown Commons, Jenkintown, PA 19046.

2. That respondent was issued Certificates of Public Convenience by this Commission at Application Docket No. A-00113748, F.1 for limousine authority, F.2 for schedule route authority, and F.3 for airport transfer authority.

3. On March 17, 2008, Enforcement Officer William Kilrain contacted J. Lakis, the Manager of Tri-Star Enterprises, Inc., t/a Car One & Supershuttle, to conduct its annual safety inspection. Mr. Lakis advised Officer Kilrain that Tri-Star Enterprises has not been active in the airport transfer carrier business in the last four years and does not know when they will enter it again. Respondent abandoned or discontinued airport transfer service without having submitted an application with this Commission to discontinue service.

4. That respondent, by failing to file an application to discontinue airport transfer service with this Commission, violated 52 Pa. Code § 3.381(a)(1)(v) and 66 Pa.C.S. § 1102(a)(2).

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke Tri-Star Enterprises, Inc., t/a Car One & Supershuttle's certificate of public convenience at A-00113748, F.3, for the illegal activity described in this complaint and order such other remedy as the Commission may deem to be appropriate.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, Chief of Enforcement for the Motor Carrier Services and Enforcement Division of the Bureau of Transportation and Safety, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel  
Motor Carrier Services and Enforcement  
Bureau of Transportation and Safety

NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty.

C. If you file an answer which either 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.

D. 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.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 09-968. Filed for public inspection May 22, 2009, 9:00 a.m.]

Tentative Order

Public Meeting held  
April 16, 2009

*Commissioners Present:* James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

In re: Application filed *nunc pro tunc* by Jenner Township, Somerset County, on behalf of Ligonier Mountain Land Company, d/b/a Ligonier Highlands Water & Sewer, for the abandonment of the right to offer, furnish and supply water service to the public in a portion of Jenner Township, Somerset County, in an area locally known as Laurel Mountain Village; Doc. No. A-2009-2099569

In re: Application filed *nunc pro tunc* by Jenner Township, Somerset County, on behalf of Ligonier Mountain Land Company, d/b/a Ligonier Highlands Water & Sewer, for the abandonment of the right to offer, furnish, supply and provide wastewater collection, treatment and disposal service to the public in a portion of Jenner Township, Somerset County, in an area locally known as Laurel Mountain Village; Doc. No. A-2009-2099570

### Tentative Order

*By the Commission:*

On March 20, 2009, Jenner Township (Township) of Somerset County, 2058 Lincoln Highway, Boswell, PA 15531 filed two applications *nunc pro tunc*, on behalf of Ligonier Mountain Land Company, d/b/a Ligonier Highlands Water & Sewer-Water Division (Water System) and Wastewater Division (Wastewater System), a defunct and nonoperating business, seeking certificates of public convenience pursuant to section 1102(a)(2) of the Public Utility Code, 66 Pa.C.S. § 1102(a)(2), evidencing Commission approval for the Water System and Wastewater System to abandon water and wastewater services to the public in Jenner Township, Somerset County, in an area locally known as Laurel Mountain Village (Village).

By Administrative Orders of the Pennsylvania Department of Environmental Protection (DEP), the Township was directed to assume ownership, operation, maintenance and control of the Wastewater System and the Water System on April 7, 2004, and August 27, 2008, respectively.

The Village was originally a planned 1,000 lot development with home construction beginning about 1960 by Laurel Mountain Development Corporation. By the late 1970s, only 50 homes were built with individual water wells and onlot septic wastewater systems. In 1971, DEP (then Resources) placed a moratorium for onlot septic systems; thus, virtually halting all home construction. In less than a decade, the current onlot septic systems began to fail.

Ridge Line Development Company (Ridge Line) bought the development and constructed a wastewater treatment plant. Ridge Line was certificated on July 13, 1979, at Docket No. A-00101384, and was approved to provide wastewater collection, treatment and disposal service. Ridge Line's tariff was approved and became effective on October 16, 1979. A monthly rate of \$15.00/month was charged to the residential customers.

However, soon thereafter, Ridge Line fell into financial hardship and was foreclosed upon circa 1985. Another entity, The Hutchinson Property Development Group, Inc., acquired Ridge Line's assets. This new entity developed a spring and began supplying water to the Village residents and in 1987, added a few additional water and sewer customers. This company did not file notice to the Commission concerning any of these actions. Circa 1990, this latest company declared bankruptcy.

Ligonier Mountain Land Company (LMLC) filed with the Department of State and incorporated on September 17, 1996. On or about March 1, 1998, the Resolution Trust Corporation (at that time, current holder of all real estate and assets in the Village) awarded LMLC title to 450 lots, a clubhouse, seven residential homes, the Wastewater System and the Water System.

On June 22, 2001, LMLC, d/b/a Ligonier Highlands Water & Sewer was approved by this Commission to provide wastewater service to the Village. The company also received Commission approval to provide water service on July 18, 2001. Approved quarterly flat rates were \$67.45 for wastewater and \$67.45 for water service. In or about 2003-2004, LMLC became defunct and ceased all responsibility of both utility systems.

On April 7, 2004, DEP entered an Administrative Order thereby ordering the Township to assume all responsibility of the Wastewater System.

In 2004, Somerset Trust Company filed foreclosure proceedings against LMLC for defaulting on its loans consisting of real estate lots as well as the Wastewater System and Water System.

On June 16, 2006, LMLC tendered Deeds in Lieu of Mortgage Foreclosure to Ligonier Laurel Transfer, LLC, a subsidiary of Somerset Trust Company, concerning all real property, including both utilities, in the Village.

On August 27, 2008, DEP entered an Administrative Order thereby ordering the Township to file an application for obtaining a valid Public Water Supply Permit that requires installation of a well pump, treatment equipment, pump building, chlorine contact tank, associated piping and a storage tank.

On January 29, 2009, Ligonier Laurel Transfer, LLC conveyed all associated real estate, infrastructure, right-of-way and easements associated with both utilities to the Township.

On March 6, 2009, the Township sent notices of the change of ownership with the first quarter billing to the existing customers in the Village. The rates are the same as the rates contained in LMLC's existing tariffs. The notice further stated that the Township intends to install two wastewater pump stations and connect with the Jenner Area Joint Sewer Authority. The Water system will remain stand alone at this time.

In the instant applications, the Township requests that the Commission waive the \$350 filing fee for both utilities as prescribed in our Regulations as the Township avers that the take over of these systems will require substantial expenditures to bring them into compliance with DEP regulations. We will waive the filing fees.

The Township further states that the utility systems are wholly contained within the Township's boundary limits and therefore, will not fall under the Commission's jurisdiction.

In recognition of the circumstances identified in the subject Applications, the record provides substantial evidence of affirmative public benefit sufficient to warrant approval of the proposed transaction under *City of York v. Pennsylvania Public Utility Commission*, 449 Pa. 136, 295 A.2d 825 (1972) and *Irwin A. Popowsky v. Pa. PUC*, 937 A.2d 1040 (Pa. 2007).

Based upon the fact that the Township, by these applications on behalf of LMLC *nunc pro tunc*, is mandated by DEP to rehabilitate, construct new facilities, operate and maintain these wastewater and water utilities, approval is necessary or proper for the service, accommodation, convenience or safety of the public; *Therefore*,

*It Is Ordered That:*

1. The applications *nunc pro tunc* for abandonment filed by Jenner Township of Somerset County on behalf of Ligonier Mountain Land Company, d/b/a Laurel Highlands Water & Sewer filed at Docket Nos. A-2009-2099569 and A-2009-2099570 are hereby approved.

2. The appropriate certificates of public convenience shall be issued to Jenner Township pursuant to section 1102(a)(2) of the Public Utility Code, 66 Pa.C.S. § 1102(a)(2), authorizing Ligonier Mountain Land Company, d/b/a Laurel Highlands Water & Sewer to abandon providing wastewater collection, treatment and disposal service and water service to the public in a portion of Jenner Township, Somerset County.

3. A copy of this Tentative Order be served upon the Department of Environmental Protection's Southwest Regional Office and Bureau of Regulatory Counsel, the Department of Revenue—Bureau of Corporation Taxes, Ligonier Laurel Transfer, LLC, Seven Springs Farms, Inc. d/b/a Seven Springs Mountain Resort and the Pennsylvania Emergency Management Agency.

4. The Secretary shall certify this Tentative Order and deposit it with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

5. Jenner Township of Somerset County is directed to cause to be published in a newspaper of general circulation in the Jenner Township area, notice of this Tentative Order and of the Commission's intent to cancel the Ligonier Mountain Land Company, d/b/a Laurel Highlands Water & Sewer filed certificates of public convenience at A-230088 and A-210108 absent adverse public comment within the 20-day time constraint established in the *Pennsylvania Bulletin*.

6. If no objection to this Tentative Order is filed with the Commission within 20 days of the publication date in the *Pennsylvania Bulletin*, this Tentative Order shall become final, and the Commission's Secretary's Bureau shall cancel the operating authority of Ligonier Mountain Land Company, d/b/a Laurel Highlands Water & Sewer.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 09-969. Filed for public inspection may 22, 2009, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project No. 08-134.1, installation of 20 marine fenders, Packer Avenue Marine Terminal until 2 p.m. on Thursday, June 18, 2009. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and available May 26, 2009. Additional info and project listings may be found at [www.philaport.com](http://www.philaport.com). The cost of the bid document is \$35 (includes 7% PA Sales Tax) and is nonrefundable. PRPA is an Equal Opportunity Employer. Contractor must comply with all applicable EOE laws. Mandatory prebid job site meeting will be held Wednesday, June 3, 2009, 10 a.m. at Delaware and Packer Avenues, Pier Entrance South Gate on Service Road, Philadelphia, PA. Bidders must provide to the Procurement Department in writing (24 hours prior to the meeting), the names of individuals that will be attending, fax to (215) 426-6800, Attn: Procurement Department.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 09-970. Filed for public inspection May 22, 2009, 9:00 a.m.]

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project No. 09-049.2, HVAC maintenance and repairs, Tioga Administration Building (TAB) until 2 p.m. on Thursday, June 18, 2009. The bid documents can be obtained from the PRPA web site [www.philaport.com](http://www.philaport.com) and will be available online not later than May 26, 2009. PRPA is an Equal Opportunity Employer (EOE). Contractor must comply with all applicable EEO laws. Mandatory prebid job site meeting will be held June 4, 2009, 10 a.m. at PRPA's Main Office, Philadelphia, PA. Bidders must provide to the Procurement Department in writing (24 hours prior to the meeting), the names of individuals that will be attending, fax to (215) 426-6800, Attn: Procurement Department.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 09-971. Filed for public inspection May 22, 2009, 9:00 a.m.]

## STATE BOARD OF NURSING

### Bureau of Professional and Occupational Affairs v. Margie Leh Rondish, LPN; Doc. No. 1753-51-08

On April 3, 2009, Margie Leh Rondish, LPN, license number PN-104502-L, of Wilkes-Barre, Luzerne County, was granted reinstatement of her license to practice practical nursing, subject to 3 years probation.

Individuals may obtain a copy of the adjudication by writing to C. William Fritz, Board Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the State Board of Nursing (Board) final decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board Counsel.

ANN L. O'SULLIVAN, Ph.D., FAAN, CRNP,  
*Chairperson*

[Pa.B. Doc. No. 09-972. Filed for public inspection May 22, 2009, 9:00 a.m.]

## SUSQUEHANNA RIVER BASIN COMMISSION

### Projects Approved for Consumptive Uses of Water

This notice lists the projects approved by rule by the Susquehanna River Basin Commission (Commission) during the period of January 1, 2009, through April 30, 2009.

For further information contact Richard A. Cairo, General Counsel, (717) 238-0423, Ext. 306, fax (717) 238-2436, [rcairo@srbc.net](mailto:rcairo@srbc.net) or Stephanie L. Richardson, Secre-

tary to the Commission, (717) 238-0423, Ext. 304, fax (717) 238-2436, srichardson@srbc.net. Regular mail inquiries may be sent to Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391.

*Supplementary Information*

This notice lists the projects, described, receiving approval for the consumptive use of water under the Commission's approval by rule process set forth in 18 CFR 806.22(e) and (f) (relating to standards for consumptive uses of water) for the time period specified previously:

*Approvals Issued*

*Approvals By Rule Issued under 18 CFR 806.22(e):*

1. Church & Dwight Co., Inc., Arm and Hammer, ABR20081205, Jackson Township, York County, PA, Consumptive Use of Up to 0.420 mgd, Approval Date: January 14, 2009.

2. ADM Cocoa, ADM Cocoa—Hazleton, PA, ABR20090302, Hazle Township, Luzerne County, PA, Consumptive Use of Up to 0.160 mgd, Approval Date: March 24, 2009.

*Approvals By Rule Issued under 18 CFR 806.22(f):*

1. Alta Operating Company, LLC, Webster No. 1, ABR20090401, Franklin Township, Susquehanna County, PA, Consumptive Use of Up to 0.990 mgd, Approval Date: April 6, 2009.

2. Alta Operating Company, LLC, Holbrook No. 1, ABR20090402, Bridgewater Township, Susquehanna County, PA, Consumptive Use of Up to 0.999 mgd, Approval Date: April 6, 2009.

3. Alta Operating Company, LLC, Turner No. 1, ABR20090403, Liberty Township, Susquehanna County, PA, Consumptive Use of Up to 0.999 mgd, Approval Date: April 6, 2009.

4. Alta Operating Company, LLC, Fiondi No. 1, ABR20090404, Middletown Township, Susquehanna County, PA, Consumptive Use of Up to 0.999 mgd, Approval Date: April 6, 2009.

5. Anadarko E&P Company, LP, COP Tract 653 (1000), ABR20090405, Beech Creek Township, Clinton County, PA, Consumptive Use of Up to 1.680 mgd, Approval Date: April 6, 2009.

6. Anadarko E&P Company, LP, COP Tract 231 (1000), ABR20090406, Boggs Township, Centre County, PA, Consumptive Use of Up to 1.680 mgd, Approval Date: April 6, 2009.

7. Anadarko E&P Company, LP, Larry's Creek F&G No. 1, ABR20090407, Cummings Township, Lycoming County, PA, Consumptive Use of Up to 1.680 mgd, Approval Date: April 6, 2009.

8. Anadarko E&P Company, LP, COP Tract 285 (1000), ABR20090408, Grugan Township, Clinton County, PA, Consumptive Use of Up to 1.680 mgd, Approval Date: April 6, 2009.

9. Anadarko E&P Company, LP, Penn State Forest Tract 289 No. 1, ABR20090409, McHenry Township, Lycoming County, PA, Consumptive Use of Up to 1.680 mgd, Approval Date: April 6, 2009.

10. Anadarko E&P Company, LP, COP Tract 289 No. 1000H and No. 1001H, ABR20090410, McHenry Township, Lycoming County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 6, 2009.

11. Anadarko E&P Company, LP, Larry's Creek F&G No. 2H, ABR20090411, Cummings Township, Lycoming County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 6, 2009.

12. Anadarko E&P Company, LP, COP Tract 231 No. 1001H and No. 1002H, ABR20090412, Snow Shoe Township, Centre County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 6, 2009.

13. Anadarko E&P Company, LP, COP Tract 285 No. 1001H and No. 1002H, ABR20090413, Grugan Township, Clinton County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 6, 2009.

14. Anadarko E&P Company, LP, COP Tract 653 No. 1001H, ABR20090414, Beech Creek Township, Clinton County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 6, 2009.

15. Anadarko E&P Company, LP, COP Tract 653 No. 1002H, ABR20090415, Beech Creek Township, Clinton County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 6, 2009.

16. Anadarko E&P Company, LP, Larry's Creek F&G No. 3H, ABR20090416, Cummings Township, Lycoming County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 6, 2009.

17. Carrizo Oil & Gas, Inc., Cowfer No. 1, ABR20090417, Rush Township, Centre County, PA, Consumptive Use of Up to 0.999 mgd, Approval Date: April 6, 2009.

18. Eastern American Energy Corporation, Whitetail Gun & Rod Club No. 1, ABR20090418, Goshen Township, Clearfield County, PA, Consumptive Use of Up to 0.900 mgd, Approval Date: April 6, 2009.

19. EOG Resources, Inc., Houseknecht No. 2H, ABR20090419, Springfield Township, Bradford County, PA, Consumptive Use of Up to 0.490 mgd, Approval Date: April 6, 2009.

20. EOG Resources, Inc., Houseknecht C 1V, ABR20090420, Springfield Township, Bradford County, PA, Consumptive Use of Up to 0.099 mgd, Approval Date: April 6, 2009.

21. EOG Resources, Inc., Ward M 1H, ABR20090421, Springfield Township, Bradford County, PA, Consumptive Use of Up to 0.490 mgd, Approval Date: April 6, 2009.

22. EOG Resources, Inc., Houseknecht 3H, ABR20090422, Springfield Township, Bradford County, PA, Consumptive Use of Up to 0.490 mgd, Approval Date: April 6, 2009.

23. EOG Resources, Inc., Houseknecht 1H, ABR20090423, Springfield Township, Bradford County, PA, Consumptive Use of Up to 0.499 mgd, Approval Date: April 6, 2009.

24. EOG Resources, Inc., PHC 3H, ABR20090424, Lawrence Township, Clearfield County, PA, Consumptive Use of Up to 0.499 mgd, Approval Date: April 6, 2009.

25. EXCO-North Coast Energy, Inc., Litke (1H and 2H), ABR20090425, Burnside Township, Centre County, PA, Consumptive Use of Up to 2.000 mgd, Approval Date: April 6, 2009.

26. EXCO-North Coast Energy, Inc., Litke (7H and 8H), ABR20090426, Burnside Township, Centre County, PA, Consumptive Use of Up to 2.000 mgd, Approval Date: April 6, 2009.

27. EXCO-North Coast Energy, Inc., Sterling Run Club No. 4, ABR20090427, Burnside Township, Centre County, PA, Consumptive Use of Up to 1.000 mgd, Approval Date: April 6, 2009.

28. EXCO-North Coast Energy, Inc., Sterling Run Club No. 5, ABR20090428, Burnside Township, Centre County, PA, Consumptive Use of Up to 1.000 mgd, Approval Date: April 6, 2009.

29. EXCO-North Coast Energy, Inc., Derrick Unit No. 1, ABR20090429, Franklin Township, Lycoming County, PA, Consumptive Use of Up to 1.600 mgd, Approval Date: April 6, 2009.

30. EXCO-North Coast Energy, Inc. Snyder Unit No. 1, ABR20090430, Franklin Township, Lycoming County, PA, Consumptive Use of Up to 1.600 mgd, Approval Date: April 6, 2009.

31. EXCO-North Coast Energy, Inc., Litke (14H, 15H, 16H), ABR20090431, Burnside Township, Centre County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 6, 2009.

32. Seneca Resources Corporation, DCNR 595 1V, ABR20090432, Bloss Township, Tioga County, PA, Consumptive Use of Up to 0.099 mgd, Approval Date: April 6, 2009.

33. Seneca Resources Corporation, Wilcox (TEOG 1), ABR20090433, Covington Township, Tioga County, PA, Consumptive Use of Up to 0.099 mgd, Approval Date: April 6, 2009.

34. Seneca Resources Corporation, Hemenway (TSRC 1), ABR20090434, Charleston County, Tioga County, PA, Consumptive Use of Up to 0.099 mgd, Approval Date: April 6, 2009.

35. Seneca Resources Corporation, DCNR 293, ABR20090435, Cummings Township, Lycoming County, PA, Consumptive Use of Up to 0.099 mgd, Approval Date: April 6, 2009.

36. Seneca Resources Corporation, DCNR 100 1V, ABR20090436, Lewis Township, Lycoming County, PA, Consumptive Use of Up to 0.099 mgd, Approval Date: April 6, 2009.

37. Southwestern Energy Production Co., Greenzweig [1 (706575)], ABR20090437, Herrick Township, Bradford

County, PA, Consumptive Use of Up to 1.750 mgd, Approval Date: April 6, 2009.

38. Southwestern Energy Production Co., Range No. (1 and 1H), ABR20090438, New Milford Township, Susquehanna County, PA, Consumptive Use of Up to 1.750 mgd, Approval Date: April 6, 2009.

39. Southwestern Energy Production Co., Price No. 1 Vertical and Horizontal, ABR20090439, Lenox Township, Susquehanna River, PA, Consumptive Use of Up to 1.750 mgd, Approval Date: April 6, 2009.

40. Anadarko E&P Company, LP, COP Tract 259 No. 1001H, ABR20090440, Burnside Township, Centre County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 27, 2009.

41. Anadarko E&P Company, LP, COP Tract 259 No. 1002H, ABR20090441, Burnside Township, Centre County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 27, 2009.

42. Anadarko E&P Company, LP, R. Carlin No. 1H, ABR20090442, Snow Shoe Township, Centre County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 27, 2009.

43. Anadarko E&P Company, LP, R. Carlin No. 2H and No. 3H, ABR20090443, Snow Shoe Township, Centre County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 27, 2009.

44. Anadarko E&P Company, LP, COP Tract 252 No. 1000H, ABR20090444, Grugan Township, Clinton County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 27, 2009.

45. Anadarko E&P Company, LP, COP Tract 252 No. 1001H and No. 1002H, ABR20090445, Grugan Township, Clinton County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 27, 2009.

*Authority:* Pub. L. No. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806—808. Dated: May 6, 2009.

THOMAS W. BEAUDUY,  
*Deputy Director*

[Pa.B. Doc. No. 09-973. Filed for public inspection May 22, 2009, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[ 25 PA. CODE CH. 109 ]

#### Safe Drinking Water—General Update

##### Order

The Environmental Quality Board (Board) by this order amends Chapter 109 (relating to safe drinking water). The final-form rulemaking includes major revisions to the regulation of inorganic chemicals (IOCs), synthetic organic chemicals (SOCs) and volatile synthetic organic chemicals (VOCs); minor revisions to the Filter Backwash Recycling Rule (FBRR), Lead and Copper Rule (LCR) and Radionuclide (RAD) Rule requirements; and other minor revisions to Chapter 109 to retain primary enforcement authority (primacy) and to clarify existing requirements.

This order was adopted by the Board at its meeting of January 20, 2009.

##### A. *Effective Date*

This final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

##### B. *Contact Persons*

For further information, contact R. Barry Greenawald, Chief, Division of Operations Monitoring and Training, P. O. Box 8467, Rachel Carson State Office Building, Harrisburg, PA 17105-8467, (717) 772-4018, or Marylou Barton, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). The final-form rulemaking is available electronically through the Department of Environmental Protection's (Department) web site at [www.dep.state.pa.us](http://www.dep.state.pa.us).

##### C. *Statutory Authority*

The final-form rulemaking is being made under the authority of section 4 of the Pennsylvania Safe Drinking Water Act (35 P. S. § 721.4), which grants the Board the authority to adopt rules and regulations governing the provision of drinking water to the public, and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20).

##### D. *Background of the Amendments*

The purpose of the amendments is to amend the Department's safe drinking water regulations to: (1) incorporate necessary Federal requirements needed to obtain or maintain primacy for the Phase II/IIB/V, Arsenic, FBRR, LCR and RAD rules, or both; (2) amend several sections to improve data quality; (3) coordinate efforts with several other drinking water regulatory packages, including operator certification and environmental Laboratory Accreditation; and (4) clarify several existing requirements to improve compliance.

##### 1. *Revisions to incorporate Federal requirements.*

###### a. *Major revisions to IOC, SOC and VOC requirements.*

The United States Environmental Protection Agency (EPA) promulgated the Phase II Rule on January 30, 1991, the Phase IIB Rule on July 1, 1991, the Phase V Rule on July 17, 1992, and the Arsenic Rule on January 22, 2001. These rules established the monitoring requirements for IOCs, SOCs and VOCs for community and nontransient noncommunity water systems. The Department's IOC/SOC/VOC monitoring and waiver requirements in § 109.301 (relating to general monitoring requirements) are not consistent with the Federal rules and are amended to obtain primacy for the Phase II/IIB/V and Arsenic Rules. The Department must also obtain EPA approval of its Monitoring Waiver Program guidance.

###### b. *Minor revisions to FBRR.*

The EPA promulgated the FBRR on June 8, 2001. The FBRR established additional requirements for surface water systems that recycle spent filter backwash. The Department promulgated final regulations at 34 Pa.B. 1758 (April 3, 2004). As a condition of primacy, the Department must make minor revisions to the public notification requirements to maintain primacy for the FBRR.

###### c. *Minor revisions to LCR.*

The lead and copper reporting requirements for community and nontransient noncommunity water systems in § 109.1107 (relating to system management responsibilities) are amended to maintain primacy for the LCR.

###### d. *Minor revisions to RAD.*

Monitoring requirements for bottled, vended, retail and bulk water hauling systems (BVRBs) are being clarified (for those BVRBs that meet the definition of a "community water system" or "nontransient noncommunity water system") to obtain primacy for the RAD Rule.

##### 2. *Revisions to improve data quality.*

- Quality assurance and quality control requirements for continuous monitoring equipment associated with surface water systems are being amended to clarify the requirements for calibration.

- Amendments to require mandatory electronic reporting will improve data quality, reduce reporting violations and streamline the reporting process.

Electronic reporting will be accomplished using the Department's existing secure web application, the Drinking Water Electronic Lab Reporting (DWELR) system. DWELR has been available to water suppliers and labs since 2003. Currently, the Department receives about 80–85% of its data voluntarily through DWELR. Users can upload data or enter data using screen entry forms. The DWELR system includes an error detection program that produces error reports. Errors can be corrected immediately or recalled for correction later. This allows users to correct data entry and other errors, thus preventing erroneous Maximum Contaminant Level (MCL) or monitoring/reporting violations. Water systems can register for access to view the data that's submitted for them by submitting entities. This allows water suppliers to monitor the data, so they can notify their lab if data appears to be incorrect or missing. DWELR works within the Department's Greenport environment.

3. *Revisions to coordinate efforts with several other drinking water regulatory packages.*

Several associated regulatory packages are in various stages of promulgation. To coordinate efforts, the following revisions will be necessary.

- Operator certification requirements under §§ 109.304, 109.704, 109.1105 and 109.1107.
- Chapter 252 (relating to environmental laboratory accreditation) reporting requirements under § 109.810 (relating to reporting and notification requirements).

4. *Revisions to clarify several other requirements.*

- Currently, language that describes how the Department determines compliance with the MCLs has been incorporated by reference. With this final-form rulemaking, the EPA's compliance determination requirements are added to Chapter 109 to better inform the regulated community and improve compliance. Chapter 109 will now be a one-stop-shop in terms of determining whether a water supplier is in compliance with the MCLs.

- Information describing new sources under § 109.503(a)(1)(iii) (relating to public water system construction permits) is amended to clarify the requirements for new source sampling.

- Requirements under § 109.505(2)(ii) (relating to requirements for noncommunity water systems) for noncommunity water systems to file a brief description of the system are being amended to clarify that the information shall be filed prior to construction.

The final-form rulemaking was submitted to the Small Water Systems Technical Assistance Center Advisory Board (TAC) for review and discussion on June 24, 2008. Comments were received from the TAC on July 15, 2008. TAC's comments were addressed as indicated in Section E.

E. *Summary of Changes to the Proposed Rulemaking*

Subchapter C. Monitoring Requirements

§ 109.301(5)(i). *Vinyl chloride.*

This subparagraph was amended in response to an EPA comment regarding consistency with the Federal monitoring requirements found in 40 CFR 141.24(f) (relating to organic chemicals, sampling and analytical requirements). The amended language includes reduced monitoring requirements and incorporates the Federal language regarding monitoring requirements for surface water entry points.

§ 109.301(5)(viii). *VOC Waivers.*

This subparagraph was amended in response to an EPA comment regarding consistency with the Federal monitoring requirements found in 40 CFR 141.24(f). The amendments clarify that susceptibility waivers are not allowed. This paragraph was also amended in response to a comment regarding the process for obtaining waivers and renewals. The amended language clarifies that applications must be submitted to the Department for review and approval.

§ 109.301(6)(vii). *SOC Waivers.*

This subparagraph was amended to be consistent with the Federal monitoring requirements found in 40 CFR 141.24(h). This paragraph was also amended in response to a comment regarding the process for obtaining waivers

and renewals. The amended language clarifies that applications must be submitted to the Department for review and approval.

§ 109.301(7). *Monitoring requirements for IOCs.*

This paragraph was amended in response to several EPA comments regarding consistency with the Federal monitoring and compliance determination requirements found in 40 CFR 141.23 (relating to inorganic chemical sampling and analytical requirements). This paragraph was also amended in response to comments regarding the factors the Department considers when reviewing and approving waiver applications for IOCs. The phrase "other factors as determined by the Department on a case-by-case basis" was added to allow the Department to consider other potential sources of contamination, as needed, when issuing IOC monitoring waivers.

Subchapter G. System Management Responsibilities

§ 109.701(a)(2)(i)(B).

This clause (B) was amended to recognize that not all treatment plants operate on a 24/7 basis.

§ 109.701(a)(11). *Noncompliance report.*

This paragraph (11) was amended to be consistent with Federal reporting requirements under 40 CFR 141.31(b) (relating to reporting requirements).

§ 109.701(i). *Accuracy of data.*

This subsection was amended in response to comments from the Department's advisory committee. In most cases, the task of reporting accurate data to the Department is a shared responsibility. These amendments are intended to clarify the responsibilities of water suppliers vs. their accredited laboratories. Essentially, water suppliers must provide their lab with enough information (that is, required monitoring period and location, sample type, and the like) to ensure that sample results are properly reported to the Department. A similar provision was added to the lab accreditation section under § 109.810(d).

§ 109.701(j). *Electronic reporting.*

This subsection was amended in response to comments from the Department's advisory committee to clarify that water suppliers may assign the responsibility for reporting their data to an accredited lab or another approved party. These amendments provide other options for reporting data to the Department.

Subchapter H. Environmental Laboratory Accreditation

§ 109.810(b). *Reporting and notification requirements.*

This subsection was amended in response to comments from the Department's advisory committee to clarify that laboratories must notify their water supply clients and the Department whenever an MCL, MRDL, TT or AL is exceeded, or a sample result requires the collection of check or confirmation samples. These amendments ensure that water suppliers and the Department are contacted at the earliest indication of a water quality problem.

§ 109.810(d). *Reporting and notification requirements.*

This subsection was added to clarify that accredited laboratories are responsible for the accuracy of the data that is submitted to the Department. If data entry or other errors occur, the lab is responsible for correcting the data.

Subchapter K. Lead and Copper

§ 109.1102. Action levels and treatment technique requirements.

This section was amended in response to a comment to incorporate the EPA's method of computing the 90th percentile value for lead and copper using interpolation.

F. Benefits, Costs and Compliance

Benefits

The enhanced monitoring and reporting requirements will improve compliance, streamline reporting and provide greater assurance that contaminant levels will remain below the MCLs. The revisions also ensure that the Department, the regulated community and the public are better informed to make decisions affecting public health protection.

Compliance Costs

The amendments primarily address existing monitoring and reporting requirements. As a result, compliance costs are not expected to substantially increase or decrease. For example, a system that exceeds an MCL for a particular contaminant may need to remain on quarterly monitoring for a few more quarters to ensure that the levels stay below the MCL. However, this increased cost may be offset by new opportunities for VOC waivers.

Amendments to require mandatory electronic reporting will improve data quality, reduce reporting violations and streamline the reporting process. Electronic reporting will be accomplished using the Department's existing secure web application, the DWELR system. DWELR has been available to water suppliers and labs since 2003. Currently, the Department receives about 80–85% of its data voluntarily through DWELR. The amendments will enable the Department to collect the remaining 15–20% of the data electronically. To collect the remaining data, some water suppliers (conducting monitoring under § 109.304(c)) may need to either: (1) purchase a computer and internet provider; or (2) pay their accredited lab or another approved party to report additional data on their behalf.

Compliance Assistance Plan

The final-form rulemaking addresses existing monitoring and reporting requirements. As a result, financial assistance should not be necessary.

Paperwork Requirements

The rulemaking addresses existing monitoring and reporting requirements. As a result, some changes to forms, reports and other paperwork are expected. Mandatory electronic reporting requirements are expected to streamline the reporting process and take the place of reporting by means of paper.

G. 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.

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 16, 2007, the Department submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 4762 (September 1, 2007), to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees (Committees).

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5(j.2)), on April 1, 2009, these final-form regulations were deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on April 2, 2009, and approved the final-form rulemaking.

I. 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 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law and all comments were considered.

(3) These regulations do not enlarge the purpose of the proposal published at 37 Pa.B. 4762.

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

J. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapter 109, are amended by amending §§ 109.1, 109.301, 109.303, 109.304, 109.410, 109.503–109.505, 109.605, 109.701, 109.703, 109.704, 109.810, 109.1003, 109.1102, 109.1103, 109.1105 and 109.1107 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(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 IRRC and the 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 immediately.

JOHN HANGER,  
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 2064 (April 18, 2009).)

**Fiscal Note:** Fiscal Note 7-412 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 II. WATER RESOURCES

CHAPTER 109. SAFE DRINKING WATER

Subchapter A. GENERAL PROVISIONS

§ 109.1. Definitions.

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

\* \* \* \* \*

MCL—Maximum Contaminant Level—The maximum permissible level of a contaminant in water which is delivered to a user of a public water system, and includes the primary and secondary MCLs established under the Federal act, and MCLs adopted under the act.

\* \* \* \* \*

Reliably and consistently below the MCL—

(i) For VOCs, SOCs and IOCs (with the exception of nitrate and nitrite), this means that each sample result is less than 80% of the MCL.

(ii) For nitrate and nitrite, this means that each sample result is less than 50% of the MCL.

\* \* \* \* \*

Subchapter C. MONITORING REQUIREMENTS

§ 109.301. General monitoring requirements.

Public water suppliers shall monitor for compliance with MCLs, MRDLs and treatment technique requirements in accordance with the requirements established by the EPA under the National Primary Drinking Water Regulations, 40 CFR Part 141 (relating to National Primary Drinking Water Regulations), except as otherwise established by this chapter unless increased monitoring is required by the Department under § 109.302 (relating to special monitoring requirements). Alternative monitoring requirements may be established by the Department and may be implemented in lieu of monitoring requirements for a particular National Primary Drinking Water Regulation if the alternative monitoring requirements are in conformance with the Federal act and regulations. The monitoring requirements shall be applied as follows:

(1) Performance monitoring for filtration and disinfection. A public water supplier providing filtration and disinfection of surface water or GUDI sources shall conduct the performance monitoring requirements established by the EPA under the National Primary Drinking Water Regulations, unless increased monitoring is required by the Department under § 109.302.

(i) Except as provided under subparagraphs (ii) and (iii) a public water supplier:

(A) Shall determine and record the turbidity level of representative samples of the system's filtered water as follows:

(I) For systems that operate continuously, at least once every 4 hours that the system is in operation, except as provided in clause (B).

(II) For systems that do not operate continuously, at start-up, at least once every 4 hours that the system is in operation, and also prior to shutting down the plant, except as provided in clause (B).

(B) May substitute continuous turbidity monitoring and recording for grab sample monitoring and manual recording if it validates the continuous measurement for accuracy on a regular basis using a procedure specified by the manufacturer. At a minimum, calibration with an EPA-approved primary standard shall be conducted at least quarterly. For systems using slow sand filtration or filtration treatment other than conventional filtration, direct filtration or diatomaceous earth filtration, the Department may reduce the sampling frequency to once per day.

\* \* \* \* \*

(iv) A public water supplier providing conventional filtration treatment or direct filtration and serving 10,000 or more people and using surface water or GUDI sources shall, beginning January 1, 2002, conduct continuous monitoring of turbidity for each individual filter using an approved method under the EPA regulation in 40 CFR 141.74(a) (relating to analytical and monitoring requirements) and record the results at least every 15 minutes. Beginning January 1, 2005, public water suppliers providing conventional or direct filtration and serving fewer than 10,000 people and using surface water or GUDI sources shall conduct continuous monitoring of turbidity for each individual filter using an approved method under the EPA regulation in 40 CFR 141.74(a) and record the results at least every 15 minutes.

(A) The water supplier shall calibrate turbidimeters using the procedure specified by the manufacturer. At a minimum, calibration with an EPA-approved primary standard shall be conducted at least quarterly.

(B) If there is failure in the continuous turbidity monitoring or recording equipment, or both, the system shall conduct grab sampling or manual recording, or both, every 4 hours in lieu of continuous monitoring or recording.

\* \* \* \* \*

(2) Performance monitoring for unfiltered surface water and GUDI. A public water supplier using unfiltered surface water or GUDI sources shall conduct the following source water and performance monitoring requirements on an interim basis until filtration is provided, unless increased monitoring is required by the Department under § 109.302:

(i) Except as provided under subparagraphs (ii) and (iii), a public water supplier:

\* \* \* \* \*

(B) Shall measure the turbidity of a representative grab sample of the source water immediately prior to disinfection as follows:

(I) For systems that operate continuously, at least once every 4 hours that the system is in operation, except as provided in clause (C).

(II) For systems that do not operate continuously, at start-up, at least once every 4 hours that the system is in operation, and also prior to shutting down the plant, except as provided in clause (C).

(C) May substitute continuous turbidity monitoring for grab sample monitoring if it validates the continuous measurement for accuracy on a regular basis using a procedure specified by the manufacturer. At a minimum,

calibration with an EPA-approved primary standard shall be conducted at least quarterly.

(D) Shall continuously monitor and record the residual disinfectant concentration required under § 109.202(c)(1) (iii) (relating to State MCLs, MRDLs and treatment technique requirements) of the water being supplied to the distribution system and record the lowest value for each day. If a public water system's continuous monitoring or recording equipment fails, the public water supplier may, upon notification of the Department under § 109.701(a)(3), substitute grab sampling or manual recording, or both, every 4 hours in lieu of continuous monitoring. Grab sampling or manual recording may not be substituted for continuous monitoring for longer than 5 days after the equipment fails.

\* \* \* \* \*

(3) *Monitoring requirements for coliforms.* Public water systems shall determine the presence or absence of total coliforms for each routine or check sample; and, the presence or absence of fecal coliforms or *E. coli* for a total coliform positive sample in accordance with analytical techniques approved by the Department under § 109.304 (relating to analytical requirements). A system may forego fecal coliform or *E. coli* testing on a total coliform-positive sample if the system assumes that any total coliform-positive sample is also fecal coliform-positive. A system which chooses to forego fecal coliform or *E. coli* testing shall, under § 109.701(a)(3), notify the Department within 1 hour after the water system learns of the violation or the situation, and shall provide public notice in accordance with § 109.408 (relating to Tier 1 public notice—categories, timing and delivery of notice).

\* \* \* \* \*

(iv) *Compliance determinations.*

(A) The MCL is based on the presence or absence of total coliforms in a sample, rather than coliform density.

(I) For a system which collects at least 40 samples per month, if no more than 5.0% of the samples collected during a month are total coliform-positive, the system is in compliance with the MCL for total coliforms.

(II) For a system which collects fewer than 40 samples per month, if no more than one sample collected during the month is total coliform-positive, the system is in compliance with the MCL for total coliforms.

(B) Any fecal coliform-positive repeat sample or *E. coli*-positive repeat sample, or any total coliform-positive repeat sample following a fecal coliform-positive or *E. coli*-positive routine sample constitutes a violation of the MCL for total coliforms.

(C) A public water system shall determine compliance with the MCL for total coliforms in clauses (A) and (B) for each month in which it is required to monitor for total coliforms.

(v) Special purpose samples, such as those taken to determine whether disinfection practices are sufficient following pipe placement, replacement or repair, may not be used to determine compliance with the MCL for total coliform. Check samples taken under subparagraph (ii) are not considered special purpose samples, and shall be used to determine compliance with the monitoring and MCL requirements for total coliforms established under this paragraph and § 109.202(a)(2).

\* \* \* \* \*

(5) *Monitoring requirements for VOCs.* Community water systems and nontransient noncommunity water systems shall monitor for compliance with the MCLs for

VOCs established by the EPA under 40 CFR 141.61(a) (relating to MCLs for organic contaminants). The monitoring shall be conducted according to the requirements established by the EPA under 40 CFR 141.24(f) (relating to organic chemicals sampling and analytical requirements), incorporated herein by reference, except as modified by this chapter. Initial or first year monitoring mentioned in this paragraph refers to VOC monitoring conducted on or after January 1, 1993.

(i) *Vinyl chloride.* Monitoring for compliance with the MCL for vinyl chloride is required for groundwater entry points at which one or more of the following two-carbon organic compounds have been detected: trichloroethylene, tetrachloroethylene, 1,2-dichloroethane, 1,1,1-trichloroethane, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene or 1,1-dichloroethylene and shall consist of quarterly samples. If the results of the first analysis do not detect vinyl chloride, monitoring shall be reduced to one sample during each compliance period. Surface water entry points shall monitor for vinyl chloride as specified by the Department.

(ii) *Initial monitoring.* Initial monitoring shall consist of 4 consecutive quarterly samples at each entry point in accordance with the following monitoring schedule during the compliance period beginning January 1, 1993, except for systems which are granted reduced initial monitoring in accordance with clauses (E) and (F). A system which monitors during the initial monitoring period, but begins monitoring before its scheduled initial monitoring year specified in this subparagraph, shall begin monitoring every entry point during the first calendar quarter of the year it begins monitoring, except as provided in clause (E).

\* \* \* \* \*

(G) Systems with new entry points associated with new sources which are permitted under Subchapter E (relating to permit requirements) to begin operation after December 31, 1992, shall conduct initial monitoring as follows. New entry points shall be monitored quarterly, beginning the first full quarter the entry point begins serving the public.

(iii) *Repeat monitoring for entry points at which a VOC is detected.* For entry points at which a VOC is detected at a level equal to or greater than 0.0005 mg/L, then:

(A) Monitoring shall be repeated quarterly beginning the quarter following the detection for VOCs for which the EPA has established MCLs under 40 CFR 141.61(a), except for vinyl chloride as provided in subparagraph (i), until reduced monitoring is granted in accordance with this subparagraph.

(B) The Department may decrease the quarterly monitoring requirement specified in clause (A) provided it has determined that the system is reliably and consistently below the MCL. The Department will not make this determination unless a groundwater or GUDI system takes a minimum of 2 quarterly samples and a surface water system takes a minimum of 4 quarterly samples.

(C) If the Department determines that the system is reliably and consistently below the MCL, the Department may allow the system to monitor annually. Systems which monitor annually shall monitor during the quarter that previously yielded the highest analytical result, or as specified by the Department.

(iv) *Repeat monitoring for entry points at which no VOC is detected.*

(A) For entry points at which VOCs are not detected during the first year of quarterly monitoring, or annual

monitoring if only one sample was required at an entry point for first year monitoring under subparagraph (ii)(E), or (F), required monitoring is reduced to one sample per entry point per year.

(B) For groundwater or GUDI entry points where VOCs are monitored in accordance with this paragraph, but are not detected during 3 years of quarterly or annual monitoring, or both, required monitoring is reduced to one sample per entry point during each subsequent compliance period. Reduced monitoring shall be conducted at 3-year intervals from the year of required initial monitoring.

(v) *Repeat monitoring for VOCs with MCL exceedances.* For entry points at which a VOC MCL is exceeded, monitoring shall be conducted quarterly, beginning the quarter following the exceedance. Quarterly monitoring shall continue until a minimum of 4 consecutive quarterly samples shows the system is in compliance as specified in subparagraph (x) and the Department determines the system is reliably and consistently below the MCL. If the Department determines that the system is in compliance and is reliably and consistently below the MCL, the Department may allow the system to monitor in accordance with subparagraph (iii)(C).

(vi) *Confirmation samples.* A confirmation sample shall be collected and analyzed for each VOC listed under 40 CFR 141.61(a) which is detected at a level in excess of its MCL during annual or less frequent compliance monitoring. The confirmation sample shall be collected within 2 weeks of notification by the accredited laboratory performing the analysis that an MCL has been exceeded. The average of the results of the original and the confirmation sample will be used to determine compliance. Monitoring shall be completed by the deadline specified for VOC compliance monitoring.

(vii) *Reduced monitoring.* When reduced monitoring is provided under subparagraph (iii) or (iv), the system shall monitor the entry point during the calendar year quarter that previously yielded the highest analytical result, or as specified by the Department. The reduced monitoring option in subparagraph (iv)(B) does not apply to entry points at which treatment has been installed for VOC removal. Quarterly performance monitoring is required for VOCs for which treatment has been installed.

(viii) *Waivers.* Waivers under 40 CFR 141.24(f)(7) and (10) will not be available for the VOC monitoring requirements in this paragraph. Systems with groundwater or GUDI entry points which have 3 consecutive years of quarterly or annual samples with no detection of a VOC may apply to the Department for a waiver. Entry points at which treatment has been installed to remove a VOC are not eligible for a monitoring waiver.

(A) A use waiver may be granted to a public water supplier from conducting monitoring under subparagraph (iii)(C), based on documentation provided by the public water supplier and a determination by the Department that the criteria has been met. Waivers may be granted after evaluating the following criteria:

(I) Knowledge of previous use, including transport, storage or disposal, of a substance containing VOCs within the wellhead protection area Zones I and II as defined under § 109.1 (relating to definitions).

(II) If a determination by the Department reveals no previous use, a waiver may be granted.

(B) If a use waiver is granted by the Department, required monitoring is reduced to one sample per entry

point during each subsequent compliance period. Monitoring shall be conducted at 3-year intervals from the year of required initial monitoring.

(C) A use waiver is effective for one compliance period and may be renewed in each subsequent compliance period.

(D) Susceptibility waivers under 40 CFR 141.24(f)(8)(ii) will not be available for the VOC monitoring requirements in this paragraph.

(E) Waiver requests and renewals shall be submitted to the Department, on forms provided by the Department, for review and approval prior to the end of the applicable monitoring period. Until the waiver request or renewal is approved, the public water system is responsible for conducting all required monitoring.

(ix) *Invalidation of VOC samples.*

(A) The Department may invalidate results of obvious sampling errors.

(B) A VOC sample invalidated under this subparagraph does not count towards meeting the minimum monitoring requirements of this paragraph.

(x) *Compliance determinations.* Compliance with the VOC MCLs shall be determined based on the analytical results obtained at each entry point. If one entry point is in violation of an MCL, the system is in violation of the MCL.

(A) For systems monitoring more than once per year, compliance with the MCL is determined by a running annual average of all samples taken at each entry point.

(B) If monitoring is conducted annually or less frequently, the system is out of compliance if the level of a contaminant at any entry point is greater than the MCL. If a confirmation sample is collected as specified in subparagraph (vi), compliance is determined using the average of the two sample results.

(C) If any sample result will cause the running annual average to exceed the MCL at any entry point, the system is out of compliance with the MCL immediately.

(D) If a system fails to collect the required number of samples, compliance with the MCL will be based on the total number of samples collected.

(E) If a sample result is less than the detection limit, zero will be used to calculate compliance.

(6) *Monitoring requirements for SOCs (pesticides and PCBs).* Community water systems and nontransient noncommunity water systems shall monitor for compliance with the MCLs for SOCs established by the EPA under 40 CFR 141.61(c). The monitoring shall be conducted according to the requirements established by the EPA under 40 CFR 141.24(h), incorporated herein by reference except as modified by this chapter.

(i) *Initial monitoring.* Initial monitoring shall consist of 4 consecutive quarterly samples at each entry point beginning during the quarter beginning January 1, 1995, except for systems which are granted an initial monitoring waiver in accordance with subparagraph (vii). Systems which monitor during the initial monitoring period but begin monitoring before 1995 shall begin monitoring during the first calendar quarter of the year. New entry points associated with new sources which are vulnerable to SOC contamination, as determined in accordance with subparagraph (vii), and which begin operation after

March 31, 1995, shall be monitored quarterly, beginning the first full quarter the entry point begins serving the public.

(ii) *Repeat monitoring for SOCs that are detected.* If an SOC is detected (as defined by the EPA under 40 CFR Part 141.24(h)(18) or by the Department), then:

(A) Monitoring for the detected SOC shall be conducted quarterly, beginning the quarter following the detection, until reduced monitoring is granted in accordance with this subparagraph.

(B) The Department may decrease the quarterly monitoring requirement specified in clause (A) provided it has determined that the system is reliably and consistently below the MCL. The Department will not make this determination unless a groundwater or GUDI system takes a minimum of 2 quarterly samples and a surface water system takes a minimum of 4 quarterly samples.

(C) If the Department determines that the system is reliably and consistently below the MCL, the Department may allow the system to monitor annually. Systems which monitor annually shall monitor during the quarter that previously yielded the highest analytical result, or as specified by the Department.

(D) Systems which have 3 consecutive years of quarterly or annual samples with no detection of a contaminant may apply to the Department for a waiver as specified in subparagraph (vii). A waiver is effective for one compliance period and may be renewed in each subsequent compliance period.

(E) For entry points at which either heptachlor or heptachlor epoxide is detected during the initial round of consecutive quarterly samples, or in subsequent repeat samples, the monitoring shall be continued for both contaminants in accordance with the more frequent monitoring required of the two contaminants based on the level at which each is detected.

(iii) *Repeat monitoring for SOCs that are not detected.* For entry points at which SOCs are not detected during the first year of quarterly monitoring, the required monitoring is reduced to one sample in each 3-year compliance period for systems serving 3,300 or fewer persons and to 2 consecutive quarterly samples in each compliance period for systems serving more than 3,300 persons. Reduced monitoring shall be conducted at 3-year intervals from the year of required initial VOC monitoring, in accordance with paragraph (5)(ii).

(iv) *Repeat monitoring for SOCs with MCL exceedances.* For entry points at which an SOC MCL is exceeded, monitoring for the detected SOC shall be conducted quarterly, beginning the quarter following the exceedance. Quarterly monitoring shall continue until a minimum of 4 consecutive quarterly samples shows the system is in compliance as specified in subparagraph (ix) and the Department determines the system is reliably and consistently below the MCL. If the Department determines that the system is in compliance and is reliably and consistently below the MCL, the Department may allow the system to monitor in accordance with subparagraph (ii)(C).

(v) *Confirmation samples.* A confirmation sample shall be collected and analyzed for each SOC listed under 40 CFR 141.61(c) which is detected at a level in excess of its MCL during annual or less frequent compliance monitoring. The confirmation sample shall be collected within 2 weeks of the water supplier receiving notification from the accredited laboratory performing the analysis that an

MCL has been exceeded. The average of the results of the original and the confirmation samples will be used to determine compliance. Confirmation monitoring shall be completed by the deadline specified for SOC compliance monitoring.

(vi) *Reduced monitoring.* When reduced monitoring is provided under subparagraph (ii) or (iii), the system shall monitor the entry point during the second calendar year quarter, or the second and third calendar year quarter when 2 quarterly samples are required in each compliance period, unless otherwise specified by the Department. The reduced monitoring option in subparagraph (iii) does not apply to entry points at which treatment has been installed for SOC removal. Compliance monitoring for SOCs for which treatment has been installed to comply with an MCL shall be conducted at least annually, and performance monitoring shall be conducted quarterly.

(vii) *Waivers.* A waiver will be granted to a public water supplier from conducting the initial compliance monitoring or repeat monitoring, or both, for an SOC based on documentation provided by the public water supplier and a determination by the Department that the criteria in clause (B), (C) or (D) has been met. A waiver is effective for one compliance period and may be renewed in each subsequent compliance period. If the Department has not granted a use waiver in accordance with clause (B), the public water supplier is responsible for submitting a waiver application and renewal application to the Department for review in accordance with clause (B) or (C) for specific entry points. Waiver applications will be evaluated relative to the vulnerability assessment area described in clause (A) and the criteria in clause (B) or (C). Entry points at which treatment has been installed to remove an SOC are not eligible for a monitoring waiver for the SOCs for which treatment has been installed.

(A) *Vulnerability assessment area for SOCs except dioxin and PCBs.*

(I) For groundwater or GUDI entry points, the vulnerability assessment area shall consist of wellhead protection area Zones I and II.

(II) For surface water entry points, the vulnerability assessment area shall consist of the area that supplies water to the entry point and is separated from other watersheds by the highest topographic contour.

(B) *Use waivers.* A use waiver will be granted by the Department for contaminants which the Department has determined have not been used, stored, manufactured, transported or disposed of in this Commonwealth, or portions of this Commonwealth. A use waiver specific to a particular entry point requires that an SOC was not used, stored, manufactured, transported or disposed of in the vulnerability assessment area. If use waiver criteria cannot be met, a public water supplier may apply for a susceptibility waiver.

\* \* \* \* \*

(D) *Waiver requests and renewals.* Waiver requests and renewals shall be submitted to the Department, on forms provided by the Department, for review and approval prior to the end of the applicable monitoring period. Until the waiver request or renewal is approved, the public water system is responsible for conducting all required monitoring.

(E) *Waivers for dioxin and PCBs.* A system is granted a waiver from monitoring for dioxin and PCBs unless the Department determines that there is a source of dioxin or PCB contamination which poses a threat to a drinking water source.

(viii) *Invalidation of SOC samples.*

(A) The Department may invalidate results of obvious sampling errors.

(B) An SOC sample invalidated under this subparagraph does not count towards meeting the minimum monitoring requirements of this paragraph.

(ix) *Compliance determinations.* Compliance with the SOC MCLs shall be determined based on the analytical results obtained at each entry point. If one entry point is in violation of an MCL, the system is in violation of the MCL.

(A) For systems monitoring more than once per year, compliance with the MCL is determined by a running annual average of all samples taken at each entry point.

(B) If monitoring is conducted annually or less frequently, the system is out of compliance if the level of a contaminant at any entry point is greater than the MCL. If a confirmation sample is collected as specified in subparagraph (v), compliance is determined using the average of the two sample results.

(C) If any sample result will cause the running annual average to exceed the MCL at any entry point, the system is out of compliance with the MCL immediately.

(D) If a system fails to collect the required number of samples, compliance with the MCL will be based on the total number of samples collected.

(E) If a sample result is less than the detection limit, zero will be used to calculate compliance.

(7) *Monitoring requirements for IOCs.* Community water systems and nontransient noncommunity water systems shall monitor for compliance with the MCLs for IOCs established by the EPA under 40 CFR 141.62 (relating to maximum contaminant levels (MCLs) for inorganic contaminants). Transient noncommunity water suppliers shall monitor for compliance with the MCLs for nitrate and nitrite. The monitoring shall be conducted according to the requirements established by the EPA under 40 CFR 141.23 (relating to inorganic chemical sampling and analytical requirements). The requirements are incorporated by reference except as modified by this chapter.

(i) *Monitoring requirements for asbestos.*

\* \* \* \* \*

(D) *Repeat monitoring for systems that exceed the asbestos MCL.* If a sample exceeds the MCL for asbestos, the monitoring at that sampling point shall be continued quarterly beginning in the quarter following the MCL violation. After 4 consecutive quarterly samples with results reliably and consistently below the MCL at that entry point, the required monitoring is reduced to one sample at that entry point during the first 3-year compliance period of each subsequent 9-year compliance cycle, if treatment has not been installed to remove asbestos from the source water. Compliance monitoring at entry points at which treatment has been installed to remove asbestos from source water shall be conducted at least annually, and performance monitoring shall be conducted quarterly.

(E) *Confirmation samples.* For asbestos sample results in excess of the MCL during annual or less frequent compliance monitoring, the water supplier shall take a confirmation sample within 2 weeks of notification by the accredited laboratory performing the analysis. The average of the results of the original and the confirmation

sample will be used to determine compliance. Monitoring shall be completed by the deadline specified for asbestos compliance monitoring.

(ii) *Monitoring requirements for nitrate and nitrite.*

(A) *Initial monitoring schedule.* A public water system shall begin monitoring for nitrate and nitrite by taking one annual sample at each groundwater or GUDI entry point to the distribution system beginning during the year beginning January 1, 1993. Community water systems and nontransient noncommunity water systems with surface water sources shall monitor quarterly at each surface water entry point for nitrate and nitrite beginning during the quarter beginning January 1, 1993. Transient noncommunity water systems shall monitor each surface water entry point by taking one annual sample beginning during the year beginning January 1, 1993.

(B) *Monitoring of new entry points.*

(I) New community and nontransient noncommunity surface water entry points associated with new sources shall be monitored quarterly, beginning the first full quarter the entry point begins serving the public. Quarterly monitoring shall continue until reduced monitoring is granted in accordance with clause (C)(II) or (D).

(II) New community and nontransient noncommunity groundwater or GUDI entry points and new transient noncommunity entry points associated with new sources shall be monitored annually, beginning within 1 year of serving the public.

(C) *Repeat monitoring for systems with nitrate or nitrite levels equal to or greater than 50% of the MCLs.*

(I) For entry points at which initial monitoring results or subsequent monitoring indicate nitrate or nitrite levels equal to or greater than 50% of the MCL, water systems shall begin quarterly monitoring the quarter following detection at that level and continue quarterly monitoring for both nitrate and nitrite, unless reduced monitoring is granted in accordance with subclause (II) or (III).

(II) For surface water entry points, after 4 consecutive quarterly samples at an entry point for a water system indicate nitrate and nitrite levels in each sample are less than 50% of the MCLs, the required compliance monitoring is reduced to 1 sample per year at the entry point. Annual monitoring shall be conducted during the quarter which previously resulted in the highest analytical result, unless the Department determines that a different monitoring quarter should be used in accordance with paragraph (10).

(III) For groundwater or GUDI entry points, after 4 consecutive quarterly samples at an entry point for a water system indicate nitrate and nitrite levels in each sample are reliably and consistently below the MCL, the required compliance monitoring is reduced to 1 sample per year at the entry point. Annual monitoring shall be conducted during the quarter which previously resulted in the highest analytical result, unless the Department determines that a different monitoring quarter should be used in accordance with paragraph (10).

(IV) For nitrate or nitrite sample results in excess of the MCLs, the water supplier shall take a confirmation sample within 24 hours of having received the original sample result. A water supplier that is unable to comply with the 24-hour sampling requirement shall immediately notify persons served by the public water system in accordance with § 109.408. Systems exercising this option

shall take and analyze a confirmation sample within 2 weeks of notification of the analytical results of the first sample.

(V) Noncommunity water systems for which an alternate nitrate level has been approved by the Department in accordance with 40 CFR 141.11(d) are not required to collect a confirmation sample if only the nitrate MCL is exceeded and nitrate is not in excess of the alternate nitrate level. If the alternate nitrate level is exceeded, the water supplier shall collect a confirmation sample within 24 hours after being advised by the certified laboratory performing the analysis that the compliance sample exceeded 20 mg/L for nitrate. Confirmation monitoring shall be completed by the deadline for compliance monitoring.

(VI) Quarterly performance monitoring is required for nitrate and nitrite at entry points where treatment has been installed to remove nitrate or nitrite.

(D) *Repeat monitoring for systems with nitrate and nitrite levels less than 50% of the MCLs.* For entry points at which initial monitoring results indicate nitrate and nitrite levels in each sample are less than 50% of the MCLs, nitrate and nitrite monitoring shall be repeated annually during the calendar quarter which previously resulted in the highest analytical result, unless the Department determines that a different monitoring quarter should be used in accordance with paragraph (10).

(iii) *Monitoring requirements for antimony, arsenic, barium, beryllium, cadmium, cyanide, chromium, fluoride, mercury, nickel, selenium and thallium.*

(A) *Initial monitoring schedule.* Community water systems and nontransient noncommunity water systems shall monitor each surface water entry point annually beginning during the year beginning January 1, 1993, and shall monitor each groundwater or GUDI entry point once every 3 years beginning during the year beginning January 1, 1994.

(B) *Monitoring of new entry points.* New groundwater or GUDI entry points which begin operation after December 31, 1994, shall begin initial monitoring in accordance with the schedule in clause (A)—that is, 1997, and so forth. New surface water entry points shall begin initial annual monitoring during the first new calendar year after the entry point begins serving the public.

(C) *Repeat monitoring for entry points at which an IOC MCL is exceeded.*

\* \* \* \* \*

(II) After analyses of 4 consecutive quarterly samples at an entry point where treatment has not been installed to comply with an IOC MCL indicate that contaminant levels are reliably and consistently below the MCLs, the required monitoring for each IOC that is reliably and consistently below the MCL is reduced to the frequencies stated in clause (A). This reduced monitoring option does not apply to entry points at which treatment has been installed for IOC removal. Compliance monitoring for IOCs for which treatment has been installed to comply with an MCL shall be conducted at least annually, and performance monitoring shall be conducted quarterly.

(III) A confirmation sample shall be collected and analyzed for each IOC listed under 40 CFR 141.62(b) which is detected at a level in excess of its MCL during annual or less frequent compliance monitoring. The confirmation sample shall be collected within 2 weeks of notification by the accredited laboratory performing the analysis that an MCL has been exceeded. The average of

the results of the original and the confirmation samples will be used to determine compliance. Confirmation monitoring shall be completed by the deadline specified for IOC compliance monitoring.

(D) *Waivers for antimony, arsenic, barium, beryllium, cadmium, chromium, fluoride, mercury, nickel, selenium and thallium monitoring.* Except when treatment has been installed to remove the IOC, after 3 consecutive rounds of quarterly, annual or triennial monitoring indicate the contaminant level for an IOC is reliably and consistently below the MCL in all samples at an entry point, routine monitoring for the remainder of the compliance cycle for that IOC may be waived and the required monitoring for the IOC may be reduced to 1 sample per 9-year compliance cycle at that entry point.

(I) Waivers may be granted based on the following criteria:

(-a-) Previous analytical results.

(-b-) Other factors which may affect contaminant concentrations such as changes in groundwater pumping rates, changes in the system's configuration, changes in the system's operating procedures, changes in stream flows or characteristics, or other factors as determined by the Department on a case-by-case basis.

(II) A decision by the Department to grant a waiver will be made in writing and will set forth the basis for the determination. The determination may be made upon an application by the public water system. The public water system shall specify the basis for its request. The Department will review and, when appropriate, revise its determination of the appropriate monitoring frequency when the system submits new monitoring data or when other data relevant to the system's appropriate monitoring frequency becomes available.

(III) Reduced monitoring shall be conducted during the first monitoring period of the next monitoring cycle. A waiver is effective for one compliance cycle and may be renewed in each subsequent compliance cycle.

(IV) Waiver requests and renewals shall be submitted to the Department, on forms provided by the Department, for review and approval prior to the end of the applicable monitoring period. Until the waiver request or renewal is approved, the public water system is responsible for conducting all required monitoring.

(E) *Waivers for cyanide monitoring.* Waivers may be granted for monitoring of cyanide, provided that the system is not vulnerable due to lack of any industrial source of cyanide.

(F) *Operational monitoring for fluoride.* Public water suppliers who fluoridate shall conduct operational monitoring for fluoride daily.

(iv) *Invalidation of IOC samples.*

(A) The Department may invalidate results of obvious sampling errors.

(B) An IOC sample invalidated under this subparagraph does not count towards meeting the minimum monitoring requirements of this section.

(v) *Compliance determinations.* Compliance with the IOC MCLs shall be determined based on the analytical results obtained at each entry point. If one entry point is in violation of an MCL, the system is in violation of the MCL.

(A) For systems monitoring more than once per year, compliance with the MCL for antimony, arsenic, asbestos,

barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium or thallium is determined by a running annual average of all samples taken at each entry point. If the average at any entry point is greater than the MCL, then the system is out of compliance. If any one sample would cause the annual average to be exceeded, then the system is out of compliance immediately.

(B) For systems monitoring annually, or less frequently, the system is out of compliance with the MCL for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium or thallium if the level of a contaminant at any sampling point is greater than the MCL. If a confirmation sample is collected as specified in subparagraph (ii)(C)(III), compliance is determined using the average of the two samples.

(C) Compliance with the MCLs for nitrate and nitrite is determined based on one sample if the levels of these contaminants are below the MCLs. If the levels of nitrate or nitrite exceed the MCLs in the initial sample, a confirmation sample is required in accordance with subparagraph (ii)(C)(III), and compliance shall be determined based on the average of the initial and confirmation samples.

(D) If a system fails to collect the required number of samples, compliance with the MCL will be based on the total number of samples collected.

(E) If a sample result is less than the detection limit, zero will be used to calculate compliance.

(8) *Monitoring requirements for public water systems that obtain finished water from another public water system.*

\* \* \* \* \*

(ii) Community consecutive water suppliers shall monitor the distribution system for compliance with the MCL for asbestos at the frequency indicated in paragraph (7)(i), when the Department determines that the system's distribution system contains asbestos cement pipe and optimum corrosion control measures have not been implemented.

(iii) Consecutive water suppliers may be exempt from conducting monitoring for the MCLs for VOCs, SOCs and IOCs and radionuclides if the public water system from which the finished water is obtained complies with paragraphs (5)—(7) and (14) and is in compliance with the MCLs, except that asbestos monitoring is required in accordance with subparagraph (ii) .

\* \* \* \* \*

(vii) A community water system which is a consecutive water system shall comply with the monitoring requirements for lead and copper as specified in § 109.1101(c) (relating to lead and copper).

\* \* \* \* \*

(12) *Monitoring requirements for disinfection byproducts and disinfection byproduct precursors.* Community water systems and nontransient noncommunity water systems that use a chemical disinfectant or oxidant shall monitor for disinfection byproducts and disinfection byproduct precursors in accordance with this paragraph. Community water systems and nontransient noncommunity water systems that obtain finished water from another public water system that uses a chemical disinfectant or oxidant to treat the finished water shall monitor for TTHMs and HAA5 in accordance with this paragraph. Systems that use either surface water or

GUDI sources and that serve at least 10,000 persons shall begin monitoring by January 1, 2002. Systems that use either surface water or GUDI sources and that serve fewer than 10,000 persons, or systems that use groundwater sources, shall begin monitoring by January 1, 2004. Systems monitoring for disinfection byproducts and disinfection byproduct precursors shall take all samples during normal operating conditions. Systems monitoring for disinfection byproducts and disinfection byproduct precursors shall use only data collected under this chapter to qualify for reduced monitoring. Compliance with the MCLs and monitoring requirements for TTHMs, HAA5, chlorite (where applicable) and bromate (where applicable) shall be determined in accordance with 40 CFR 141.132 and 141.133 (relating to monitoring requirements; and compliance requirements) which are incorporated herein by reference.

(i) *TTHMs and HAA5.*

\* \* \* \* \*

(B) *Reduced monitoring.* Systems shall monitor for TTHMs and HAA5 for at least 1 year prior to qualifying for reduced monitoring. Systems serving at least 500 persons and that use either surface water or GUDI sources shall monitor source water TOC monthly for at least 1 year prior to qualifying for reduced monitoring. The Department retains the right to require a system that meets the requirements of this clause to resume routine monitoring.

\* \* \* \* \*

(II) For systems that use only groundwater sources not included under subclause (I), the required monitoring is reduced according to the following:

(-a-) For systems serving at least 10,000 persons that have a TTHM running annual average that is no greater than 0.040 mg/L and an HAA5 running annual average that is no greater than 0.030 mg/L, the required monitoring is reduced to one sample per year per treatment plant. The sample shall be taken during the month of warmest water temperature and at a location that represents a maximum residence time. If the annual TTHM average exceeds 0.060 mg/L or the annual HAA5 average exceeds 0.045 mg/L, the system shall resume routine monitoring as prescribed in clause (A) in the quarter immediately following the quarter in which the system exceeds 0.060 mg/L for TTHMs or 0.045 mg/L for HAA5.

(-b-) For systems serving fewer than 10,000 persons that have an annual TTHM average that is no greater than 0.040 mg/L and an annual HAA5 average that is no greater than 0.030 mg/L for 2 consecutive years or an annual TTHM average that is no greater than 0.020 mg/L and an annual HAA5 average that is no greater than 0.015 mg/L for 1 year, the required monitoring is reduced to one sample per 3-year period per treatment plant. The sample shall be taken at a location that represents a maximum residence time during the month of warmest water temperature. The 3-year period shall begin on January 1 following the quarter in which the system qualifies for reduced monitoring. If the TTHM average exceeds 0.060 mg/L or the HAA5 average exceeds 0.045 mg/L, the system shall resume routine monitoring as prescribed in clause (A), except that systems that exceed either a TTHM or HAA5 MCL shall increase monitoring to at least one sample per quarter per treatment plant beginning in the quarter immediately following the quarter in which the system exceeds the TTHM or HAA5 MCL.

\* \* \* \* \*

(14) *Monitoring requirements for radionuclides.* Community water systems shall monitor for compliance with the MCLs for radionuclides established by the EPA under 40 CFR 141.66(b), (c), (d) and (e) (relating to maximum contaminant levels for radionuclides). The monitoring shall be conducted according to the requirements established by the EPA under 40 CFR 141.25 and 141.26 (relating to analytical methods for radioactivity; and monitoring frequency and compliance requirements for radionuclides in community water systems) which are incorporated by reference, except as modified by this chapter. Initial or first-year monitoring mentioned in this paragraph refers to monitoring conducted on or after January 1, 2005.

(i) *Monitoring requirements for gross alpha particle activity, radium-226, radium-228 and uranium.*

(A) *Initial monitoring schedule.* The initial monitoring shall consist of 4 consecutive quarterly samples for each radionuclide at each entry point in accordance with the following monitoring schedule except for systems that are granted reduced initial monitoring in accordance with subclause (V).

(I) Systems serving more than 3,300 persons shall begin monitoring during the quarter beginning January 1, 2005.

(II) Systems serving 500 to 3,300 persons shall begin monitoring during the quarter beginning January 1, 2006.

(III) Systems serving fewer than 500 persons shall begin monitoring during the quarter beginning January 1, 2007.

(IV) Systems that add new entry points associated with new sources shall conduct initial quarterly monitoring beginning the first full quarter the entry point begins serving the public. Quarterly monitoring shall continue until reduced monitoring is granted in accordance with clause (B) or subclause (V).

(V) If the first 2 quarterly samples for a radionuclide at an entry point have results below the detection limit, as defined in 40 CFR 141.25(c)(1), the final 2 quarterly samples for that radionuclide at that entry point are waived.

(VI) For entry points at which the average of the initial monitoring results for a radionuclide is above the MCL, the system shall collect and analyze quarterly samples for that radionuclide at that entry point until the system has results from 4 consecutive quarters for that radionuclide at that entry point that are at or below the MCL.

\* \* \* \* \*

**§ 109.303. Sampling requirements.**

\* \* \* \* \*

(c) Public water suppliers shall assure that samples for laboratory analysis are properly collected and preserved, are collected in proper containers, do not exceed maximum holding times between collection and analysis and are handled in accordance with guidelines governing quality control which may be established by the Department. A public water supplier who utilizes an accredited laboratory for sample collection as well as analysis satisfies the requirements of this subsection.

(d) Compliance monitoring samples for the VOCs listed under 40 CFR 141.61(a) shall be collected by a person properly trained by a laboratory accredited by the Department to conduct VOC or vinyl chloride analysis.

\* \* \* \* \*

(g) Samples taken to determine compliance with combined radium-226 and radium-228, gross alpha particle activity, or uranium under 40 CFR 141.66(b), (c) and (e) (relating to maximum contaminant levels for radionuclides) may be composited from a single entry point if the analysis is done within 1 year of the date of the collection of the first sample. The Department will treat analytical results from the composited sample as the average analytical result to determine compliance with the MCLs and the future monitoring frequency.

\* \* \* \* \*

**§ 109.304. Analytical requirements.**

(a) Sampling and analysis shall be performed in accordance with analytical techniques adopted by the EPA under the Federal act or methods approved by the Department.

(b) An alternate analytical technique may be employed with the written approval of the Department and the concurrence of the Administrator. An alternate technique will be accepted only if it is substantially equivalent to the prescribed test in both precision and accuracy as it relates to the determination of compliance with MCLs or MRDLs or treatment technique requirements. The use of the alternate analytical technique may not decrease the frequency of monitoring required by this subchapter.

(c) For the purpose of determining compliance with the monitoring and analytical requirements established under this subchapter and Subchapter K (relating to lead and copper), the Department will consider only samples analyzed by a laboratory accredited by the Department, except that measurements for turbidity, fluoridation operation, residual disinfectant concentration, temperature, pH, alkalinity, orthophosphates, silica, calcium, conductivity, daily chlorite, and magnesium hardness may be performed by a person meeting one of the following requirements:

(1) A person meeting the requirements of § 109.704 (relating to operator certification).

(2) A person using a standard operating procedure as provided under authority of the Water and Wastewater Systems Operators' Certification Act (63 P. S. §§ 1001—1015.1).

(3) An environmental laboratory meeting the requirements of Chapter 252 (relating to environmental laboratory accreditation).

**Subchapter D. PUBLIC NOTIFICATION**

**§ 109.410. Tier 3 public notice—categories, timing and delivery.**

(a) *General violation categories and other situations requiring a Tier 3 public notice.* A public water supplier shall provide Tier 3 public notice for the following circumstances:

(1) Monitoring violations under Subchapter C or K (relating to monitoring requirements; and lead and copper), except when a Tier 1 notice is required under § 109.408 (relating to Tier 1 public notice—categories, timing and delivery of notice) or where the Department determines that a Tier 2 notice is required.

(2) Reporting and record maintenance violations under § 109.701(h) (relating to reporting and recordkeeping).

(3) Operation under a variance or an exemption granted under Subchapter I (relating to variances and exemptions issued by the Department).



(4) Availability of unregulated contaminant monitoring results, as required under 40 CFR 141.40 (relating to monitoring requirements for unregulated contaminants).

\* \* \* \* \*

**Subchapter E. PERMIT REQUIREMENTS**

**§ 109.503. Public water system construction permits.**

(a) *Permit application requirements.* An application for a public water system construction permit shall be submitted in writing on forms provided by the Department and shall be accompanied by plans, specifications, engineer's report, water quality analyses and other data, information or documentation reasonably necessary to enable the Department to determine compliance with the act and this chapter. The Department will make available to the applicant the *Public Water Supply Manual*, available from the Bureau of Water Standards and Facility Regulation, Post Office Box 8467, Harrisburg, Pennsylvania 17105 which contains acceptable design standards and technical guidance. Water quality analyses shall be conducted by a laboratory accredited under this chapter.

(1) *General requirements.* An application must include:

\* \* \* \* \*

(iii) *Information describing new sources.* The Department may accept approval of an out-of-State source by the agency having jurisdiction over drinking water in that state if the supplier submits adequate proof of the approval and the agency's standards are at least as stringent as this chapter. Information describing sources must include:

\* \* \* \* \*

(B) An evaluation of the quality of the raw water from each new source. This clause does not apply when the new source is finished water obtained from an existing permitted community water system unless the Department provides written notice that an evaluation is required. The evaluation must include analysis of the following:

(I) VOCs for which MCLs have been established by the EPA under the National Primary Drinking Water Regulations in 40 CFR 141.61(a) (relating to maximum contaminant levels for organic contaminants). Vinyl chloride monitoring is required only if one or more of the two-carbon organic compounds specified under § 109.301(5)(i) (relating to general monitoring requirements) are detected. Samples for VOCs shall be collected in accordance with § 109.303(d) (relating to sampling requirements).

(II) Except for asbestos, IOCs for which MCLs have been established by the EPA under the National Primary Drinking Water Regulations in 40 CFR 141.62 (relating to maximum contaminant levels for inorganic contaminants). The new source shall be monitored for asbestos if the Department has reason to believe the source water is vulnerable to asbestos contamination.

(III) Lead.

(IV) Copper.

(V) Total coliform concentration and, if total coliform-positive, analyze for fecal coliform concentration.

(VI) SOCs.

(-a-) Except for SOCs that have been granted a State-wide waiver, SOCs for which MCLs have been established by the EPA under the National Primary Drinking Water Regulations in 40 CFR 141.61(c).

(-b-) Dioxin where there is a source of dioxin contamination within 1,000 feet of a groundwater source or within 1 mile upstream of a surface water source.

(-c-) Polychlorinated biphenyls (PCBs) where there is a source of PCB contamination within 1,000 feet of a groundwater source or within 1 mile upstream of a surface water source.

\* \* \* \* \*

(VIII) Aluminum, chloride, color, foaming agents, iron, manganese, pH, silver, sulfate, total dissolved solids and zinc for which MCLs have been established by the EPA under the National Secondary Drinking Water Regulations in 40 CFR 143.3 (relating to secondary MCLs).

(IX) Alkalinity.

(X) Hardness.

(XI) Temperature.

(XII) Other contaminants that the Department determines necessary to evaluate the potability of the source.

\* \* \* \* \*

**§ 109.504. Public water system operation permits.**

(a) To obtain an operation permit for a new system or an amended operation permit for system modifications, the public water supplier shall submit a certification of construction to the Department upon completion of the applicable construction or modification. The certification shall state that the work was completed in accordance with the approved plans and specifications and shall be signed by the professional engineer or other person responsible for the work.

(b) The Department will not issue an operation permit or an amended operation permit, unless the following conditions are satisfied:

(1) Construction of the new or modified facilities has been approved by the Department.

(2) The water supplier has demonstrated to the Department that adequate operation and maintenance information for the new or modified facilities is available onsite for use by the public water system's personnel.

(3) The water supplier has demonstrated to the Department that they are in compliance with § 109.704 (relating to operator certification).

(c) Issuance of an operation permit authorizes only the operation included in the permit. The permit's continuing validity is conditioned upon satisfaction of all provisions of the permit.

**§ 109.505. Requirements for noncommunity water systems.**

A noncommunity water system shall obtain a construction permit under § 109.503 (relating to public water system construction permits) and an operation permit under § 109.504 (relating to public water system operation permits), unless the noncommunity water system satisfies paragraph (1) or (2). The Department retains the right to require a noncommunity water system that meets the requirements of paragraph (1) or (2) to obtain a construction and an operation permit, if, in the judgment of the Department, the noncommunity water system cannot be adequately regulated through standardized specifications and conditions. A noncommunity water system which is released from the obligation to obtain a construction and an operation permit shall comply with the other requirements of this chapter, including design, construction and operation requirements described in

Subchapters F and G (relating to design and construction standards; and system management responsibilities).

(1) A noncommunity water system which holds a valid permit or license issued after December 8, 1984, under one or more of the following acts satisfies the permit requirement under the act. The licensing authority will review the drinking water facilities under this chapter when issuing permits under the following acts:

(i) The act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. §§ 655.1—655.13).

(ii) The Seasonal Farm Labor Act (43 P. S. §§ 1301.101—1301.606).

(iii) The Public Bathing Law (35 P. S. §§ 672—680d).

(2) A noncommunity water system not covered under paragraph (1) is not required to obtain a construction and an operation permit if it satisfies the following specifications and conditions:

(i) The sources of supply for the system are groundwater sources requiring treatment no greater than disinfection to provide water of a quality that meets the primary MCLs established under Subchapter B (relating to MCLs, MRDLs or treatment technique requirements).

(ii) The water supplier files a brief description of the system, including raw source quality data, on forms acceptable to the Department. Amendments to the system description shall be filed when a substantial modification is made to the system. Descriptions of new systems or modifications shall be submitted and approved by the Department prior to construction.

(3) A noncommunity water system which satisfies the requirements of paragraphs (1) and (2) shall provide the Department with the following information describing new sources, including an evaluation of the quality of the raw water from each new source. Water quality analyses shall be conducted by a laboratory certified under this chapter. This paragraph does not apply when the new source is finished water obtained from an existing permitted community water system or an existing permitted or approved noncommunity water system unless the Department provides written notice that one or more of the provisions of this paragraph apply.

(i) For transient noncommunity water systems, the evaluation must include analysis of the following:

- (A) Nitrate (as nitrogen) and nitrite (as nitrogen).
- (B) Total coliform concentration and, if total coliform-positive, analyze for fecal coliform concentration.
- (C) Any other contaminant which the Department determines is necessary to evaluate the potability of the source or which the Department has reason to believe is present in the source water and presents a health risk to the users of the system.

(ii) For nontransient noncommunity water systems, the evaluation must include the information required under § 109.503(a)(1)(iii)(B).

**Subchapter F. DESIGN AND CONSTRUCTION STANDARDS**

**§ 109.605. Minimum treatment design standards.**

The level of treatment required for raw water depends upon the characteristics of the raw water, the nature of the public water system and the likelihood of contamination. The following minimum treatment design standards apply to new facilities and major changes to existing facilities:

(1) For surface water and GUDI sources, the minimum treatment design standard for filtration technologies is a 99% removal of *Giardia* cysts, and a 99% removal of *Cryptosporidium* oocysts. The determination of the appropriate filtration technology to be used shall be based on the following:

(i) Conventional filtration designed and operated in accordance with standards established in the Department's *Public Water Supply Manual* can be expected to achieve the minimum treatment design standard and shall be considered the best treatment for most surface water sources in this Commonwealth because of the multiple barriers of protection that it provides.

(ii) Direct filtration, slow sand filtration and diatomaceous earth filtration may be permitted if studies, including pilot studies where appropriate, approved by the Department are conducted and demonstrate, through achievement of the turbidity performance standards specified in § 109.202(c)(1)(i) (relating to State MCLs, MRDLs and treatment technique requirements), that the minimum treatment design standard can be achieved consistently, reliably and practically under appropriate design and operating conditions.

(iii) Other filtration technologies may be permitted after onsite studies, including pilot plant studies where appropriate, using seeded indicator organisms in the raw water or other equivalent means as approved by the Department, that demonstrate that the technology can consistently achieve the minimum treatment design standard.

(2) For surface water and GUDI sources, the minimum treatment design standard for disinfection technologies utilized prior to the first user of the system is a total of 99.9% inactivation of *Giardia* cysts and a 99.99% inactivation of viruses, except noncommunity water systems may propose, and the Department may approve, an alternative to the *Giardia* design standard when 99.9% inactivation is not feasible. Total treatment system disinfection capability will be credited toward this design standard. The CT factors and measurement methods established by the EPA are the criteria to be used in determining compliance with this minimum treatment design standard.

**Subchapter G. SYSTEM MANAGEMENT RESPONSIBILITIES**

**§ 109.701. Reporting and recordkeeping.**

(a) *Reporting requirements for public water systems.* Public water systems shall comply with the following requirements:

\* \* \* \* \*

(2) *Monthly reporting requirements for performance monitoring.*

(i) The test results of performance monitoring required under § 109.301(1) (relating to general monitoring requirements) for public water suppliers providing filtration and disinfection of surface water or GUDI sources must include the following at a minimum:

- (A) For turbidity performance monitoring:
  - (I) The number of days of filtration operation.
  - (II) The number of filtered water turbidity measurements taken each month.
  - (III) The number of filtered water turbidity measurements that are less than or equal to 0.5 NTU for

conventional, direct or other filtration technologies, or 1.0 NTU for slow sand or diatomaceous earth filtration technologies.

(IV) The date, time and values of any filtered water turbidity measurements exceeding 2.0 NTU.

(V) Instead of subclauses (III) and (IV), beginning January 1, 2002, for public water systems that serve 10,000 or more people and use conventional or direct filtration:

(-a-) The number of filtered water turbidity measurements that are less than or equal to 0.3 NTU.

(-b-) The date, time and values of any filtered water turbidity measurements exceeding 1 NTU.

(VI) Instead of subclauses (A)(III) and (IV), beginning January 1, 2005, for public water systems that serve fewer than 10,000 persons and use conventional or direct filtration:

(-a-) The number of filtered water turbidity measurements that are less than or equal to 0.3 NTU.

(-b-) The date, time and values of any filtered water turbidity measurements exceeding 1 NTU.

(VII) Instead of subclauses (III) and (IV), beginning January 1, 2002, for public water systems that serve 10,000 or more people and use other filtration technologies:

(-a-) The number of filtered water turbidity measurements that are less than or equal to 0.3 NTU or a more stringent turbidity performance level requirement that is based upon onsite studies and is specified by the Department.

(-b-) The date, time and values of any filtered water turbidity measurements exceeding 1 NTU or a more stringent turbidity performance level requirement that is based upon onsite studies and is specified by the Department.

(B) For performance monitoring of the residual disinfectant concentration of the water being supplied to the distribution system:

(I) The date, time and lowest value each day the residual disinfectant concentration remains equal to or greater than the required minimum.

(II) The initial date, time and value for each occurrence that the residual disinfectant concentration is less than the required minimum, and the subsequent date, time and value that the residual disinfectant concentration is equal to or greater than the required minimum.

(III) The date the entry point is not in operation.

\* \* \* \* \*

(11) *Noncompliance report.* Except where a different reporting period is specified in this chapter, the water supplier shall report to the Department within 48 hours the failure to comply with any National Primary Drinking Water Regulation, including the failure to comply with any monitoring requirement set forth in this chapter.

\* \* \* \* \*

(i) *Accuracy of data.*

(1) Each water supplier shall be responsible for the accurate reporting of data required under subsection (j) to the Department.

(2) Each water supplier shall be responsible for providing accurate monitoring and sample information to the accredited laboratory that is responsible for reporting

data to the Department under § 109.810 (relating to environmental laboratory accreditation). Monitoring and sample information must include, but is not limited to, the monitoring frequency, monitoring period, sample location, and sample type.

(j) *Electronic reporting.* Within 90 days of written notification by the Department, a public water system shall submit electronically all of its monitoring data for the contaminants listed under § 109.304(c) (relating to analytical requirements).

(1) The Department will provide written notification to each public water system to begin submitting data electronically based on the following schedule:

(i) Systems serving more than 10,000 persons will be notified no sooner than November 23, 2009.

(ii) Systems serving more than 3,300 but less than 10,001 persons will be notified no sooner than May 23, 2010.

(iii) Systems serving more than 500 but less than 3,301 persons will be notified no sooner than November 23, 2010.

(iv) Systems serving less than 501 persons will be notified no sooner than May 23, 2011.

(v) New systems will be notified of the electronic reporting requirements at the time of issuance of the operation permit under § 109.504 (relating to public water system operation permits).

(2) The water supplier shall electronically submit all of its data using a secure computer application provided by the Department.

(3) The water supplier shall submit the required data electronically in accordance with the submission deadlines established in this section.

(4) In the event of a Department computer application failure, the Department will notify the water supplier of an alternate reporting method.

(5) In the event that a water supplier is unable to submit data electronically, due to circumstances beyond its control, the water supplier shall notify the Department prior to the applicable reporting deadline. If the Department determines that the circumstances were beyond the control of the water supplier, the Department will specify a temporary, alternate reporting method the water supplier shall use to meet the reporting deadline.

(6) A water supplier shall meet the requirements under this subsection, unless the water supplier assigns in writing the responsibility for reporting to an accredited laboratory or another approved party.

(k) *Monitoring plan to determine if a source is directly influenced by surface water.* Systems required to monitor under § 109.302(f) (relating to special monitoring requirements) shall develop and implement a monitoring plan. The system shall submit a copy of the monitoring plan to the Department for review and approval prior to the applicable compliance date. The plan must address the requirements under § 109.302(f).

**§ 109.703. Facilities operation.**

(a) Public water system facilities approved by written permit from the Department shall be operated in a manner consistent with the terms and conditions of the permit to achieve the level of treatment for which the facilities were designed.

(b) For surface water or GUDI sources, a public water supplier using filtration shall comply with the following requirements:

(1) By July 1, 1990, suppliers using conventional or direct filtration shall, after filter backwash, and before putting the backwashed filter back on line, filter-to-waste until the filter bed effluent turbidity is less than 0.5 NTU at the normal production flow rate.

(2) Beginning May 16, 1992, a supplier using slow sand filtration shall, following sanding, scraping or resanding of slow sand filters, filter-to-waste until one of the following occurs:

(i) The filter bed effluent turbidity is less than 1.0 NTU at the normal production flow rate.

(ii) A reduction in turbidity is achieved when the source water turbidity is less than 1.0 NTU.

(3) Beginning May 16, 1992, a supplier using diatomaceous earth filtration shall, following backwashing and recoating of diatomaceous earth filters, filter-to-waste until one of the following occurs:

(i) The filter bed effluent turbidity is less than 1.0 NTU at the normal production flow rate.

(ii) A reduction in turbidity is achieved when the source water turbidity is less than 1.0 NTU.

(4) For a conventional or direct filtration facility permitted prior to March 25, 1989, without filter-to-waste capability, the Department, upon the supplier's request, may allow the supplier to utilize other operating techniques which minimize the initial increased turbidity peak when a filter is initially placed back into service after backwashing. The technique, which may include filter settling periods, ramping open the effluent valve or use of a coagulant in the backwash water, shall be justified by a filter performance study approved by the Department.

(5) Except for public water systems covered under § 109.301(1)(iv) (relating to general monitoring requirements), a system with conventional or direct filtration facilities permitted prior to March 25, 1989, without individual filter bed turbidity monitoring capabilities shall conduct an annual filter bed evaluation program, acceptable to the Department, which includes an evaluation of filter media, valves, surface sweep and sampling of filter turbidities over one entire filter run; and shall submit to the Department, with the Annual Water Supply Report, a study that demonstrates that the water supplier's filter-to-waste or alternate approved operating procedures are meeting the operating conditions under paragraph (1) or (4).

**§ 109.704. Operator certification.**

(a) Community and nontransient noncommunity water systems shall have personnel certified under the Water and Wastewater Systems Operators' Certification Act (63 P. S. §§ 1001—1015.1) to operate and maintain a public water system.

(b) Transient noncommunity water systems shall have competent personnel qualified to operate and maintain the system's facilities.

**Subchapter H. ENVIRONMENTAL LABORATORY ACCREDITATION**

**§ 109.810. Reporting and notification requirements.**

(a) Beginning November 13, 2009, a laboratory accredited under Chapter 252 (relating to environmental laboratory accreditation) shall electronically report to the De-

partment on behalf of the public water supplier and in accordance with the reporting requirements under § 109.701(a) (relating to reporting and recordkeeping), the results of test measurements or analyses performed by the laboratory under this chapter using a secure computer application provided by the Department. In the event of a Department computer application failure, the Department will notify the laboratory of an alternate reporting method. In the event that a laboratory is unable to submit data electronically, due to circumstances beyond its control, the laboratory shall notify the Department prior to the applicable reporting deadline. If the Department determines that the circumstances were beyond the control of the laboratory, the Department will specify a temporary, alternate reporting method the laboratory shall use to meet the reporting deadline.

(1) Unless a different reporting period is specified in this chapter, these results shall be reported within either the first 10 days following the month in which the result is determined or the first 10 days following the end of the required monitoring period as stipulated by the Department, whichever is shorter.

(2) Beginning November 23, 2009, an accredited laboratory and the public water supplier shall be given until the 10th of the following month to review and update submitted data using a secure computer application provided by the Department. Omissions and data errors remaining after the review period shall be considered reporting violations of the public water supplier.

(b) A laboratory accredited under Chapter 252 shall whenever the results of test measurements or analyses performed by the laboratory under this chapter indicate an MCL, MRDL or a treatment technique performance requirement under § 109.202 (relating to State MCLs, MRDLs and treatment technique requirements) is exceeded, or an action level under § 109.1102(a) (relating to lead and copper) is exceeded, or a sample result requires the collection of check or confirmation samples under § 109.301 (relating to general monitoring requirements):

(1) Notify the public water supplier by telephone within 1 hour of the laboratory's determination. If the supplier cannot be reached within that time, notify the Department by telephone within 2 hours of the determination. If it is necessary for the laboratory to contact the Department after the Department's routine business hours, the laboratory shall contact the appropriate Department regional office's after-hours emergency response telephone number and provide information regarding the occurrence, the name of a contact person and the telephone number where that individual may be reached in the event further information is needed. If the Department's appropriate emergency number cannot be reached, the laboratory shall notify the appropriate Department regional office by telephone within 1 hour of the beginning of the next business day. Each accredited laboratory shall be responsible for the following:

(i) Obtaining and then maintaining the Department's current after-hours emergency response telephone numbers for each applicable regional office.

(ii) Establishing or updating a standard operating procedure by November 8, 2002, and at least annually thereafter to provide the information needed to report the occurrences to the Department. The information regarding the public water system must include, but is not limited to, the PWSID number of the system, the system's name, the contaminant involved in the occurrence, the level of the contaminant found, where the sample was

collected, the dates and times that the sample was collected and analyzed, the name and identification number of the certified laboratory, the name and telephone number of a contact person at the laboratory and what steps the laboratory took to contact the public water system before calling the Department.

(2) Notify the appropriate Department district office in writing within 24 hours of the determination. For the purpose of determining compliance with this requirement, the postmark, if the notice is mailed, or the date the notice is received by the Department, whichever is earlier, will be used. Upon approval by the Department, the notice may be made electronically to the Department as long as the information is received within the 24-hour deadline.

(c) A laboratory accredited under Chapter 252 shall meet the requirements under subsections (a) and (b), regarding the results of test measurements or analyses performed by the laboratory under this chapter, unless the laboratory assigns in writing the responsibility for reporting and notification to another accredited laboratory.

(d) A laboratory accredited under Chapter 252 shall be responsible for the accurate reporting of data required under this section to the Department.

**Subchapter J. BOTTLED WATER AND VENDED WATER SYSTEMS, RETAIL WATER FACILITIES AND BULK WATER HAULING SYSTEMS**

**§ 109.1003. Monitoring requirements.**

\* \* \* \* \*

(d) *A bulkwater hauling system to that serves at least 25 of the same persons year around.* A bulk water hauling system that is determined by the Department to serve at least 25 of the same persons year round shall comply with the monitoring requirements for community water systems in accordance with § 109.301.

(e) *A bulk water hauling system to serve at least 25 of the same persons over 6 months.* A bulk water hauling or vended water system that is determined by the Department to serve at least 25 of the same persons over 6 months per year shall comply with the monitoring requirements for nontransient noncommunity water systems in accordance with § 109.301.

**Subchapter K. LEAD AND COPPER**

**§ 109.1102. Action levels and treatment technique requirements.**

(a) *Action levels for lead and copper.*

\* \* \* \* \*

(4) The 90th percentile lead and copper levels shall be computed as follows:

(i) The results of all lead or copper samples taken during a monitoring period shall be placed in ascending order from the sample with the lowest concentration to the sample with the highest concentration. Each sampling result shall be assigned a number, ascending by single integers beginning with the number 1 for the sample with the lowest contaminant level. The number assigned to the sample with the highest contaminant level shall be equal to the total number of samples taken.

(ii) The number of samples taken during the monitoring period shall be multiplied by 0.9.

(iii) The contaminant concentration in the numbered sample yielded by the calculation in subparagraph (ii) is the 90th percentile contaminant level.

(iv) For water systems that collect five samples per monitoring period, the 90th percentile is computed by taking the average of the highest and second highest concentrations.

(v) Interpolation shall be used to compute the 90th percentile when the numbered sample indicated in subparagraph (iii) is not a whole number.

\* \* \* \* \*

**§ 109.1103. Monitoring requirements.**

\* \* \* \* \*

(e) *Reduced monitoring.*

(1) *Reduced lead and copper tap monitoring.* A system conducting reduced lead and copper tap monitoring shall collect one sample from the number of sample sites listed in the following column.

<i>System size (# of people served)</i>	<i># of Sample Sites (reduced monitoring)</i>
>100,000 . . .	50
10,001 to 100,000 . . .	30
3,301 to 10,000 . . .	20
501 to 3,300 . . .	10
500 or fewer . . .	5

\* \* \* \* \*

(g) *Sample site location plan.* The water supplier shall complete a sample site location plan which includes a materials evaluation of the distribution system, lead and copper tap sample site locations, water quality parameter sample site locations, and certification that proper sampling procedures are used. The water supplier shall complete the steps in paragraphs (1)—(3) by the applicable date for commencement of lead and copper tap monitoring under subsection (a)(1) and the step in paragraph (4) following completion of the monitoring. The water supplier shall keep the sample site location plan on record and submit the plan to the Department in accordance with § 109.1107(a)(1).

\* \* \* \* \*

**§ 109.1105. Permit requirements.**

\* \* \* \* \*

(b) *Construction permits and permit amendments.* The water supplier shall submit an application for a public water system construction permit for a newly-created system or an amended construction permit for a currently-permitted system for corrosion control treatment facilities by the applicable deadline established in § 109.1102(b)(2) (relating to action levels and treatment technique requirements), unless the system complies with paragraph (1) or (2) or otherwise qualifies for a minor permit amendment under § 109.503(b) (relating to public water system construction permits). The permit application must comply with § 109.503 and contain the applicable information specified therein. The application must include recommended water quality parameter performance requirements for optimal corrosion control treatment as specified in § 109.1102(b)(5) and other data, information or documentation necessary to enable the Department to consider the application for a permit for construction of the facilities.

\* \* \* \* \*

(2) *Nontransient noncommunity water system permits.* The nontransient noncommunity water supplier is not required to obtain a construction permit or permit amendment under subsection (b) if the system satisfies the following specifications and conditions:

\* \* \* \* \*

(v) The water supplier files a brief description of the proposed treatment, including recommended water quality parameter performance requirements for optimal corrosion control treatment as specified in § 109.1102(b)(5), on forms acceptable to the Department. Descriptions of modifications shall be submitted and approved by the Department prior to construction.

(c) *Operation permits.* Except for nontransient noncommunity water systems complying with subsection (b)(2), the water supplier shall obtain an operation permit or amended operation permit following completion of construction and prior to initiation of operation of corrosion control treatment facilities. The permit will be issued in accordance with § 109.504 (relating to public water system operation permits). The Department will not issue an operation permit under this subchapter unless the water system complies with the operation and maintenance plan requirements under § 109.1107(b) (relating to system management responsibilities) and the operator certification requirements under § 109.1107(c). The water supplier for a community water system or nontransient noncommunity water system shall submit a request for Department designation of optimal corrosion control treatment performance requirements in accordance with § 109.1102(b)(2) and the Department will issue an amended operation permit designating the performance requirements as specified in § 109.1102(b)(5).

**§ 109.1107. System management responsibilities.**

(a) *Reporting and recordkeeping.* Systems shall comply with the following requirements and otherwise comply with § 109.701 (relating to reporting and recordkeeping):

(1) *Sample site location plan.* The system shall prepare a sample site location plan in accordance with § 109.1103(g) (relating to monitoring requirements), maintain the plan on record and submit the plan to the Department prior to conducting initial lead and copper tap monitoring or upon request. The water supplier shall update the following information in the plan within the first 10 days following the end of each applicable monitoring period:

(i) Selection of different lead and copper tap sample sites from sites sampled during previous monitoring periods and corresponding site selection justification required under § 109.1103(g)(2)(v).

(ii) Changes in water quality parameter distribution or entry point site selection or source water entry point site selection from sites sampled during previous monitoring periods.

(iii) An update of the sample procedure certification required under § 109.1103(g)(4).

(2) *Reporting of monitoring results.* The water supplier shall assure that the results of analyses conducted in accordance with § 109.1103 are reported to the Department within the first 10 days following the end of each applicable monitoring period as stipulated by § 109.1103. Additional monitoring results beyond that required under § 109.1103 shall be kept on record by the water supplier and presented or submitted to the Department upon request.

(i) *Lead and copper tap monitoring results.* The following minimum information is required when reporting lead and copper tap monitoring results to the Department.

(A) The name, address and public water system identification number (PWSID) of the public water system from which the samples are taken.

(B) The contaminant ID.

(C) The parameter name.

(D) The sample period.

(E) The sample type.

(F) The number of samples required and the number of samples taken.

(G) The analytical methods used.

(H) The results of analyses conducted in accordance with this subchapter for lead and copper tap monitoring.

(I) The sample location.

(J) The 90th percentile result.

(K) Whether an action level has been exceeded.

(L) The name, address and identification number of the certified laboratory performing the analysis.

(ii) *Water quality parameter monitoring results.* The following minimum information is required when reporting water quality parameter results to the Department:

(A) The name, address and PWSID of the public water system from which the samples are taken.

(B) The contaminant ID.

(C) The parameter name.

(D) The sample period.

(E) The sample type.

(F) The number of samples required and the number of samples taken.

(G) The analytical methods used.

(H) The results of analyses conducted in accordance with § 109.1103 for water quality parameters.

(I) The sample location.

(J) Whether an excursion has occurred on more than any 9 days during a 6-month monitoring period for any Department specified water quality parameter.

(iii) *Source water monitoring results.* The following minimum information is required when reporting source water monitoring results to the Department:

(A) The name, address and PWSID of the public water system from which the samples are taken.

(B) The contaminant ID.

(C) The parameter name.

(D) The sample period.

(E) The sample type.

(F) The number of samples required and the number of samples taken.

(G) The analytical methods used.

(H) The results of analyses conducted in accordance with this subchapter for source water monitoring.

(I) The sample location.

(J) The name, address and identification number of the certified laboratory performing the analysis.

\* \* \* \* \*

(c) *Operator certification.* Community water systems and nontransient noncommunity water systems which are required to construct or modify corrosion control treatment facilities in compliance with this subchapter shall comply with the requirements under § 109.704 (relating to operator certification).

(d) *Lead serviceline replacement.*

\* \* \* \* \*

