



Volume 32 (2002)

Pennsylvania Bulletin
Repository

9-21-2002

September 21, 2002 (Pages 4567-4676)

Pennsylvania Legislative Reference Bureau

Follow this and additional works at: http://digitalcommons.law.villanova.edu/pabulletin_2002

Recommended Citation

Pennsylvania Legislative Reference Bureau, "September 21, 2002 (Pages 4567-4676)" (2002). *Volume 32 (2002)*. 38.
http://digitalcommons.law.villanova.edu/pabulletin_2002/38

This September 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 32 (2002) by an authorized administrator of Villanova University Charles Widger School of Law Digital Repository. For more information, please contact Benjamin.Carlson@law.villanova.edu.

PENNSYLVANIA BULLETIN

Volume 32
Saturday, September 21, 2002 • Harrisburg, Pa.
Number 38
Pages 4567—4676

Agencies in this issue:

The Governor
The Courts
Department of Banking
Department of Environmental Protection
Department of General Services
Department of Health
Department of Public Welfare
Department of Transportation
Independent Regulatory Review Commission
Insurance Department
Legislative Reference Bureau
Liquor Control Board
Medical Professional Liability Catastrophe Loss
Fund
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority
Detailed list of contents appears inside.



PRINTED ON 100% RECYCLED PAPER



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

No. 334, September 2002

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, 647 Main Capitol Building, State & Third Streets, 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 © 2002 Commonwealth of Pennsylvania
ISBN 0-8182-0004-9

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 GOVERNOR

EXECUTIVE ORDER

Governor's Fire and Emergency Services Task Force; executive order 2002-9..... 4575

PROCLAMATION

Amendment to proclamation..... 4577
 Amendment to proclamation of disaster emergency.. 4578

THE COURTS

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of disbarment..... 4580
 Notice of suspension (2 documents) 4580

EXECUTIVE AGENCIES

DEPARTMENT OF BANKING

Notices

Action on applications (2 documents).....4610, 4611

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices

Applications, actions and special notices..... 4612
 Air Quality Technical Advisory Committee meeting cancellation; Ad Hoc Committee on NOx Monitoring Issues meeting..... 4660
 Availability of technical guidance 4660

DEPARTMENT OF GENERAL SERVICES

Notices

Contract awards..... 4675
 State contracts information..... 4671

DEPARTMENT OF HEALTH

Proposed Rulemaking

Recreational swimming establishment lifeguard requirements..... 4581
 Supplemental nutrition program for women, infants and children..... 4585

Notices

Infant Hearing Screening Advisory Committee meeting..... 4660

DEPARTMENT OF PUBLIC WELFARE

Notices

Payments to nursing facilities; July 1, 2002 proposed rates..... 4661
 2002 group one exception requests; Medical Assistance long term care participation review 4661

DEPARTMENT OF TRANSPORTATION

Notices

Addendum and revision of the listing of approved speed-timing devices and appointment of maintenance and calibration stations 4662
 Receipt of applications for Section 5310 program.... 4662

INDEPENDENT REGULATORY REVIEW COMMISSION

Notices

Notice of comments issued 4662
 Notice of filing of final rulemakings 4665

INSURANCE DEPARTMENT

Notices

Agency contract termination of Adlen-O'Brien Insurance Agency under Act 143; National Grange Mutual Insurance Company; doc. no. AT02-09-002 4665
 Alleged violation of insurance laws; Paul R. Bender; doc. no. SC02-09-001 4665
 Federal employees health benefits program..... 4666
 Highmark Inc. d/b/a Pennsylvania Blue Shield and d/b/a Highmark Blue Cross Blue Shield; increases in UCR and PremierBlue Shield allowances; filing no. 200220 4666
 Keystone Health Plan West; rate filing..... 4666
 Medical Care Availability and Reduction of Error Fund's assessment; notice 2002-09 4666
 Pennsylvania Compensation Rating Bureau; F-classification and USL&HW rating value filing . 4667
 Review procedure hearings; cancellation or refusal of insurance 4667
 Review procedure hearings under the Unfair Insurance Practices Act 4667

LEGISLATIVE REFERENCE BUREAU

Notices

Documents filed but not published..... 4668

LIQUOR CONTROL BOARD

Notices

Expiration of leases..... 4668

MEDICAL PROFESSIONAL LIABILITY CATASTROPHE LOSS FUND

Notices

Medical Care Availability and Reduction of Error Fund's assessment; notice 2002-09 4668

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Notices

Railroad (2 documents)..... 4669
 Service of notice of motor carrier applications..... 4669

PHILADELPHIA REGIONAL PORT AUTHORITY

Notices

Request for bids (3 documents) 4670

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

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 2002.

4 Pa. Code (Administration)

Adopted Rules

1	2982
5	3695
6	2109, 2984, 4030
7	2987, 2989, 3070, 3199
259	3201
401	3211
402	3211
403	3211
405	3211

Statements of Policy

9	255, 948, 1227, 1412, 1539, 1879, 2224, 2598, 2767, 3400, 4238, 4487
68	615
86	4358
95 (with correction)	1643, 1723

6 Pa. Code (Aging)

Adopted Rules

15	2412
----	------

7 Pa. Code (Agriculture)

Adopted Rules

151	3893
-----	------

Proposed Rulemaking

21	66
31	1046
35	1046
41	1046
43	1046
45	1046
46	1046
47	1046
49	1046
53	1046
55	1046
61	1046
63	1046
78	1046
79	1046
80	1046
81	1046
106	2468
130d	1965
138	775
138e	775
150	3953
1381	775

10 Pa. Code (Banks and Banking)

Adopted Rules

44	1180
----	------

12 Pa. Code (Commerce, Trade and Local Government)

Statements of Policy

123	4161
-----	------

17 Pa. Code (Conservation and Natural Resources)

Proposed Rulemaking

11	1611
23	2851
51	4364

22 Pa. Code (Education)

Adopted Rules

4	17
73	1844
213	2326

Proposed Rulemaking

4	882, 905
237	2995

Statements of Policy

233	2226
-----	------

25 Pa. Code (Environmental Protection)

Adopted Rules

86	2686
87	2686
88	2686
90	2686
93	2691, 4363
109	3894
121	2327
126	2327
901	878, 4125
977	1515
1021	3085, 3390

Proposed Rulemaking

86	2217
93	427, 2219, 2994
96	428
271 (with correction)	564, 882
287 (with correction)	564, 882
901	1661, 1868
1021	1980

28 Pa. Code (Health)

Adopted Rules

6	3484
23	1305
27	491, 2435, 3597
28	2435
211	491
501	2435
701	1183, 3201
705	1183
709	1183
711	1183
713	1183, 3201

Proposed Rulemaking

6	796
18	4581
25	3223
1101	4585
1103	4585
1105	4585
1107	4585
1109	4585
1113	4585

31 Pa. Code (Insurance)

Adopted Rules

65 1516
 89 1475, 1847
 89a 1475

Proposed Rulemaking

83a 1869
 115 609
 146b 1406
 148 1873
 148a 1873
 165 3398

34 Pa. Code (Labor and Industry)

Adopted Rules

401 (with correction) 1849, 2114

Proposed Rulemaking

111 1518
 131 1518
 401 4127
 403 4127
 405 4127

Statements of Policy

130 3495

37 Pa. Code (Law)

Statements of Policy

200 4037
 411 4489

49 Pa. Code (Professional and Vocational Standards)

Adopted Rules

13 423
 15 3633
 16 249, 3217
 18 249
 19 3485
 23 2886
 25 3220
 27 1194
 29 561, 4234
 31 1861
 35 1644
 40 1658, 3942
 41 424, 2114
 47 1197
 48 1197
 49 1197

Proposed Rulemaking

9 1731
 25 1734
 29 946
 31 2997

52 Pa. Code (Public Utilities)

Rules and Regulations

63 1723
 71 1723

Proposed Rulemaking

35 797
 63 (with correction) 1986, 2116

55 Pa. Code (Public Welfare)

Adopted Rules

105 4435
 123 4435

125 4435
 133 4435
 140 4435
 141 4435
 145 4435
 151 4435
 153 4435
 165 4435
 177 4435
 178 4435
 181 4435
 183 4435
 187 4435
 281 4435
 1187 734, 1962

Proposed Rulemaking

133 431
 141 431
 183 431

Statements of Policy

4210 2895
 6000 2117

58 Pa. Code (Recreation)

Adopted Rules

1 2443
 3 2443
 5 2443
 9 2443
 11 2443
 13 2443
 21 2443
 23 2443
 25 2443
 27 2443
 31 2443
 33 2443
 53 3488, 4483
 61 1962, 4483
 63 4485
 65 1962, 4483
 71 1725, 4485
 73 1725, 4485
 91 1865
 93 3488
 109 1865
 111 1865
 131 3945
 135 (with correction) 1305, 4235, 4486
 139 3392, 3945
 141 1305, 3945
 143 1305, 3945
 147 1307

Proposed Rulemaking

53 1217, 1729
 61 1729, 3493
 63 3493
 65 1729
 69 1728
 93 1217
 101 3493
 109 3493
 111 3493, 3951
 115 3493
 131 1219
 135 1224, 2894
 139 1219, 1401
 141 1219, 2889, 2891, 2892

143 1219, 2888, 3952
 147 2893

**61 Pa. Code (Revenue)
 Adopted Rules**

31 1213
 101 250, 253
 871 2758, 3396

**67 Pa. Code (Transportation)
 Adopted Rules**

211 2466

Proposed Rulemaking

71 1396
 171 1396

**201 Pa. Code (Rules of Judicial Administration)
 Adopted Rules**

7 2196

Proposed Rulemaking

19 245

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

29 875
 82 2864
 85 1838
 89 1838
 93 1838
 209 2750
 211 876

Proposed Rulemaking

83 1302
 89 1302

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

1 2864, 3698
 4 733, 2864, 3698
 5 2864, 3698
 33 1386

Proposed Rulemaking

1 4433
 4 4433
 51 3882

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

25 1839
 31 876
 35 3076
 37 876
 65 3076, 4122

Proposed Rulemaking

1 2751
 13 2751, 3075
 21 2751

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

200 548, 3884, 3885, 3886
 1000 2315
 1910 3389
 1930 3389

Proposed Rulemaking

200 245, 247, 2866
 400 2866

1000 1038, 2866, 3886
 1500 2866
 1600 2866
 1900 1387
 1910 1387, 2753, 3482
 1915 1387
 1920 1387
 2000 2866
 2020 2866
 2050 2866
 2100 2866
 2150 2866
 2170 2866
 2200 2866
 2220 2866
 2250 2866
 2300 2866
 2320 2866
 2350 2317, 2866
 3000 2866
 4000 2866
 Part III 311

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

1 1391, 1630, 2582
 2 2582
 5 2582
 7 1393
 8 2582
 9 1173, 1391, 1840
 10 2582, 4122

Proposed Rulemaking

1 1039, 2197
 4 1042, 3887
 5 1042

**237 Pa. Code (Juvenile Rules)
 Statements of Policy**

101 4037
 201 4037
 301 4037

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

200 2199
 300 1176, 2199, 2206
 400 2199, 2207
 500 1176, 2199, 2207
 1000 2199

Proposed Rulemaking

300 2318, 4032
 1000 2318

249 Pa. Code (Philadelphia Rules)

Unclassified 422, 1178, 2113, 2212, 2596, 4033

252 Pa. Code (Allegheny County Rules)

Unclassified 2323, 4034

255 Pa. Code (Local Court Rules)

Unclassified 9, 10, 11, 13, 14, 248, 312,
 313, 314, 315, 548, 555, 556, 733, 1044,
 1045, 1178, 1179, 1303, 1514, 1631, 1958,
 2113, 2323, 2597, 2670, 2754, 2755, 2756, 2881,
 2882, 2883, 2885, 2991, 3076, 3389, 3483, 3632, 3892,
 4035, 4036, 4123, 4124, 4332, 4356

THE GOVERNOR

GOVERNOR'S OFFICE

Governor's Fire and Emergency Services Task Force; Executive Order 2002-9

August 27, 2002

Whereas, Pennsylvania's fire and emergency service organizations and their members provide the backbone for a community's response to emergencies and disasters; and

Whereas, responsibility for fire and emergency service protection within a community rests with local government and local government support of community-based volunteer fire and emergency responder organizations is critical; and

Whereas, the Pennsylvania Fire and Emergency Services Institute estimates that volunteer fire and emergency responders annually provide more than six billion dollars in services to the public, saving local governments billions of dollars that would have to be raised through state and local taxes if the cost of these services were borne directly by Pennsylvania taxpayers; and

Whereas, recruiting and retaining volunteer fire and emergency responders is a serious challenge to effective community response; and

Whereas, the safety of more than 100,000 volunteer firefighters and emergency responders is dependent upon proper training and preparedness; and

Whereas, fire safety education of the public is important and has led to dramatic reductions in the number of lives lost to fire over the past decade; and

Whereas, fire prevention, including smoke detectors and residential sprinkler systems, reduce the potential for property loss, injury, and loss of life due to fire; and

Whereas, community fire and emergency service organizations are encouraged, where possible, to consider consolidation or merger with nearby organizations in order to maximize the availability and use of public safety equipment and personnel; and

Whereas, the Commonwealth, through the Pennsylvania Emergency Management Agency and the Office of the State Fire Commissioner, provides training, guidance, and leadership to ensure the maximum effectiveness of community-based emergency service preparedness and response; and

Whereas, the General Assembly, through Section 31.2 of the Act of June 29, 2002 (Act 89), has directed the Pennsylvania Emergency Management Agency to conduct a study of the manner in which funding sources may be established to improve the delivery of services provided by volunteer fire companies and volunteer emergency services in the Commonwealth; and

Whereas, the General Assembly has directed in Act 89 that the Pennsylvania Emergency Management Agency provide to the Committee on Veterans Affairs and Emergency Preparedness in the House of Representatives and the Committee on Communications and High Technology in the Senate of Pennsylvania, no later than September 30, 2002, a report making recommendations regarding the amount of funding necessary and the scope of services required to meet the needs of volunteer fire companies and volunteer emergency services for the delivery of essential services to the people and communities of this Commonwealth.

Now, Therefore, I, Mark S. Schweiker, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do formally create the

Governor's Fire and Emergency Services Task Force (hereinafter referred to as Task Force) and do order and direct as follows:



Governor

Fiscal Note: GOV 02-10. No fiscal impact; (8) recommends adoption.

1. *Mission.* The mission of the Task Force is to:

a. Advise the Pennsylvania Emergency Management Agency (PEMA) as it prepares the report required by Act 89;

b. Review and evaluate potential funding sources that could be used to improve the delivery of services provided by fire companies and emergency service providers;

c. Review and evaluate opportunities that are available to improve the delivery of services provided by fire companies and emergency service providers; and

d. Review and evaluate the funding requirements to address these opportunities to improve the delivery of services provided by fire companies and emergency service providers.

2. *Composition of the Task Force.* The Task Force shall consist of the following members, each of whom shall be appointed by and serve at the pleasure of the Governor:

a. Director of PEMA, who shall serve as Chairman.

b. One representative from each of the following agencies and organizations:

(1) Ambulance Association of Pennsylvania.

(2) Pennsylvania Emergency Health Services Council.

(3) Pennsylvania Fire and Emergency Services Institute.

(4) Firemen's Association of the State of Pennsylvania.

(5) Western Pennsylvania Firemen's Association.

(6) Fireman's Legislative Federation of Pennsylvania.

(7) Office of the State Fire Commissioner.

(8) Governor's Policy Office.

(9) Department of Community and Economic Development.

(10) Department of Conservation and Natural Resources.

(11) Department of Environmental Protection.

(12) Department of Health.

3. *Responsibilities of the Task Force.*

a. The Task Force shall provide advice and assistance to PEMA as the agency prepares the report required by Section 31.2 of Act 89.

b. The Task Force shall focus on addressing three specific goals:

(1) Identification of funding sources;

(2) Identification of opportunities available to improve the delivery of services provided by fire companies and emergency service providers; and

(3) Identification of the amount of funding necessary to address these opportunities to improve the delivery of services that are provided by fire companies and emergency service providers.

4. *Responsibilities of the Chairman and the Pennsylvania Emergency Management Agency.*

a. The Chairman and PEMA shall prepare the report required by Section 31.2 of Act 89.

b. The Chairman and PEMA shall convene the Task Force meetings, as necessary, and maintain a record of the actions taken or recommendations made by the Task Force.

c. The Chairman and PEMA shall make available to Task Force members copies of PA Burning, Supporting Volunteer Fire Services in Pennsylvania, and other documents identifying potential funding sources, opportunities to improve the delivery of services, and the amount of funding necessary to address those opportunities.

5. *Compensation.* Members of the Task Force shall receive no compensation for their services, except that such members may be reimbursed for actual travel and related expenses in accordance with Commonwealth policy.

6. *Meetings.* Task Force meetings shall be held at least once prior to September 30, 2002, and shall be open to the public as required by law.

7. *Effective Date.* This order shall take effect immediately.

8. *Termination Date.* This order shall continue in effect until October 1, 2002, or until the report required by Section 31.2 of Act 89 has been provided to the legislature.

[Pa.B. Doc. No. 02-1627. Filed for public inspection September 20, 2002, 9:00 a.m.]

Amendment to Proclamation

September 5, 2002

Whereas, on February 12, 2002, I declared a state of drought and water shortage emergency in twenty-four counties of the Commonwealth due to a long and continuing period of rainfall deficits and a lack of winter snow accumulation which resulted in abnormally low stream flows, reduced groundwater levels and water supply shortages within those counties; and

Whereas, on May 7, 2002 and August 9, 2002, I renewed the Declaration of Drought Emergency for ninety days in several counties of the Commonwealth due to insufficient amounts of rainfall to replenish the groundwater levels or return overall water supplies to their normal levels within those several counties; and

Whereas, since the August 9, 2002, renewal of the Declaration of Drought Emergency in fourteen counties of the Commonwealth, there have been insufficient amounts of rainfall in Bucks, Dauphin, Montgomery, Perry and Philadelphia Counties to replenish the groundwater levels or return overall water supplies to their normal levels within those five counties; and

Whereas, the present drought and water shortage conditions are expected to continue or worsen within all or most of those five counties during the next sixty to ninety day period of time; and

Whereas, there is an immediate need to place Bucks, Dauphin, Montgomery, Perry and Philadelphia Counties in a state of drought and water shortage emergency.

Now Therefore, I, Mark S. Schweiker, Governor of the Commonwealth of Pennsylvania, pursuant to the provisions of Subsection 7301(c) of the Emergency Management Services Code (35 Pa.C.S. Section 7101 et seq.), do hereby order and direct as follows:

1. The Counties of Bucks, Dauphin, Montgomery, Perry and Philadelphia are added to the designated drought emergency area that was renewed on August 9, 2002.

2. The designated drought emergency area now includes the following counties: Adams, Bedford, Berks, Bucks, Chester, Cumberland, Dauphin,

Delaware, Franklin, Fulton, Lancaster, Lebanon, Lehigh, Montgomery, Northampton, Perry, Philadelphia, Schuylkill and York.

3. All of the authorized actions by state agencies and departments, regulations, water-use restrictions and other terms, conditions, and provisions of the February 12, 2002, Declaration of Drought Emergency shall be placed into full force and effect in the designated drought emergency area until either rescinded by me or terminated by law.

4. This Proclamation amendment shall take effect immediately.

Given under my hand and the Seal of the Governor, at the city of Harrisburg, this 5th day of September in the year of our Lord, two thousand and two and of the Commonwealth, the two hundred and twenty-seventh.



Governor

[Pa.B. Doc. No. 02-1628. Filed for public inspection September 20, 2002, 9:00 a.m.]

Amendment to Proclamation of Disaster Emergency

September 4, 2002

Whereas, on May 20, 2002, I extended the Proclamation of Disaster Emergency that was issued on September 11, 2001, in response to the acts of terrorism in New York City, New York, Washington, D.C., and Somerset County, Pennsylvania; and

Whereas, there continues to be a need for the Commonwealth to provide supplementary personnel and other resources at critical facilities in Pennsylvania, such as airports and nuclear power plants, in order to provide additional security, monitoring and other measures to protect the safety and well-being of the citizens of Pennsylvania; and

Whereas, the Federal government, through the Office of Homeland Security and the Department of Justice, has asked all state and municipal governments to commit additional resources, in the form of National Guard and law enforcement personnel, urban search and rescue and hazardous materials response teams and other resources, in order to provide additional emergency response, security and law enforcement resources in the ongoing fight against terrorism; and

Whereas, in response to the request from the Federal government to provide law enforcement, security and other forms of assistance at critical facilities and other locations in Pennsylvania and because there is a need to provide such assistance in order to protect the health, safety and welfare of the citizens of Pennsylvania from possible future acts of terrorism.

Now Therefore, I, Mark Schweiker, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution, the Emergency Management Services Code, 35 Pa.C.S. Section 7101 et seq., as amended, and other laws of the Commonwealth, do hereby amend the Proclamation of September 11, 2001, as follows;

1. The period of the state of disaster emergency is extended from September 6, 2002 through December 4, 2002.

2. I hereby transfer an additional \$300,000.00 in unused appropriated funds to the Pennsylvania Emergency Management Agency. The aforementioned funds shall be used for disaster-related expenses incurred by various state agencies and departments. These funds shall be credited to a special

account established by the Office of the Budget. All Commonwealth agencies purchasing supplies or services in response to this emergency are authorized to utilize the emergency procurement procedures set forth in Section 516 of the Commonwealth Procurement Code, 62 Pa.C.S. Section 516. This Proclamation shall serve as the written determination of the basis for the emergency under Section 516.

3. I hereby authorize the Adjutant General of Pennsylvania to place on state active duty for the duration of the emergency such individuals and units of the Pennsylvania National Guard as may be needed to provide security and other public safety measures at critical facilities in Pennsylvania and to alleviate the danger to public health and safety caused by the aforementioned emergency.

4. I hereby authorize the Commissioner of the Pennsylvania State Police to use all available equipment, resources and personnel of the Department, in whatever manner he deems necessary, to ensure that the public health, safety and welfare of the Commonwealth's citizens are protected at this time of emergency.

5. I hereby direct that the other operational provisions of the September 11, 2001, Proclamation that remain applicable to the current emergency circumstances in Pennsylvania shall continue in full force and effect.

6. This Proclamation amendment shall take effect immediately from the date of this amendment.

Given under my hand and the Seal of the Governor, at the city of Harrisburg, this 4th day of September in the year of our Lord, two thousand and two and of the Commonwealth, the two hundred and twenty-seventh.



Governor

[Pa.B. Doc. No. 02-1629. Filed for public inspection September 20, 2002, 9:00 a.m.]

THE COURTS

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Lawrence S. Coven having been disbarred from the practice of law in the State of New Jersey by Order dated April 2, 2002, the Supreme Court of Pennsylvania issued an Order on September 6, 2002, disbaring Lawrence S. Coven from the Bar of this Commonwealth, effective October 6, 2002. 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,
*Executive Director and Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 02-1630. Filed for public inspection September 20, 2002, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that on September 6, 2002, pursuant to Rule 214(d)(1) of the Pa.R.D.E., Gary Steven Melvin was placed on temporary suspension by the Supreme Court until further Order of the Court. In accordance with Rule 217(f), Pa.R.D.E., since this for-

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

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

[Pa.B. Doc. No. 02-1631. Filed for public inspection September 20, 2002, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that Philip Edward Van Riper having been suspended from the practice of law in the State of New York for a period of one year, the Supreme Court of Pennsylvania issued an Order dated September 6, 2002 suspending Philip Edward Van Riper from the practice of law in this Commonwealth for a period of one year and one day, retroactive to February 16, 2002. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 02-1632. Filed for public inspection September 20, 2002, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF HEALTH

[28 PA. CODE CH. 18]

Recreational Swimming Establishment Lifeguard Requirements

The Department of Health (Department) proposes to amend Chapter 18 (relating to public swimming and bathing places) to read as set forth in Annex A.

Purpose of the Proposed Amendments

The act of June 18, 1998 (P. L. 531, No. 75) (Act 75), amending the Public Bathing Law (act) (35 P. S. §§ 672—680d), directed the Department to select and identify authorities to certify lifeguards and to promulgate regulations to determine the number of lifeguards required at a recreational swimming establishment when the recreational swimming establishment is open to the public. The Department is proposing these amendments in consultation with established certifying authorities and recreational swimming establishments.

Act 75 granted authority to the Department to promulgate regulations to require an adequate number of certified lifeguards at certain types of swimming facilities. Application of these lifeguard requirements is limited to “recreational swimming establishments” as defined in Act 75. Two major factors governing the applicability of the regulations are that the recreational swimming establishment must be open to the public and charge a fee for admission.

The lifeguard requirements of Act 75 and the regulations are intended to enhance public safety by requiring adequate lifeguard coverage at recreational swimming establishments and by setting forth requirements for the certification of lifeguards. The provisions of current § 18.42 (relating to lifeguards) requiring lifeguard coverage for public bathing places, were invalidated by the Pennsylvania Supreme Court in 1990 as exceeding the promulgating agency’s regulatory authority. *Spooner v. Secretary of Commonwealth*, 574 A.2d 600 (Pa. 1990), aff’d per curiam, 539 A.2d 1 (Pa. Cmwlth. 1988). The Conservation and Natural Resources Act (71 P. S. §§ 134.101—134.103), which dismantled the former Department of Environmental Resources and transferred certain powers and duties to other agencies, also required the Department to administer the act. The Department is proposing to delete the inoperative language from § 18.42 and add language that corresponds to the requirements of Act 75.

Requirements of the Proposed Amendments

§ 18.1. Definitions

The Department has proposed to amend this section to add definitions for pertinent terms.

A “certified lifeguard” is defined in section 2(5) of the act (35 P. S. § 673(5)) as:

“[A] . . . an individual who has a current certification in lifeguarding from a certifying authority recognized by the Department in a notice published in the *Pennsylvania Bulletin*.”

The Department is proposing to add the statutory definition to this section.

A “recreational swimming establishment” is defined in section 2(6) of the act (35 P. S. § 673(6)) as:

“[A] facility that is designed, constructed and/or designated for use by individuals for the primary purpose of swimming, where a fee is charged for admission.”

This definition includes, swimming pools, water rides, wave pools and swimming beaches and other outdoor swimming facilities. The term excludes those facilities owned by condominiums, other property owner associations, rental arrangements which include three or more families or social units, hotels or motels, campgrounds, private clubs and private organizations which do not provide access to the general public, swimming facilities used exclusively for hydrotherapy and residential swimming facilities used solely by the owner of a residence, his family and personal guests.

The Department is proposing to add the statutory definition to § 18.1.

The Department is proposing definitions for “bather,” “bather load,” “maximum bather load,” and “rope and float line” that are derived from established definitions adopted by the National Spa and Pool Institute. See National Spa and Pool Institute, *American National Standard for Public Swimming Pools, ANSI/NSPI—1 (1991)*.

§ 18.42. Certified lifeguards.

The Department is proposing to change the title of this section to “certified lifeguards” to reflect Act 75. Subsections (a) and (b) would be deleted and replaced by new subsections (a)—(d).

Subsection (a)

The Department has identified the American Red Cross, the YMCA and Ellis and Associates as approved lifeguard certifying authorities and has listed them in proposed subsection (a). This is consistent with the practice in various other states, as these organizations are Nationally recognized and accepted lifeguard certifying authorities.

Another authority that provides certification for lifeguards could apply to be approved by the Department as a qualified, certifying authority. Every authority applying for approval must submit materials to the Department on an annual basis to establish that its lifeguard training would satisfy the requirements of proposed subsection (b). The Department would publish a list of approved certifying authorities, on an annual basis, in the *Pennsylvania Bulletin*.

Subsection (b)

In addition to the American Red Cross, the YMCA and Ellis and Associates, another lifeguard certifying authority may apply to be approved by the Department. Proposed subsection (b) specifies the criteria that would be required for a certifying authority’s lifeguard training course to be recognized by the Department. The criteria are based on Nationally recognized lifeguard certifying authority standards and include first aid training, cardiopulmonary resuscitation certification, swimming ability, testing and certification and renewal criteria.

Subsection (c)

This proposed subsection would provide the Department’s criteria for determining that a minimum number of certified lifeguards are on duty at a recreational swimming establishment to protect the safety of the

public when that establishment is in operation. Traditionally, the number of lifeguards required at public bathing places, absent any National standards, has been based on the surface area of the facility, the user load (number of swimmers in the pool) or a combination of both.

In this proposed rulemaking, the required number of certified lifeguards would be based on a determination of water surface area. Computations based upon water surface area would provide a consistent method for determining the number of lifeguards needed, even though there could be considerable differences in the design, size and type of facility and a variable user load.

Various states employ different standards for determining the appropriate number of lifeguards for a public bathing facility. There is no single industry standard or consensus regarding an appropriate lifeguard ratio. Nationally recognized lifeguard training organizations, such as the American Red Cross and Ellis and Associates, recommend that each lifeguard be able to survey the lifeguard's assigned area every 10 seconds and be able to respond to a distressed swimmer within 20 seconds. This standard, called the "10/20 rule," is the basis upon which the majority of lifeguards are trained.

The Department has held several stakeholder meetings over the past years to gather input from interested parties on recommended lifeguard staffing ratios. Many pool owner/operators base their lifeguard staff ratios on experience. Some owner/operations will staff at higher levels during the peak periods of the day and week (early to mid-afternoon and weekends) and provide lower staff levels during off-peak hours (early morning hours, late evening hours). The majority of the stakeholders have consistently indicated that a staffing ratio based on the number of swimmers (for example, 1 lifeguard for every 70 swimmers) would be impractical and impossible to enforce or monitor, as the pool personnel and lifeguards would constantly be counting swimmers to determine if there is compliance with the regulatory requirements.

The Department has identified recommended lifeguard ratios. These ratios range from one lifeguard for every 2,000 square feet of water surface area, which is supported by the Great Lakes Upper Mississippi River Basin Commission and the National Environmental Health Association, to one lifeguard for every 6,700 square feet of water surface area, under ideal conditions, which is supported by a joint study conducted by the New York State Department of Health and aquatics expert, Pia Consulting. Given that "ideal conditions" rarely exist in practice, New York State Department of Health and Pia Consulting further recommend that one lifeguard for 3,400 square feet of water surface area would be sufficient coverage under normal operating conditions. Based on discussions with stakeholders and the available data, the Department is proposing a ratio of one lifeguard for every 4,000 square feet of water surface area during periods when the recreational swimming establishment is open for general purpose swimming. This ratio would provide health and safety protection for swimmers as well as provide a uniform standard that would be easily implemented. The proposed rulemaking includes a provision that provides the pool owner/operator with the option to close portions of the water surface area with a rope and float line during periods when the bather load is low in comparison to the size of the pool.

Proposed subsection (c) would state that a lifeguard, while on duty at the waterside at a facility, may not be assigned to other tasks that would divert the lifeguard's attention from the persons using the facility. Additionally,

the Department proposes that, during special events such as swim meets, learn-to-swim programs and lap swimming, at least one lifeguard shall be present whose sole duty is to safeguard the safety of the swimmers in the water. This is based on recommendations from the American Red Cross and Pia Consulting that, even if a swimming instructor or coach is a certified lifeguard, they cannot act simultaneously as an instructor and a lifeguard.

Other provisions for bather safety in proposed subsection (c) relate to wading pools, diving boards and water slides. Proposed subsection (c) would require that, unless there is an unobstructed view of the wading pool from an existing lifeguard station, an additional certified lifeguard be stationed by the wading pool when the recreational swimming establishment is open. Further, if the recreational swimming establishment has a diving board or water slide, a certified lifeguard must be on duty within 50 feet from the diving well or catch area.

The proposed rulemaking provides a very specific and precise formula to calculate the number of certified lifeguards required by a recreational swimming establishment. The formula is capable of a uniform and consistent application by the owners of recreational swimming establishments. Additional assessment by the Department would be triggered only when an unusual configuration of the swimming area compromises the ability of lifeguards to monitor bather safety notwithstanding the regulatory formula for determining the number of lifeguards needed.

The proposed rulemaking identifies three Nationally recognized lifeguard certifying authorities as recognized by the Department. Additionally, the proposed rulemaking lists the specific criteria needed for other lifeguard certifying authorities to be approved by the Department as a recognized lifeguard certifying authority. A list of approved authorities would be published, on an annual basis, in the *Pennsylvania Bulletin*.

Subsection (d)

Section 8(a) of the act (35 P. S. § 679(a)) requires the Department to enter upon any bathing or swimming place and determine whether the provisions of that act and the rules and regulations of the Department are being satisfied or violated.

If it is determined that a bathing or swimming place is being maintained contrary to those provisions, the facility will be closed to all persons and the bathing or swimming pool is to be drained and kept dry until provision is made to comply with section 8(b) of the act and the Department has given permission to reopen.

If a recreational swimming establishment is found to be in violation of any of the provisions relating to the required number of certified lifeguards, proposed subsection (d) would provide for closing the pool, consistent with Act 75. Unless there are other violations that create a serious risk to the health or safety of the bathers, the Department would not require the pool to be drained. The Department has determined that draining a pool can result in damage to the pool. Also, in a drought or weather conditions limiting the use of water, draining a pool could result in the pool remaining dry and unable to be used for a substantial period of time even after the violations have been corrected.

The Department believes the most practical and efficient provision, consistent with enforcing the requirement that owner/operators of recreational swimming establishments have an adequate number of certified lifeguards on duty at poolside, is to provide for closure of the pool if

there is a determination that the facility has an inadequate number of appropriately certified lifeguards. The pool would remain closed until the Department had conducted a reinspection and provided written authorization to reopen to the owner of the recreational swimming establishment.

The Department intends to conduct the reinspection as soon as possible after the facility owner provides notice that the pool is in compliance with regulatory requirements.

Persons and Entities Affected

The proposed rulemaking would affect swimming and bathing facilities, meeting the definition of "recreational swimming establishment," when open for use by the general public and a fee is charged for admission. These establishments would include swimming pools, water rides, wave pools and swimming beaches that are not otherwise excluded by the statutory definition of a "recreational swimming establishment." The proposed rulemaking would enhance the safety of the public when they use recreational swimming establishments.

Cost and Paperwork Estimates

The proposed rulemaking would have little fiscal impact on the Commonwealth, local government, the private sector and the general public. Based on current hiring practices, the Department of Conservation and Natural Resources has estimated it may incur \$90,000 in expenses for additional lifeguard salaries.

Most recreational swimming establishments, as defined by Act 75, currently employ lifeguards to protect the safety of their patrons. Many recreational swimming establishments have lifeguard coverage ratios that exceed the standard in the proposed rulemaking; other recreational swimming establishments use a lifeguard coverage ratio that is below the standard in the proposed rulemaking. The exact cost incurred as a result of the proposed rulemaking would depend on the current practices of the individual recreational swimming establishment and the number of additional lifeguards, if any, that would be required to meet the standard in the proposed rulemaking. The costs incurred would primarily be in the form of lifeguard salaries. The proposed rulemaking would not significantly increase paperwork.

Effective Date/Sunset Date

The proposed rulemaking would be effective 60 days after publication of final-form rulemaking. No sunset date has been established. The Department would monitor the effectiveness of the regulations on a continuing basis and as part of the annual sanitary inspections conducted by the Department.

Statutory Authority

The proposed rulemaking is promulgated under the act. Section 3 of the act (35 P.S. § 675.1) requires the Department to determine appropriate authorities to certify lifeguards and to issue regulations to determine the number of lifeguards required at a recreational swimming establishment.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 11, 2002, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Health and Human Services Committee and the Senate Health and Human Services Committee and the Senate Public Health and

Welfare Committee. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of objections raised.

Contact Person

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Dennis C. Wilson, Environmental Health Administrator, Department of Health, Bureau of Community Health Systems, Room 628 Health and Welfare Building, P. O. Box 90, Harrisburg, PA, 17108-0090, (717) 787-4366 within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Persons with a disability who wish to submit comments, suggestions or objections regarding the proposed rulemaking may do so by using V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT). Persons who require an alternative format of this document may contact Dennis Wilson so that necessary arrangements may be made.

ROBERT S. ZIMMERMAN, Jr.,
Secretary

Fiscal Note: 10-155 Resubmission. (1) General Fund; (2) Implementing Year 2002-03 is \$50,000; (3) 1st Succeeding Year 2003-04 is \$90,000; 2nd Succeeding Year 2004-05 is \$90,000; 3rd Succeeding Year 2005-06 is \$90,000; 4th Succeeding Year 2006-07 is \$90,000; 5th Succeeding Year 2007-08 is \$90,000; (4) 2001-02 Program—\$62,483,000; 2000-01 Program—\$59,696,000; 1999-00—\$58,420,000; (7) State Parks Operations; (8) recommends adoption. No additional costs to the Department of Health. The Department of Conservation and Natural Resources will incur costs, as outlined above, for additional lifeguards to meet requirements.

Annex A

TITLE 28. HEALTH AND SAFETY

PART II. LOCAL HEALTH

CHAPTER 18. PUBLIC SWIMMING AND BATHING PLACES

GENERAL PROVISIONS

§ 18.1. Definitions.

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

* * * * *

Bather—A person using a recreational swimming establishment in the water or adjoining deck area for the purpose of swimming, water sports or other recreational activity.

Bather load—The total number of bathers in a recreational swimming establishment.

Certified lifeguard—An individual who has a current certificate in lifeguarding, issued by a lifeguard certifying authority, as recognized by the Department in a notice published yearly in the *Pennsylvania Bulletin*.

* * * * *

Department—The Department of Health of the Commonwealth.

* * * * *

Maximum bather load—The maximum number of bathers that the recreational swimming establishment is designed to accommodate, as defined in the plans and specifications submitted as part of the permit application using the guidelines set forth in the Department's publication, *Public Bathing Place Manual*.

* * * * *

Recreational swimming establishment—A facility that is designed, constructed or designated for use by individuals for the primary purpose of swimming, if a fee is charged for admission.

(i) The term includes swimming pools, water rides, wave pools and swimming beaches and other outdoor swimming facilities.

(ii) The term excludes those facilities owned by condominiums, other property owner associations, rental arrangements that include three or more families or social units, hotels or motels, campgrounds, private clubs and private organizations which do not provide access to the general public, swimming facilities used exclusively for hydrotherapy, and residential swimming facilities used solely by the owner of a residence, the owner's family and personal guests.

* * * * *

Rope and float line—A continuous line, at least 1/4 inch in diameter, that is supported by buoys and attached to opposite sides of a swimming pool.

* * * * *

GENERAL SAFETY

§ 18.42. [Lifeguards] Certified lifeguards.

(a) [*Number*: One or more competent lifeguards in adequate number shall be on duty at the waterside at all times the public bathing place is open to use by bathers, and may not be assigned other tasks which will divert attention from the safety of the bather.

(b) *Qualifications*. Lifeguards shall be capable swimmers, skilled in lifesaving methods and in methods of artificial resuscitation as evidenced by the possession of a currently valid certificate or other proof of proficiency from a recognized agency offering instructions in these fields.]

Recognized lifeguard certifying authorities. The Department recognizes the American Red Cross, the YMCA and Ellis Associates as lifeguard certifying authorities.

(1) Other organizations that intend to qualify as certifying authorities shall submit materials, on an

annual basis, to the Department to establish that their lifeguard training courses satisfy the criteria in subsection (b).

(2) The materials shall be submitted to the Department on or before June 30 of each year and shall include a completed form entitled "Application for Recognition as a Lifeguard Certifying Authority" in the submission.

(3) This form is available from the Department.

(4) The Department will publish a list of approved certifying authorities annually, on or before December 1 of each year, in the *Pennsylvania Bulletin*.

(b) *Requirements for a lifeguard certifying authority*. The Department will consider approval of a lifeguard certifying authority if the certifying authority's lifeguard training course satisfies the following requirements:

(1) The course is conducted pursuant to a written training plan, instructor's manual, and text book.

(2) The course provides for confirmation of course completion for certification in cardiopulmonary resuscitation.

(3) The course provides for certification in first aid.

(4) The course includes a system for evaluating swimming ability.

(5) The course provides for instruction in lifeguarding responsibilities.

(6) The course provides a method for testing and certification.

(7) The course includes a certificate which expires, in no longer than 3 years, if renewal criteria are not satisfied.

(8) The instructors of the course have successfully completed a training course that includes:

(i) Certification in lifeguard instruction.

(ii) Student evaluation.

(iii) Program planning.

(iv) Cardiopulmonary resuscitation.

(v) Conducting practice first aid and rescue sessions.

(c) *Required number of lifeguards*. A recreational swimming establishment shall have on duty an adequate number of certified lifeguards to protect the safety of users. To ensure an adequate number of certified lifeguards, the operator of a recreational swimming establishment shall comply with the following requirements:

(1) At least one certified lifeguard for every 4,000 square feet of water surface area, plus one certified lifeguard for any fraction thereof, equal to or greater than 1,000 square feet, shall be on duty at the waterside at all times the recreational swimming establishment is open to use by bathers for general swim purposes. There shall be at least two certified lifeguards present and available to aid bathers whenever the recreational swimming establishment is being used by bathers.

(i) The water surface area shall mean the total surface area of water accessible to the bathers, including any wading pools.

(ii) The operator may reduce the water surface area by closing portions of the swimming area with a rope and float line, provided that the operator maintains adequate notification and supervision to prevent patrons from entering the closed portions of the swimming area. For the purposes of this section, "adequate" means sufficient to accomplish the task, but it does not require any additional certified lifeguards above the minimum number established in this section.

(iii) Under circumstances when the ability of a certified lifeguard to survey 4,000 square feet of water surface area is impaired, such as when the size or shape, or both, of the recreational swimming establishment prevents the certified lifeguard from monitoring the assigned area from a designated location, the Department may require additional certified lifeguards to assure the safety of the bathers.

(2) The bather load of the recreational swimming establishment may not exceed the maximum bather load as defined in the permit application.

(3) During periods when swim meets, swim team practices, learn-to-swim programs, lifeguard training or other special events in which the use of the recreational swimming establishment is restricted to only those persons participating in the special events, at least one certified lifeguard, whose sole duty is to protect the bathers, shall be present at waterside during the event.

(4) When a wading pool is open to the public, the certified lifeguard shall have an unobstructed view of the entire wading pool from a certified lifeguard's assigned station. If the certified lifeguard does not have an unobstructed view, an additional certified lifeguard shall be on duty to guard only the wading pool.

(5) If the recreational swimming establishment has a diving board or water slide, a certified lifeguard shall be on duty to monitor the diving well or catch area when the diving board or water slide is open to the public.

(i) The certified lifeguard shall be stationed within 50 feet of the diving well or slide catch area.

(ii) If the swimming area includes both a diving well and slide catch area, or the recreational swimming establishment has multiple slides or diving boards, the operator may not assign a certified lifeguard to monitor both areas unless that lifeguard is stationed within 50 feet of each and can monitor both areas simultaneously.

(iii) If the diving well or slide catch area is physically separated from the main swimming area, a certified lifeguard shall be assigned to monitor the diving well or slide catch area exclusively, and the operator shall exclude the water surface area of the diving well or slide catch area from the water surface area of the recreational swimming establishment for the purpose of determining the number of additional certified lifeguards required under paragraph (1).

(6) While on duty to watch bathers, a certified lifeguard may not be assigned other tasks which may divert attention from the safety of the bathers, or which are outside the lifeguard's training and certification.

(d) *Violation of certified lifeguard requirement.* The Department may order to be closed to the public any recreational swimming establishment that it finds to be in violation of any of the provisions of subsection (c), until the Department has done the following:

- (1) Performed a follow-up inspection
- (2) Found that the facility has met the requirements of subsection (c).
- (3) Provided that facility with written authorization to reopen.

[Pa.B. Doc. No. 02-1633. Filed for public inspection September 20, 2002, 9:00 a.m.]

[28 PA. CODE CHS. 1101, 1103, 1105, 1107, 1109
AND 1113]

Supplemental Nutrition Program for Women, Infants and Children

The Department of Health (Department) proposes to amend Chapters 1101, 1103, 1105, 1107, 1109 and 1113 to read as set forth in Annex A. Those chapters govern the authorization, management and appeal rights of stores participating in the Women, Infants and Children (WIC) Program (WIC authorized stores).

A. Purpose of the Proposed Amendments

One purpose of the proposed amendments is to achieve compliance with recent amendments to the Federal regulations governing the WIC Program found in 7 CFR Part 246 (relating to supplemental nutrition program for women, infants and children), adopted by the United States Department of Agriculture, Food Nutrition Service (USDA-FNS). The Federal amendments, adopted on December 29, 2000, mandate selection criteria, training requirements, criteria to be used to identify high-risk stores and monitoring requirements, including compliance investigations.

Another purpose of the proposed amendments is to implement the Department's decision, permitted by Federal regulation, to eliminate the limitation criteria used to limit the number of stores authorized to participate in the WIC Program. Currently, a store desiring to become a WIC authorized store has to satisfy the selection and limitation criteria in § 1103.4 (relating to selection and limitation criteria; authorization process). Selection criteria include minimum inventory, product freshness, price and other requirements. Compliance is evaluated during an announced onsite store review conducted by a WIC Program representative. Limitation criteria are applied in the following manner: if the number of stores meeting selection criteria is greater than the number of store slots available in a particular geographic area, the stores with the most competitive prices are assigned to the slots.

Through the proposed amendments, the Department proposes to allow any store that meets the revised selection criteria to participate in the WIC Program. The Department proposes to retain all current selection criteria with some additions and revisions. The most significant of the revisions is to the manner in which the Department imposes price limitations on foods that may be purchased with WIC checks (allowable foods). Currently, the Department maintains limited control on prices for allowable foods by establishing the total maximum allowable cost for two defined "food prescriptions"

consisting of food items that participants purchase most frequently. The Department proposes to establish maximum prices for all allowable foods. Those prices would be published quarterly in the *Pennsylvania Bulletin*. Stores would be required to have allowable foods available at or below the published prices. Payment by the WIC Program of WIC checks submitted for redemption by WIC authorized stores would be limited to no more than the sum total of the maximum prices for each of the WIC food items authorized for purchase on the check.

The Department has engaged in a thorough review of its existing WIC Program regulations under the Governor's Executive Order 1996-1. The Department has held a series of meetings for the purpose of soliciting comments from persons affected by its regulations. The discretionary changes to the Department's regulations, to a large measure, are the result of the discussions held during these meetings.

The Department's regulations are a part of the State Plan of Operations required to be submitted to the USDA-FNS under 7 CFR 246.4 (relating to state plan). Therefore, in addition to meeting the Commonwealth's statutory requirements for amending regulations, the Department must submit any changes to its WIC Program regulations to the USDA-FNS for approval. The Department has submitted the proposed regulations to the USDA-FNS, which has approved the regulations.

B. Summary of Amendments

§ 1101.1. Background and scope.

The Department proposes to revise subsection (b) to delete reference to local agencies in the context of appeal rights. The purpose of the regulations is to establish design and operational requirements for the food delivery system for the WIC Program as they apply to stores. A secondary purpose of the regulations is to provide information about the right to appeal an adverse action of the Department. Information in the regulations concerning stores' and participants' appeal rights build upon requirements set forth in Federal regulations. Because the appeal provisions in the regulations applicable to participants and stores contain information not contained in Federal regulations, and because participants and stores do not have easy access to Federal regulations, Department regulations governing appeal rights for participants and stores are essential. The same is not true with regard to local agencies. Department regulations do not expand upon appeal rights for local agencies set forth in Federal regulations. Moreover, local agencies, under their agreement with the Department, are required to be familiar with and comply with Federal regulations. For these reasons, the Department proposes to further limit the scope of the regulations to address appeal rights for participants and stores only. Local agencies may refer to Federal regulations for an explanation of their appeal rights.

§ 1101.2. Definitions.

The Department proposes to add a definition for "authorization" and amend the definition of "certification." "Authorization" would be defined as the Department's grant of authority to a store to serve as a WIC authorized store. "Certification" would be defined as the Department's acceptance of an applicant to participate in the WIC Program as a participant. Similarly, the Department proposes to delete the definition of "recertification" and substitute, in its place, the definition of "reauthorization" which would be defined as the Department's renewal of authorization. Accordingly, all references throughout the

regulations to certification and recertification, as those terms now pertain to stores, would be deleted and replaced with references to authorization and reauthorization.

The Department proposes to revise the definition of "authorized representative" to clarify that a "proxy" or "endorser" is considered an "authorized representative" of the participant. The Department also would add a sentence to the definition to provide that the person conducting a "compliance buy" or a "WIC transaction review" is also an "authorized representative."

The Department proposes to add the definition of "claim" as a demand for reimbursement of an overcharge or other improper charge to the WIC Program as a result of a store violation.

The Department proposes to add the definition of "contract brand" as the specific manufacturer brand of an allowable food that the Department is contractually bound to prescribe for participants.

The Department proposes to revise the definition of "inventory audit" to incorporate the use of defined terms and promote clarity.

The Department proposes to delete the definition of "limitation criteria," as the Department proposes to cease applying limitation criteria when determining the stores that will be given permission to serve as WIC authorized stores.

The Department proposes to add the definition of "maximum allowable price" as the maximum price the Department will pay for an allowable food.

The Department proposes to revise the definition of "onsite review" by adding language to explain that an onsite review may be announced or unannounced. Within the text of the regulations, the Department uses the appropriate modifier to indicate whether the onsite review being discussed would be announced or unannounced.

The Department proposes to add definitions of "overcharge" and "overpayment." "Overcharge" would be defined as a charge by a WIC authorized store to the WIC Program, through redemption of a WIC check, for an allowable food in excess of the store's shelf price for that food or in excess of the price charged a non-WIC participant for that food. "Overpayment" would be defined as payment to a WIC authorized store of a WIC check redeemed by the store in an amount in excess of the amount to which the store was entitled based upon the maximum allowable price of each allowable food authorized for purchase on the WIC check. The distinction between the two terms would be based upon whether the Department made the error, by making payment on a redeemed WIC check in excess of the sum total of the maximum allowable prices for the foods authorized for purchase on the check, or the store made the error, by charging the WIC Program more than the store charges its non-WIC customers. The former is an "overpayment;" the latter is an "overcharge."

The Department proposes to add the definition of "periodic review." The term is used in the current version of the regulations. The Department proposes to define the term to mean contemporaneous announced onsite reviews of stores in a trade area conducted not less than once every 3 years for the purpose of selecting stores for authorization and reauthorization.

The Department proposes to add the definition of "probationary authorization." The term is used in the

current version of the regulations. The Department proposes to add a definition of the term to avoid potential confusion with the term "temporary authorization." The Department proposes to define the term to mean the Department's probationary authorization of a WIC authorized store when inadequate participant access would occur if the store were not authorized or reauthorized or when the store is reviewed prior to opening to the public and has not yet stocked its dairy section or its frozen juice section.

The Department proposes to add the definition of "routine review" as an unannounced onsite review of a WIC authorized store to evaluate adherence by the store with the requirements in the regulations governing the store's participation in the WIC Program.

The Department proposes to delete the definition of "store slot," as the concept of store slots is the primary component of limitation criteria and the Department is proposing to cease applying limitation criteria.

The Department proposes to add the definition of "store violation" as any intentional or unintentional action by the owners, officers, managers, agents or employees of a WIC authorized store that violate the requirements in the regulations governing the store's participation in the WIC Program and that may result in a claim.

The Department proposes to add the definition of "temporary authorization" as the Department's temporary and conditional authorization of a WIC authorized store that fails to meet specified selection criteria during the initial onsite review for purposes of reauthorization. This addition to the definitions is necessitated by the Department's proposal to change the potential consequence for a WIC authorized store that fails to meet specified selection criteria during the onsite review for reauthorization. Currently, a store that fails to meet one or more selection criteria during the onsite review is denied reauthorization unless participant access to allowable foods would be compromised by denial of the store's application for reauthorization. Otherwise, there is no opportunity to correct violations detected during the onsite review. The Department proposes to incorporate the possibility of temporary authorization in the event a store fails to meet the selection criteria, other than the minimum inventory and price criteria, during the onsite review. There is no possibility of temporary authorization if the store, during the onsite review for purposes of reauthorization, fails to meet minimum inventory and price criteria. The circumstances under which the Department would grant temporary authorization and the terms governing temporary authorization would be set forth in § 1103.3 (relating to authorization of store slots) which would be retitled "Temporary authorization."

Finally, the Department proposes to delete the term "training buy" and to substitute in its place the term "WIC transaction review." The definition would remain the same. The Department also proposes to add the definition of "WIC transaction." The Department proposes to define the term to mean the presentation of a WIC check by a participant to a WIC authorized store resulting in the purchase of one or more of the allowable foods authorized for purchase on the check.

§ 1101.3. Administration.

The Department proposes to add a new subsection (b). The Department proposes to form a Vendor Advisory Workgroup to function in an advisory capacity to the Department. Representatives would be chosen from the retail store community, appropriate advocacy groups or

associations for retail stores and participants, and from the State and local agencies. The current subsection (b) would become subsection (c).

§ 1103.1. Certification and recertification reviews.

The Department proposes to revise the title and the text of this section to: (1) mirror proposed revisions in the use of terms to describe authorization of stores; and (2) clarify the authorization and reauthorization process and requirements as a result of the elimination of limitation criteria. Thus, the name of this section would become "Authorization and reauthorization process and requirements."

The Department proposes to revise the title and text of subsection (a) which would address "duration of authorization or reauthorization." The Department proposes that this introductory subsection would clarify that a store wishing to serve as a WIC authorized store must be authorized or reauthorized in accordance with the requirements for authorization or reauthorization, set forth in numbered paragraphs in proposed subsections (b) and (c) respectively. Proposed subsection (a) also would state that a store's authorization or reauthorization remains in effect until the Department acts on the store's application for reauthorization when the next periodic review is conducted in the trade area in which the store is located, unless terminated earlier in accordance with subsection (d). Periodic reviews would be conducted once every 3 years, in accordance with changes in Federal regulations. Proposed subsection (a) also would clarify that failure to submit an application for reauthorization in response to the Department's notice of periodic review will result in expiration of the store's authorization or reauthorization. Stores that received a letter of authorization in the 60 days prior to the start of the periodic review would be exempt from periodic review.

The text of subsection (b) would be deleted in its entirety, numbered paragraphs outlining the authorization process would be substituted in its place, and the subsection would be retitled "authorization process." Similarly, the text of subsection (c) would be deleted in its entirety, numbered paragraphs outlining the reauthorization process substituted in its place, and the subsection retitled "reauthorization process." The information to be listed in numbered paragraphs in proposed subsections (b) and (c) is not new information. The Department proposes to take information currently contained in each of this section's existing subsections and to reorganize the information under the headings "authorization" and "reauthorization." The Department believes the reorganization of information is necessary in light of the Department's proposal to eliminate limitation criteria in the store selection process. If limitation criteria are eliminated, as proposed, a store would no longer need to wait until a store slot opened up, or until a periodic review, to apply for authorization. Any store would be able to apply at any time for authorization. Hence, authorization and reauthorization would assume equal significance for purposes of retail store management within the WIC Program with a concomitant heightened need to clarify, in separate subsections, the process and requirements for both.

Accordingly, both proposed subsection (b) and proposed subsection (c) would address the following: (1) how and where to obtain an application for authorization or reauthorization; (2) what to do with the application once it is completed; (3) the circumstances under which the Department will refuse to accept the application; (4) the onsite review to evaluate compliance with selection criteria; (5)

the decision-making process; and (6) eligibility to apply at a later date if the application is denied.

Proposed subsection (d) would address termination of authorization and reauthorization, and would list the circumstances under which the Department could terminate authorization. Termination of authorization or reauthorization would be listed under § 1113.1 (relating to right to appeal) as an adverse action that may be appealed.

§ 1103.2. Probationary certification.

The Department proposes to amend the title of this section by substituting "authorization" for "certification." The Department also proposes to amend the text of the section to mirror changes in the title; that is, the Department proposes to delete the terms "certification" and "recertification" and substitute in their place the terms "authorization" and "reauthorization" as appropriate. The Department further proposes to delete references to limitation criteria.

§ 1103.3. Authorization of store slots.

Because the limitation criteria and store slots would be eliminated, the Department proposes to delete the current text of this section in its entirety, and to substitute in its place the rules regarding temporary authorization. This section also would be retitled "Temporary authorization." This section as proposed would provide that if a WIC authorized store that applies for reauthorization fails to meet one or more of the selection criteria in § 1103.4 the onsite review, the store may request temporary authorization. A store that failed to meet the price and minimum inventory requirements of § 1103.4(5), however, would be ineligible for temporary authorization. A store that is a high-risk store or the subject of an ongoing compliance investigation also would be ineligible for temporary authorization. Under proposed subsection (b), temporary authorization would be conditioned on the following: (1) the store would have only one more opportunity to meet selection criteria during a second announced onsite review; (2) if the Department rescinds temporary authorization for the store's failure to meet selection criteria a second time, the store would not be eligible to reapply for authorization for 1 year from the date of the initial onsite review for purposes of reauthorization; and (3) the Department would reduce by 10% the maximum allowable prices for the foods authorized for purchase on the WIC checks the store redeems for WIC transactions that occur during the first 90 days of the extended authorization period.

§ 1103.4. Selection and limitation criteria; authorization process.

The Department proposes to delete references within the title of this section to "limitation criteria" and "authorization process" in accordance with the Department's proposal to eliminate application of limitation criteria as part of the store authorization process. This section as amended would be retitled "Selection criteria for authorization and reauthorization." The proposed revision to the title of the section follows the Department's proposed deletion of subsection (b), which lists limitation criteria, and subsection (c), which addresses the process in the event limitation criteria are required to be applied.

The Department proposes to retain the selection criteria in subsection (a), as revised, but since the other two subsections would be repealed, the subsection (a) designation also would be eliminated. The first paragraph within current subsection (a) that the Department proposes to revise is paragraph (2), which requires a store to serve a

minimum number of participants in order to be authorized. The Department recognizes that it is impossible to impose a requirement in connection with a store seeking initial authorization; hence, the Department proposes to revise paragraph (2) to require that a store seeking reauthorization serve at least 25 participants per month. If the store is not serving at least 25 participants in the most recent month for which the Department has participant data at the time of the review, the Department may deny reauthorization. Because the Department will not have participant data for a store seeking initial authorization, participant data will not be a factor in the initial review process; however, the Department proposes to terminate authorization under § 1103.1(d) if, after 8 months following initial authorization, the store is not serving 25 participants.

The most significant revision to the selection criteria is the proposed revision to paragraph (5). The Department proposes that the prices on the store's minimum inventory items shall be equal to or less than the maximum allowable prices for those items. Currently, the Department does not impose price limitations on all WIC food items. Instead, the Department has price limits on some WIC foods and establishes a maximum allowable cost for each of two food prescriptions made up of foods currently listed in paragraph (6). The Department proposes to delete paragraph (6) in its entirety.

With the deletion of the text of paragraph (6), former paragraph (7) would become paragraph (6) and paragraph (8) would become paragraph (7). The Department proposes to add a new paragraph (9) requiring that a store that has been denied authorization or reauthorization in the last 12 months must be eligible to apply for authorization or reauthorization in accordance with § 1103.1(b) or (c) or § 1103.3(b)(2), as applicable. These provisions address eligibility to apply if authorization or reauthorization is denied or the Department rescinds temporary authorization.

The final proposed revision to the selection criteria is the addition of a paragraph (13) which, in accordance with the Federal mandate, would preclude authorization or reauthorization of a store whose owners, officers, or managers have been convicted of or had a civil judgment entered against them for conduct demonstrating a lack of business integrity.

§ 1103.5. Minimum inventory.

The Department proposes to add language to subsection (a) to emphasize, in keeping with the proposed revision to § 1103.4, that the store's prices for minimum inventory items, listed in this section, must be equal to or less than the maximum allowable prices.

The Department also proposes the following specific changes to the list of minimum inventory items in subsection (b): under proposed amendments to paragraph (1)(i), which addresses minimum inventory requirements for milk-based formula, stores would be required to carry thirty-one 13 ounce cans of liquid concentrate, and nine 14.1 ounce cans of powdered milk-based formula. Under proposed amendments to paragraph (1)(ii), which addresses minimum inventory requirements for soy-based formula, stores would be required to carry nine 14-ounce cans of powdered soy-based formula. Under proposed amendments to subsection (b)(2), addressing minimum inventory requirements for milk, stores would be required to carry 10 half gallons of fluid whole milk. Quart equivalents no longer would be permitted. The Department proposes to increase the minimum inventory re-

quirements for nonfat dry milk to four pounds. Also under subsection (b)(2), stores would be required to carry twenty-four 12 ounce containers of evaporated milk. Under proposed amendments to subsection (b)(3), which addresses minimum inventory requirements for cheese, stores would be required to carry 4 pounds total of three varieties of cheese, prepackaged in 8 or 16 ounce packages. Under proposed amendments to subsection (b)(4), stores would be required to carry not less than three 1 dozen containers of eggs. Under proposed amendments to subsection (b)(5), which addresses minimum inventory requirements for juices, stores would be required to carry two varieties of juices, with a total of seven 46 ounce containers, and two varieties of frozen or shelf stable concentrate, with a total of seven 11.5 to 12 ounce containers. Infant juice would need to be contract brand. Under proposed amendments to subsection (b)(6), which addresses minimum inventory requirements for cereal, stores would be required to carry a total of 40 ounces of five varieties of adult cereal, and a total of 24 ounces of two varieties of contract brand infant cereal. Under proposed amendments to subsection (b)(7), which addresses minimum inventory requirements for peanut butter, stores would be required to carry one 15 to 18 ounce container of peanut butter.

The Department proposes deletion in subsection (c) of language providing for the annual publication of maximum prices established by the Department for certain allowable foods. As previously noted, the Department has proposed in § 1103.4(5) that publication of maximum prices for all allowable foods will occur on a quarterly basis.

The Department proposes to revise the text and title of subsection (d). The section would be retitled "exceptions to minimum inventory requirements," and the numbered paragraphs, listing circumstances in which an exception may be granted, would be deleted. The Department proposes that the subsection would provide for the possibility of an exception to minimum inventory requirements for an allowable food when the Department's most recent check redemption information for a store shows no purchases of the allowable food for a period in excess of 90 days.

Finally, the Department proposes to revise the list of allowable foods in subsection (e) for which it may grant an exception to minimum inventory requirements by adding the following two items: contract brand milk based with iron liquid concentrate infant formula, and contract brand soy based liquid concentrate infant formula.

1103.6. Waiting list.

The Department currently maintains a waiting list to track: (1) stores unable to submit an application because of the absence of an available slot; (2) stores whose weighted prices were higher than other stores competing for one or more slots; and (3) stores located within a mile of a WIC authorized store. Elimination of limitation criteria, as is being proposed, would eliminate the need for a waiting list for stores. One other purpose for which the Department currently maintains a waiting list is to track stores unable to submit an application because the Department has imposed a moratorium on the submission of applications under § 1103.1. Since under the regulations as proposed, the Department would consider applications at any time other than during the 90-day period preceding the start date of triennial reviews, stores would be able to simply wait the 90 days and resubmit an application. No tracking mechanism would be required.

Because the need for a tracking mechanism has been eliminated, the Department proposes to delete this section in its entirety.

§ 1103.7. Inadequate participant access.

The Department proposes to revise subsection (b) to eliminate consideration of participant access and the possibility of probationary authorization for a store undergoing a change of ownership. The Department would revise subsection (b) to state that the Department will consider participant access when deciding whether to impose a civil money penalty in lieu of disqualification under § 1107.1 (relating to imposition of sanctions).

Subsection (c) contains a listing of the factors used to determine whether inadequate participant access exists. Currently, in assessing whether rejection or removal of a store from the WIC Program will adversely affect participant access, the Department considers the distance to the next closest WIC authorized store as well as the numbers of participants who would be required to travel to the next closest WIC authorized store. Changes in the WIC Program's data processing system will ease the administrative burden associated with mass transfers of WIC participants from one store to another. Therefore, the Department proposes to delete from subsection (c) current paragraphs (5)—(7), which define inadequate participant access in terms of volume of a store's participants relative to the distance to the next closest WIC authorized store.

§ 1105.2. Overcharge recovery system.

The Department proposes to change the title of this section to "Price adjustment." The Department also proposes to repeal the requirements in current subsections (a)—(c) and to revise the lettering of the remaining subsections accordingly. Under this section as it would be amended, WIC authorized stores would no longer be required to submit quarterly price reports for the Department's review and determination of the maximum redemption amount of each WIC check submitted by the store based upon prices provided in the store's quarterly price reports. Instead, in each calendar quarter, the Department would compare the maximum amount for which a WIC authorized store could have redeemed a WIC check based upon the maximum allowable prices for foods authorized for purchase on the check against the actual amount for which each WIC check was redeemed. This revised procedure, as proposed, is set forth in proposed subsection (a) entitled "Determination of overpayment." As set forth in proposed subsection (b), the Department would seek reimbursements from a WIC authorized store when price comparisons reveal overpayments to the store in excess of \$10 for a calendar quarter.

In the proposed subsections (c)—(e), the Department would delete terms appropriate for the overcharge recovery system and substitute terms appropriate for the proposed price adjustment system. Thus, the term "overcharge billing" would be replaced with "overpayment determination," "overcharge" would be replaced with "overpayment," and "reported prices on the Quarterly Price Report" would be replaced with "prices for allowable foods." References to food prescription costs would be deleted and replaced with references to maximum allowable prices. Also, the Department proposes to add language to clarify that the Department's resolution of an overpayment dispute is not an adverse action that may be appealed. This information also is included in amended § 1113.1(a).

Finally, the Department would delete subsection (i), which addresses disqualification in the circumstance in

which the store's reported prices on the quarterly price report exceed the maximum food prescription costs established by the Department. Under proposed revisions to the regulations, maximum food prescription costs would be eliminated and stores would no longer be required to submit quarterly price reports. Thus, the circumstance envisioned by subsection (i) would no longer be a possibility. The Department proposes to maintain control over prices charged by WIC authorized stores for allowable foods by revising § 1105.3(a) (relating to terms and conditions of participation) to require ongoing compliance with selection criteria. Ongoing compliance with selection criteria would include maintaining the minimum inventory of allowable foods required in § 1103.5 (relating to minimum inventory) at shelf prices equal to or less than the maximum allowable prices for those foods. Failure to comply with terms and conditions of participation places the store at risk of the imposition of sanctions under § 1107.1, including disqualification.

§ 1105.3. Terms and conditions of participation.

In subsection (a)(4), the Department proposes to substitute, in the place of the specific requirements currently listed in subsection (a)(4)—(8), the general requirement that the store comply with the selection criteria in § 1103.4 throughout the authorization period. Because the Department proposes to delete the text of paragraphs (5)—(8), the Department proposes to renumber the remaining paragraphs accordingly. Proposed paragraph (11), currently paragraph (15), would be revised to further define the kinds of records to which representatives of the Federal, State and local agency agencies are required to have access at any time, not just during an onsite review. Proposed paragraph (12), currently paragraph (16), would be revised to incorporate the Federal mandate that stores agree that authorization does not constitute a license or a property interest, and that the store must apply for reauthorization in accordance with proposed § 1103.1(c), relating to authorization and reauthorization process and requirements. The Department proposes to delete existing paragraph (20), as the Department proposes to address the store's reimbursement obligation in detail in subsection (d). Finally, proposed paragraph (16), currently paragraph (21), would be revised, pursuant to Federal mandates, to require stores to maintain product purchase records for allowable foods and records used for Federal tax reporting purposes, for a minimum period of 2 years.

The Department proposes to revise subsection (b) as follows. Throughout subsection (b), the Department would add "or authorized representative" after "participant" to clarify that the obligation to the participant carries over to an authorized representative, as well. The Department would revise paragraph (3) to clarify that stores are required to provide allowable foods to participants at or below the current price the store charges other customers, and at or below the maximum allowable prices for those foods. The Department would revise paragraph (5) to clarify the prohibition against seeking restitution or payment from participants. The Department would revise paragraph (7) to clarify that stores are required to offer participants the same courtesies offered other customers if no other terms or conditions of participation are violated by doing so. The Department would revise paragraph (9) to substitute more generic language in the place of references to "trading stamps." Thus, the paragraph would require stores to provide a "promotional incentive" for a purchase made with a WIC check if that same promotional incentive is given for a cash purchase. Finally, within subsection (b), the Department has proposed, with the addition of paragraph (12), that the store

provide a promotional incentive for use of a WIC check only if the same incentive is offered for a cash purchase.

Within subsection (c), the Department proposes the following revisions. The Department would revise paragraph (1) for purposes of clarifying, not changing, the requirement set forth in that paragraph. The Department would revise paragraph (5) to substitute, for the requirement that the store compare signatures on the WIC check and the WIC identification card, the requirement that the store compare the family identification number on the WIC check with the family identification number on the identification card. The Department proposes to revise paragraph (13) to delete the prohibition against providing change for the difference between the "Not to Exceed" and the "Pay Exactly" amounts on the WIC check. Under the revised redemption system, as proposed by the Department, which includes maximum allowable prices for WIC foods, WIC checks will not contain a "Not to Exceed" figure. The Department proposes to revise paragraph (14) to clarify that stores may not provide an exchange to replace an allowable food unless the exchange is to replace an identical product that was found to be damaged or otherwise unusable. The Department proposes to add a new paragraph (15) which would preclude the store from refunding money for an allowable food purchased in a WIC transaction that is returned by a participant or authorized representative. Finally, under subsection (c), the Department proposes to delete paragraph (22) as the Department proposes to address the reimbursement requirement in detail in subsection (d).

The Department proposes to delete existing language in subsection (d) and to substitute the following in its place: The Department will deny payment of a check submitted for redemption when the Department is aware, prior to payment of the check, that the store has committed a violation affecting the store's right to payment. If the Department makes payment on the check and later determines a violation occurred, the Department would establish a claim for reimbursement by sending the store a written notice of the overcharge or other improper charge. The store could dispute the Department's claim by giving written notice to the Department. The Department would resolve the dispute and notify the store how the dispute was resolved. The Department's resolution of a claim dispute would not be an adverse action that may be appealed.

§ 1105.4. Change of ownership of a WIC authorized store.

The Department proposes to clarify subsection (a) which would provide that a store's status as a WIC authorized store is void when a change of ownership of the store occurs. The Department proposes to delete subsection (c), thereby eliminating the possibility of probationary authorization when a change of ownership occurs. The Department proposes to add language to the final subsection, which would become subsection (c), to clarify the circumstances under which it will refuse to accept a store's application for authorization. Under this revised subsection, the Department would not accept a store's application for authorization if the Department determines that the store submitting the application, either under prior ownership or in a previous location, was disqualified and the purpose of the relocation or sale of the store was to avoid a WIC disqualification. Similar language appears in proposed changes to § 1103.1(b).

§ 1105.5. Changes in availability or location of WIC authorized stores.

Within this section, the Department proposes to provide that a store relocating within 1 mile of its current

location or within the same geographical area assigned to the local agency will not lose its status as a WIC authorized store. A WIC authorized store relocating in excess of 1 mile of its current location and to a geographical area assigned to another local agency would lose its status as a WIC authorized store and would be required to apply for authorization at its new location.

Also, the Department proposes to lengthen the period of time within which the store is required to reopen at its new location. Currently, the Department requires the store to reopen within 3-calendar days. The Department proposes to require a store to reopen within 15-calendar days to continue as a WIC authorized store.

§ 1105.6. Monitoring of WIC authorized stores.

The Department proposes organizational revisions to subsections (a) and (b). Specifically, the Department proposes to relocate to subsection (a), and to clarify, information regarding the purpose and types of monitoring WIC authorized stores currently contained within subsection (b). Types of monitoring tools listed would include compliance investigations, inventory audits, routine reviews and WIC transaction reviews. The term "compliance investigation" would replace "high risk review" and the term "WIC transaction review" would replace "training buy." The Department also proposes to clarify that the monitoring process operates independently of the authorization process and can overlap more than one authorization period. The remainder of the section would be reorganized to contain a description within distinct and successive subsections (b)—(e) of the monitoring tools listed in subsection (a). The final two subsections, except for being relabeled subsections (f) and (g), would remain substantively unchanged.

§ 1107.1. Imposition of sanctions.

The Department proposes to add a new subsection (c), which would permit the Department to disqualify a store that has been, assessed a civil money penalty in the Food Stamp Program, unless the disqualification would result in inadequate participant access for WIC participants. If the Department opts to disqualify a store under this section, the length of the disqualification would correspond to the period for which the store would have been disqualified in the Food Stamp Program if that program had not chosen to impose a civil money penalty in lieu of a disqualification. The Department also proposes to clarify that violations documented in a prior authorization period will support a disqualification, by adding language to that effect to proposed subsection (d) (currently subsection (c)). This proposed language mirrors similar proposed language in § 1105.6(a). Finally, the Department proposes to add language to proposed subsection (e), currently subsection (d), to advise the vendor community that applicable Federal regulations may prohibit administrative or judicial review of a disqualification from the Food Stamp Program based upon a disqualification from the WIC Program.

§ 1107.1a. Disqualifications.

The Department proposes to add a new paragraph (2) in subsection (d) to require a 1-year disqualification for charging for an allowable food provided in excess of the quantity authorized for purchase on the WIC check. The remainder of the numbered paragraphs, up to paragraph (11), would be renumbered. Paragraph (12) would be deleted in accordance with the Department's proposal to delete price limitations in connection with food prescriptions, and the current paragraph numbering would continue to apply for existing paragraphs (13)—(16).

The Department would revise proposed renumbered paragraph (4) to clarify that the minimum inventory of an allowable food must be priced at or below the current maximum allowable price to avoid a 1-year disqualification. The Department proposes to add to paragraph (14), language permitting a 1-year disqualification for failing to reimburse the Department for overpayments, overcharges or improper charges. Finally, the Department proposes to add a new paragraph (17), which would allow for a 1-year disqualification for providing false information on the application for authorization or reauthorization.

§ 1113.1. Right to appeal.

The Department proposes to revise the title of this section to "Right to administrative appeal," to distinguish the subject matter of this section from judicial appeals. Consistent with the intent in proposing revisions to § 1101.1 to limit the scope of the regulations to prescribe appeal procedures to be used by stores and participants only, the Department proposes to revise this section and all sections within Chapter 1113 (relating to local agency and store appeals) to delete references to local agency appeals.

The Department also proposes to revise the first three subsections of this section to define adverse actions that may be appealed, list actions and WIC Program decisions that may not be appealed, and introduce the concept of an "effective date" for an adverse action, as required by amendments to Federal regulations. The Department proposes to delete subsections (d) and (e) as superfluous.

§ 1113.2. Appeal procedures.

The Department proposes to revise the title of this section to "Administrative appeal procedures," to maintain consistency with the proposed change in the title of § 1113.1. In subsection (a), the Department proposes to describe in a more succinct manner its notification obligations in the event of an adverse action. In subsection (c), the Department proposes to clarify that the filing deadline for a store appeal shall be within 30 days of the effective date of the adverse action. Also in subsection (c), the Department proposes that the filing of an appeal shall serve to stay the Department's adverse action pending issuance of an adjudication and order by the hearing examiner. The stay would be lifted upon receipt of the hearing examiner's adjudication and order affirming the adverse action, or upon receipt of the store's written notice of withdrawal of the appeal.

§ 1113.3. Adjudication and order.

The Department proposes to add a new subsection (c) which would provide that if the hearing examiner upholds the Department's adverse action, the adverse action would be effective as of the date of the store's receipt of written notice of the hearing examiner's adjudication and order. The remaining subsections, currently subsections (c) and (d), would be renamed (d) and (e).

C. Fiscal Impact

The WIC Program is 100% Federally funded. No State dollars are involved in the operation of the WIC Program. The proposed regulatory change to § 1103.3, which deals with authorization of stores, to eliminate provisions regarding store slots and competition for those slots based upon prices, in and of itself, has the potential for increasing dramatically the number of stores that may be authorized to participate in the WIC Program. Through introduction of provisions regarding maximum allowable prices for all WIC allowable foods, however, the Department hopes to realize two objectives: (1) to keep the

number of stores applying for authorization within reasonable limits; and (2) to achieve savings in foods costs that may translate into the additional administrative dollars needed to monitor the additional stores. Other aspects of these regulatory changes, such as repeal of provisions imposing limitations on the number of store slots and removal of provisions requiring store input and WIC Program collection of quarterly prices from each retail store, will generate Program savings. Overall, the Department anticipates the fiscal impact of these regulations to be neutral.

D. *Paperwork Requirements*

The proposed amendments will not increase paperwork for WIC Program participants or those grocery stores voluntarily participating in the WIC Program. The increase in the Department's paperwork requirements that will result from the elimination of store slots and the increase in the number of authorized stores will be offset by the decrease in paperwork associated with identifying, based on price calculations, which stores will be awarded available store slots. Paperwork requirements also will decrease as a result of the elimination of the overcharge recovery system. Moreover, the Department anticipates fewer appeals by stores denied authorization. Only stores failing to meet selection criteria will be denied authorization and reauthorization and, through extended authorization, stores may have more than one opportunity to meet selection criteria.

F. *Effective Date/Sunset Date*

The amendments will become effective upon publication as a final-form rulemaking. These proposed amendments will be monitored continually and will be updated as required by changes in Federal statute or Federal regulations governing the WIC Program. Therefore, no sunset date has been set.

G. *Statutory Authority*

The WIC Program was authorized through an amendment to the Child Nutrition Act of 1966 (42 U.S.C.A. § 1786). Congress authorized the USDA-FNS to contract with and make funds available to States to administer the program. In the Commonwealth, the WIC Program receives 100% of its funding from the USDA-FNS.

There are no State statutes governing the operation or administration of the WIC Program. The Women's, Infants' and Children's Nutrition Improvement Act (62 P. S. §§ 2951—2955) authorizes additional State funding for the expansion of the WIC Program. The Commonwealth, however, has not provided funding for the expansion of the program since State Fiscal Year 1996.

The existing State regulations were developed and published at 29 Pa.B. 3841 (July 24, 1999), following the decision of the Commonwealth Court in *Giant Food Stores, Inc. v. Commonwealth of Pennsylvania, Department of Health*, 713 A.2d 177 (1998). The Court held that the Department was required to promulgate regulations governing the selection and management of grocery stores to participate in the WIC Program. The State regulations added Part VIII (relating to supplemental nutrition program for women, infants and children (WIC Program)). The regulations also deleted §§ 8.41—8.74, the Department's then existing regulations pertaining to WIC Program administrative appeals.

The proposed amendments contained in Annex A are submitted under the Department's general power to promulgate regulations to carry out its duties and its duty to protect the health of the people of this Common-

wealth under section 2102 of The Administrative Code of 1929 (71 P. S. § 532) and the *Giant* decision.

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 11, 2002, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to the final publication of the regulations, by the Department, the General Assembly and Governor, of objections raised.

I. *Contact Person*

Interested persons are invited to submit all comments, suggestions or objections regarding the proposed amendments to Greg Landis, Acting Director, WIC Program, Room 604, Health and Welfare Building, Harrisburg, PA 17108, (717)783-1289, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Persons with a disability may also submit comments, suggestions or objections regarding the proposed amendments to Greg Landis in alternative formats, such as by audio tape, Braille or by using V/TT: (717) 783-6514. Persons with a disability who require an alternative format of this document (that is, large print, audio tape, braille) should contact Greg Landis so that he may make necessary arrangements.

ROBERT S. ZIMMERMAN, Jr.
Secretary

Fiscal Note: 10-169. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 28. HEALTH AND SAFETY
Part VIII. SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC PROGRAM)
CHAPTER 1101. GENERAL PROVISIONS

§ 1101.1. Background and scope.

* * * * *

(b) *Scope.* This part establishes design and operational requirements for the food delivery system for the WIC Program, and prescribes procedures to be used by applicants, participants[, **local agencies**] and stores to appeal actions of the Department and local agencies that may adversely impact upon them.

§ 1101.2. Definitions.

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

* * * * *

Authorization—The grant of authority to a store to serve as a WIC authorized store.

Authorized representative—For an applicant or participant, [an adult applicant or participant,] a parent or guardian of an applicant or participant who is an infant or child, a proxy or endorser, or an individual designated [by that person] to represent the applicant or participant in administrative proceedings involving the WIC Program. For a [local agency or] store, an individual designated by the [local agency or] store to represent it in administrative proceedings involving the WIC Program. For a compliance buy or WIC transaction review, the person conducting the compliance buy or WIC transaction review.

* * * * *

Certification—[For purposes of this chapter and Chapters 1103, 1105, 1107, 1109 and 1113, the term means the Department's acceptance of a store, not currently authorized to participate in the WIC Program, as a WIC authorized store. For purposes of Chapter 1111 (relating to applicant and participant appeals), the term means the] The Department's acceptance of an applicant to participate in the WIC Program as a participant.

* * * * *

Claim—A demand for reimbursement of an overcharge or other improper charge to the WIC Program as a result of a store violation.

* * * * *

Contract brand—The specific manufacturer brand of an allowable food that the Department is contractually bound to prescribe for participants.

* * * * *

High risk store—A store identified as a possible perpetrator of fraud or abuse through analysis of redemption patterns of WIC checks or WIC sales, [through compliance violations,] or by complaints of participants or WIC Program staff.

* * * * *

Inventory [audits] audit—A comparison of a WIC authorized store's inventory levels [and purchases] of a particular [WIC product] allowable food over a specific period of time, to [actual WIC] purchases of the [same product] allowable food with WIC checks during the same period of time, to determine if the store had [adequate product quantities available to satisfy claims made for WIC reimbursement of the product during the same period of time] a quantity of the allowable food available for sale during that time sufficient to support its claim for reimbursement for the sale of the allowable food.

[Limitation criteria—Criteria in § 1103.4(b) (relating to selection and limitation criteria; authorization process) which the Department has established to limit the number of WIC authorized stores in a particular area to assure that State and local officials can effectively manage, review and monitor WIC authorized stores.]

* * * * *

Maximum allowable price—The maximum price the Department will pay for an allowable food.

* * * * *

Onsite review—[An overt] A visit to a store by Federal, Department or local agency personnel to determine if the store meets the selection criteria necessary to be [certified or recertified as] a WIC authorized store, or a visit to a WIC authorized store [after certification or recertification,] to determine whether the store is complying with this part governing the store's participation in the WIC Program. An onsite review may be announced or unannounced.

Overcharge—A charge by a WIC authorized store to the WIC Program through redemption of a WIC check for an allowable food in excess of the store's shelf price for that food or in excess of the price charged a non-WIC participant for that food.

Overpayment—Payment to a WIC authorized store of a WIC check redeemed by the store in an amount in excess of the amount to which the store was entitled based upon the maximum allowable price of each allowable food authorized for purchase on the WIC check.

* * * * *

Periodic review—Contemporaneous announced onsite reviews of stores in a trade area conducted not less than once every 3 years to select stores for reauthorization.

* * * * *

Premises—The sales floor and storage areas within the building housing the WIC authorized store.

Price adjustment—The retroactive reduction in the amount paid for a redeemed check as a result of a determination of overpayment.

Probationary authorization—The Department's probationary authorization of a WIC authorized store when inadequate participant access would occur if the store were not authorized or reauthorized or when the store is reviewed prior to opening to the public and has not yet stocked its dairy section or its frozen juice section.

* * * * *

[Recertification] Reauthorization—The Department's [authorization of a WIC authorized store, following a review process, to continue as a WIC authorized store] renewal of authorization.

[Redeem] Redemption—[A WIC authorized store submitting] Submission of a WIC check by a WIC authorized store to its bank for the purpose of securing a money payment for the amount appearing in the "Pay Exactly" box on the WIC check.

Routine review—An unannounced onsite review of a WIC authorized store to evaluate adherence by the store to the requirements in this part governing the store's participation in the WIC Program.

* * * * *

Sanction—A penalty imposed by the Department upon a WIC authorized store for violation of this part governing the store's participation in the WIC Program. The term does not include a decision to deny [certification or recertification] authorization or reauthorization following [a certification or recertification] an announced onsite review [process].

Secretary—The Secretary [of Health] of the Department.

Selection criteria—Criteria in § 1103.4 [(a)] (relating to selection criteria for authorization and reauthorization) which the Department has established which a store seeking to be [certified or recertified] authorized or reauthorized is required to satisfy.

* * * * *

[*Store slot*—A slot established by the Department for a WIC authorized store in a trade area. The number of store slots the Department authorizes for a geographic area assigned to a local agency is based on the density of participant population in the county in which the trade area is located and the actual number of participants in the county.]

Store violation—Intentional or unintentional action by the owners, officers, managers, agents or employees of a WIC authorized store that violates the requirements in this part governing the store's participation in the WIC Program and that may result in a claim.

Temporary authorization—The Department's temporary and conditional authorization of a WIC authorized store that fails to meet specified selection criteria during the initial onsite review for purposes of reauthorization.

Trade area—A designated geographic area within the geographical area assigned to a local agency, which is organized to serve the participant populations in that designated area [through an assigned number of store slots].

[*Training buy*—The presentation of a WIC check by a Federal, Department or local agency representative to purchase foods at a WIC authorized store, which does not result in the actual tender of the WIC check or the purchase of the foods, to evaluate adherence by a WIC authorized store with this part governing the store's participation in the WIC Program.]

* * * * *

WIC authorized store—A retail food store which is authorized [through certification or recertification] or reauthorized in accordance with § 1103.1 (relating to authorization and reauthorization process and requirements) to provide allowable foods to participants by accepting WIC checks.

* * * * *

WIC identification card—A document issued by the Department to a participant, which is used for identification purposes [, signature verification] and [authorization] verification of eligibility to purchase allowable foods with WIC checks at a WIC authorized store.

* * * * *

WIC transaction—The presentation of a WIC check by a participant or authorized representative to a WIC authorized store resulting in the purchase of one or more of the allowable foods designated on the check.

WIC transaction review—The presentation of a WIC check by a Federal, Department or local agency representative to purchase foods at a WIC authorized store, which does not result in the

actual tender of the WIC check or the purchase of the foods, to evaluate adherence by a WIC authorized store with the requirements in this part governing the store's participation in the WIC Program.

§ 1101.3. Administration.

* * * * *

(b) *Vendor Advisory Workgroup*. The Department will form a Vendor Advisory Workgroup with representation from the retail store community, appropriate advocacy groups and associations for retail stores and participants, and from the State and local agencies. The Department will schedule at least two meetings of the Vendor Advisory Workgroup annually to review and discuss retail store and food delivery issues. The Vendor Advisory Workgroup shall function in an advisory capacity only; acceptance of Workgroup recommendations shall be at the discretion of the Department.

(c) *Local agency responsibilities*. Local agencies shall determine whether participants meet eligibility criteria developed by the Department, develop food prescriptions for participants, provide nutrition education to participants, provide referral information regarding ongoing health services, issue WIC checks to participants to purchase allowable foods and ensure that all participants are served without discrimination. Local agencies shall function as representatives of the Department in conducting [certification and recertification] onsite reviews, and in monitoring the activities of WIC authorized stores.

CHAPTER 1103. AUTHORIZATION OF STORES

§ 1103.1. [Certification and recertification reviews] Authorization and reauthorization process and requirements.

(a) [*Qualifying for certification or recertification*] *Duration of authorization or reauthorization*. To [be certified or recertified] serve as a WIC authorized store, a store shall [meet the selection criteria in § 1103.4(a) (relating to selection and limitation criteria; authorization process) at the time of the onsite review] be authorized in accordance with the requirements in subsection (b) or reauthorized in accordance with the requirements in subsection (c). [If the number of applicants satisfying the selection criteria exceeds the number of stores the Department permits to participate in the WIC Program under the limitation criteria in § 1103.4(b), the Department will determine which store to certify or recertify under the process in § 1103.4(c). The Department will exempt a store from satisfying the selection and limitation criteria only if there is a finding of inadequate participant access, as set forth in § 1103.7 (relating to inadequate participant access).] A store's authorization or reauthorization shall remain in effect until the Department acts on the store's application for reauthorization when the next periodic review is conducted in the trade area in which the store is located, unless terminated earlier in accordance with subsection (d). At least once every 3 years, the Department will conduct a periodic review in each trade area. Failure to submit an application for reauthorization as prescribed under subsection (c) shall result in expiration of the store's authoriza-

tion or reauthorization. The Department will provide 30 days written notice to the store prior to expiration of authorization or reauthorization for any store failing to submit an application. A store that has received a letter of authorization dated less than 60 days prior to the date of the notice of the periodic review in the store's trade area shall be exempt from the periodic review.

(b) [*Certification or recertification review process.* The certification or recertification review process is as follows:

(1) A person authorized on behalf of a store to make an application for certification or recertification shall contact the local agency responsible for the county in which the store is located to request an application.

(2) The local agency shall determine if a store slot is available in accordance with § 1103.4.

(3) If a store slot is available, the local agency shall send the WIC Program information and an application to the store.

(4) A store that is not certified shall complete the application in accordance with the instructions therein and return it to the local agency. If the local agency is apprised by a certified store that it wants to be recertified, the local agency shall collect the application from the store at the time of the onsite review. The Department will not accept an application for certification or recertification from a store that has been provided notice of disqualification or is disqualified from the WIC Program. The WIC Program disqualification period shall be completed before an application will be accepted by the Department. The Department may deny an application for certification from a new owner of a recently purchased store if the Department determines that the purpose of the sale of the business was a sham transaction to avoid a WIC disqualification.

(5) A person authorized on behalf of a chain of stores to make an application for certification or recertification shall complete a separate application for each store in the chain that seeks certification or recertification.

(6) The local agency shall schedule an onsite review of the store for the purpose of determining if the store meets the selection criteria in § 1103.4(a). The local agency will notify the store of the approximate date of the review.

(7) The local agency shall conduct the onsite review and forward the results to the Department for a decision on the store's application for certification or recertification.

(8) The Department will notify the store of its decision on the store's application for certification or recertification.]

Authorization process.

(1) The store's representative shall contact the local agency responsible for the trade area where the store is located to request an application for authorization. The local agency shall send WIC Program information and an application for authorization to the store. The store shall complete the application for authorization and return it to the local agency.

(2) The Department will refuse to accept an application from a store if the store has been provided notice of disqualification or is disqualified from the WIC Program, if the Department determines that the store relocated or effected a change of ownership to avoid a disqualification, or if the store has been denied authorization or reauthorization and is not eligible to apply for authorization.

(3) The Department will not accept an application for authorization less than 90 days prior to the scheduled start date of the periodic review in that trade area unless the Department finds that there would be inadequate participant access, as set forth in § 1103.7, if it does not consider the application.

(4) If the store's application for authorization is accepted, the local agency shall schedule, as expeditiously as possible, an announced onsite review of the store to determine if the store meets the selection criteria in § 1103.4 (relating to selection criteria for authorization and reauthorization). The local agency shall notify the store in advance of the approximate date of the review.

(5) The local agency shall conduct the onsite review and forward the results to the Department for a decision on the store's application.

(6) The Department will deny the application if the selection criteria in § 1103.4 are not satisfied, unless the Department grants probationary authorization under § 1103.2 (relating to probationary authorization). The Department will notify the store in writing whether the store's application for authorization is granted or denied. If the Department denies the application for authorization, the store shall be eligible to reapply for authorization 6 months after the effective date of the denial.

(c) [*Duration of certification or recertification.* The certification or recertification of a store shall remain in effect until the store is disqualified, changes ownership, withdraws from the WIC Program, its application for recertification is denied or its certification expires if it fails to apply for recertification. The Department will provide 30 days written notice to the store prior to expiration of WIC certification for any store failing apply for recertification. Either the Department or the WIC authorized store may terminate the certification for cause after providing at least 30 days advance written notice.]

Reauthorization process.

(1) The Department will include an application for reauthorization with the notice of periodic review it sends to the store. The local agency will collect the application for reauthorization at the time of the announced onsite review of the store to determine if the store meets the selection criteria in § 1103.4. The local agency shall notify the store in advance of the approximate date of the review.

(2) The local agency shall conduct the onsite review and forward the results to the Department for a decision on the store's application.

(3) The Department will deny the application without advance warning if the selection criteria in § 1103.4 are not satisfied, unless the store requests and the Department grants temporary authorization in accordance with § 1103.3 (relating to temporary authorization) or the Department grants pro-

bationary authorization in accordance with § 1103.2. The Department will notify the store in writing whether the store's application for reauthorization is granted or denied. If the Department denies the application for reauthorization, the store shall be eligible to apply for authorization 6 months after the effective date of the denial. If the Department grants and later rescinds temporary authorization, the store shall be eligible to apply for authorization 1 year from the date of the first onsite review for reauthorization.

(d) [*Periodic reviews.* At least once every 2 years, the Department will conduct contemporaneous certification and recertification reviews in a trade area for the purpose of filling store slots in that trade area with WIC authorized stores. Both stores that are certified, and stores that are not certified but want to become WIC authorized stores, shall make an application for certification or recertification. The Department will send a notification of the contemporaneous certification/recertification review process to each WIC authorized store and each store on the waiting list. The notice shall include information advising the store of the procedure for being reviewed for the purpose of receiving certification or recertification. The Department will notify a store which fails to seek recertification or is denied recertification under this subsection of the date the store's current certification expires. Expiration of the certification shall be no less than 30 days after the mailing date of the notice.]

Termination of authorization or reauthorization. The Department will terminate a store's authorization or reauthorization if:

- (1) The store has been disqualified.
- (2) The store supplied false information in the application for authorization or reauthorization.
- (3) The store is not serving at least 25 participants 8 months following authorization.
- (4) Ownership of the store changes.
- (5) The store relocates in excess of 1 mile of its current location and to a geographical area assigned to another local agency.
- (6) The store closes for more than 3 business days and does not notify the Department.

[(e) *Moratorium on applications.* The Department will not accept applications, or schedule or conduct certification reviews in a trade area 90 days or less prior to the scheduled start date of the contemporaneous certification/recertification reviews in that trade area. The Department will grant an exception to this moratorium only if the Department finds that there would be inadequate participant access, as set forth in § 1103.7, if it does not consider the application. A store granted certification under this exception shall be exempt from the contemporaneous certification/recertification review if it has been certified for less than 60 days prior to the date the contemporaneous reviews begin in the trade area.

(f) *No opportunity to correct problems.* When the Department is making a decision on an application for certification or recertification, it will deny the application if the criteria for certification or recertification set forth in § 1103.4(a) and (b) are not

satisfied. The Department will make its decision on the application without providing a warning or an opportunity to correct problems identified during the certification or recertification review.

(g) *Eligibility for stores denied certification or recertification.* A store which has been denied certification or recertification shall wait 6 months from the effective date of the Department's decision to reapply, except a store denied certification or recertification under § 1103.4(c)(2) will be placed on a waiting list and will be considered immediately for certification if a store slot becomes open.]

§ 1103.2. Probationary [certification] authorization.

(a) *Criteria for probationary [certification] authorization.* If during the [certification or recertification] onsite review, the store fails to meet [one or more of the qualifications in] selection criteria at § 1103.4 [(a) and (b)] (3), (4), (5), (6), (7) or (8) (relating to selection [and limitation] criteria [;] for authorization [process] and reauthorization), the Department [may] will grant probationary [certification] authorization to the store for a period not to exceed 6 months when either of the following applies:

(1) Inadequate participant access would occur if the store is not [certified or recertified] authorized or reauthorized.

(2) A store is reviewed prior to opening to the public and the store has not yet stocked its dairy section or its frozen juice section [at the time of the review].

(b) [*Probationary certification reviews*] *Reviews during probationary authorization period.*

[(1)] If a store receives probationary [certification, except in situations of inadequate participant access identified in § 1103.7(c)(8) (relating to inadequate participant access)] authorization, the Department will conduct an unannounced onsite review during the probationary [certification] authorization period to determine [if regular status should be granted to] whether the store is in compliance with selection criteria in § 1103.4. The Department [may] will rescind probationary [certification] authorization and deny the store's application to serve as a WIC authorized store if the store fails to meet one or more of the selection criteria during this review, unless extension is required under subsection (c). The Department will grant authorization or reauthorization, as applicable, if the store meets all selection criteria during the second onsite review.

[(2)] If a store receives probationary certification due to inadequate participant access as identified in § 1103.7(c)(8), the Department will conduct a certification review of the store and any other stores on the waiting list within the store's trade area. The Department may rescind probationary certification and deny the store's application to serve as a WIC authorized store if the store fails to meet one or more of the selection or limitation criteria during this review.]

(c) *Extension of probationary [certification] authorization.* If the store fails the review conducted during the probationary [certification] authorization period,

and inadequate participant access exists as determined by the Department, the Department [may] will extend probationary [certification] authorization for an additional 3 months during which time at least one representative of the store who is responsible for training store personnel on the WIC Program shall attend corrective training.

(d) *Extended probationary [certification] authorization reviews.* The Department will conduct an unannounced onsite review during the extended probationary [certification] authorization period after the store representative has attended corrective training, to determine [if certification should be granted to] whether the store is in compliance with the selection criteria in § 1103.4. The Department will rescind probationary [certification] authorization and deny the store's application to serve as a WIC authorized store if the store fails to meet one or more of the selection criteria during this review. **The Department will grant authorization or reauthorization, as applicable, if the store meets all selection criteria during the third and final unannounced onsite review.**

(e) *Rescission of probationary [certification] authorization.* If the Department rescinds the probationary or extended probationary [certification] authorization of a store, the store is [not] eligible to [reapply] apply for [certification for] authorization 6 months from the date of the Department's rescission of [the certification] probationary or extended probationary authorization.

§ 1103.3. [Authorization of store slots] Temporary authorization.

[(a) *Assignment of store slots.* The Department will assign store slots based upon WIC participant density according to the following:

(1) In counties with WIC participant density greater than 100 participants per square mile, the Department will assign one store slot for every 175 WIC participants.

(2) In counties with WIC participant density of 25 to 100 participants per square mile, the Department will assign one store slot for every 150 WIC participants.

(3) In counties with WIC participant density less than 25 participants per square mile, the Department will assign one store slot for every 125 WIC participants.

(b) *Yearly allocation of store slots.* By October 1 of each year, the Department will evaluate WIC participant population to determine store slot allocations per county for each Federal Fiscal Year. The Department will publish these allocations in the *Pennsylvania Bulletin* no later than October 30 of each year.]

(a) *Failure to meet selection criteria during onsite review.* If a WIC authorized store that applies for reauthorization fails to meet one or more of the selection criteria in § 1103.4 (relating to selection criteria for authorization and reauthorization) during the announced onsite review, the store may request temporary authorization, except that a store that fails to meet the price and minimum inventory requirements of § 1103.4(5) shall be ineli-

gible for temporary authorization. A store that is a high risk store or the subject of an ongoing compliance investigation also shall be ineligible for temporary authorization.

(b) *Conditions of temporary authorization.* Temporary authorization shall be conditioned upon the following:

(1) The Department will conduct a second announced onsite review during the temporary authorization period to determine whether the store is in compliance with the selection criteria in § 1103.4. The Department will grant reauthorization if the store meets all selection criteria during this review. The Department will rescind temporary authorization and deny the store's application for reauthorization if the store fails to meet one or more of the selection criteria during the second review.

(2) If the Department rescinds the temporary authorization of a store, the store is eligible to apply for authorization 1 year after the date of the first onsite review that was conducted following the Department's receipt of the store's application for reauthorization.

(3) The Department will reduce by 10% the maximum allowable prices for foods authorized for purchase on WIC checks the store redeems for WIC transactions that occur during the first 90 days of the temporary authorization period.

§ 1103.4. Selection [and limitation] criteria[;] for authorization [process] and reauthorization.

[(a) *Selection criteria.*] The Department will use the following selection criteria to identify stores that meet the operational criteria to serve as a WIC authorized store:

* * * * *

(2) A store seeking reauthorization shall serve [or reasonably expect to serve] at least 25 participants per month.

[(i) The Department will provide a store seeking certification which has not been certified previously, an 8-month period to determine if the store is serving 25 participants. The Department may disqualify a store for a period of no less than 6 months in accordance with § 1107.1a(j) (relating to disqualifications) if it is not serving 25 participants at the end of the 8-month period.

(ii)] The Department [may] will deny [recertification] reauthorization if the store is not serving 25 participants per month in the most recent month for which the Department has participant data at the time the [recertification] onsite review for reauthorization is conducted.

* * * * *

(5) The store shall have available on the premises at all times the minimum inventory [requirements] of allowable foods required in § 1103.5 (relating to minimum inventory) [of allowable foods] at shelf prices that are equal to or less than the maximum allowable prices for those foods. The Department will publish in the *Pennsylvania Bulletin* quarterly the maximum allowable prices for allowable foods for the next quarter.

[(6) The store shall have shelf prices less than the maximum allowable cost established by the Department for Food Prescription One and Food Prescription Two. The highest price of each allowable food available at the store, regardless of brand, shall be recorded to determine if the store's prices are within the maximum allowable prices established by the Department. The Department will publish in the *Pennsylvania Bulletin*, no later than September 15 of each year, the maximum allowable prices for Food Prescription One and Food Prescription Two. Revisions to the maximum allowable prices will be published in the same manner. Food Prescription One and Food Prescription Two are as follows:

(i) Food Prescription One consists of the following:

- (A) Eighteen quarts or nine half gallons of milk.
- (B) One pound of cheese.
- (C) One dozen eggs.
- (D) One 15 to 18 ounce container of peanut butter.
- (E) One pound of dried beans or peas.
- (F) Four 11.5 to 12 ounce containers of frozen concentrated juice or four 46 ounce containers of single strength juice.
- (G) Thirty ounces of cereal.

(ii) Food Prescription Two consists of: Thirty-one 13 ounce cans of concentrated contract brand milk or soy based infant formula.]

[(7)] (6) The store shall be open for business and able to serve participants at least 8 hours per day, 6 days per week.

[(8)] (7) The store shall be sanitary. There may not be [evidence of] unremoved rubbish, vermin, or general lack of cleanliness.

[(9)] (8) * * *

(9) If the store has been denied authorization or reauthorization within the past 12 months, the store must be eligible to apply for authorization under § 1103.1(b) or (c) (relating to authorization and reauthorization process and requirements) or § 1103.3(b)(2) (relating to temporary authorization).

(10) The store may not be currently disqualified from participation in the Food Stamp Program or have been assessed a civil money penalty in lieu of a disqualification from the Food Stamp Program that, had it been imposed, would not yet have expired.

(11) The store may not be currently disqualified from the WIC Program [or have been denied certification or recertification by the WIC Program within the past 6 months unless the conditions of § 1103.6(a)(2) (relating to waiting list) are met].

(12) The store shall have implemented all required corrective actions resulting from monitoring by the Department, including [repayment] reimbursement of any overcharges [to the WIC Program] or overpayments, and shall be in compliance with all applicable Federal and State regulations.

(13) None of the store's current owners, officers, or managers shall have been convicted of or had a

civil judgment entered against them for conduct demonstrating a lack of business integrity.

[(b) *Limitation criteria.* The Department will use the following criteria to limit the number of WIC authorized stores in a trade area:

(1) A store slot shall be available in the trade area in which the store is located.

(2) The store shall not be located within 1-mile of another WIC authorized store within the same trade area unless the Department determines that there is sufficient WIC participant shopping within the 1 mile area to support an additional WIC authorized store or stores. For the purpose of this paragraph, to support the authorization of each additional WIC authorized store within the 1 mile radius, sufficient WIC participant shopping shall be determined by the following:

(i) For counties with WIC participant density greater than 100 participants per square mile, there shall be at least 175 WIC participants shopping within 1 mile of the applying store for each store slot authorized.

(ii) For counties with WIC participant density of 25 to 100 participants per square mile, there shall be at least 150 WIC participants shopping within 1 mile of the applying store for each store slot authorized.

(iii) For counties with WIC participant density less than 25 participants per square mile, there shall be at least 125 WIC participants shopping within 1 mile of the applying store for each store slot authorized.

(c) *Authorization process.*

(1) If the total number of stores meeting all selection criteria are less than or equal to the total number of store slots assigned to the trade area and there is sufficient WIC participant shopping as defined in subsection (b)(2), all stores meeting the selection criteria shall be authorized to participate in the WIC Program.

(2) If the total number of stores meeting all selection criteria are greater than the total number of store slots assigned to the trade area, the Department will certify or recertify the stores having the lowest weighted prices for the two food prescriptions, until the store slots in the trade area have been filled. For determining the weighted food prices for the two food prescriptions, the Department will add 80% of the total of the store's highest price for Food Prescription One to 20% of the store's highest price for Food Prescription Two.

(3) The criteria in paragraph (2) also apply when more than one store applies for certification or recertification within 1 mile and there is not sufficient WIC participant shopping as defined in subsection (b)(2) to support an additional WIC authorized store or stores.]

§ 1103.5. Minimum inventory.

(a) A store shall have available on the premises at the time of the [certification or recertification] onsite review, and maintain at all times thereafter while participating as a WIC authorized store, the minimum inventory [requirements] of allowable foods at shelf prices equal to or less than the maximum allowable prices.

(b) Minimum inventory requirements of allowable foods are as follows:

(1) *Formula.*

(i) Contract **brand** milk-based formula with iron:

(A) [**Sixty-two**] **Thirty-one** 13 ounce cans of liquid concentrate.

* * * * *

(C) [**Six**] **Nine** 14.1 ounce cans of powdered.

(ii) Contract **brand** soy-based formula:

* * * * *

(C) [**Six**] **Nine** 14 ounce cans of powdered.

* * * * *

(2) *Milk.*

(i) Fluid whole, vitamin D fortified, [**fourteen**] **ten** 1/2 gallons [**or quart equivalent**].

(ii) Fluid skim or low fat, vitamin A and D fortified, four 1/2 gallons [**or quart equivalent**].

(iii) Nonfat dry, [**2**] **4** pounds, in 1 or 2 pound containers.

(iv) Evaporated, [**twelve**] **twenty-four** 12 ounce cans.

(3) *Natural domestic cheese.* [**One pound each**] **Four pounds total** of three varieties prepacked in 8 or 16 ounce packages.

(4) *Grade "A" eggs.* [**Five**] **Three**, 1 dozen containers.

(5) *Juices.*

(i) [**Three**] **Two** varieties with a total of [**nine**] **seven** 46 ounce containers.

(ii) [**Frozen**] **Two varieties of frozen** concentrated or shelf stable concentrated, [**two varieties**] with a total of [**nine**] **seven** 11.5 to 12 ounce containers.

(iii) Infant, three varieties of **contract brand** with a total of fifteen 4 ounce individual containers.

(6) *Cereal.*

(i) Adult, five varieties in 8 ounce or larger packages totaling at least [**72**] **40** ounces.

(ii) Infant, two varieties of **contract brand in 8 ounce packages**, totaling at least [**32**] **24** ounces.

(7) *Peanut butter.* [**Five**] **One** 15 to 18 ounce [**containers**] **container**.

* * * * *

(c) *Annual publication of WIC food list.* The Department will publish in the *Pennsylvania Bulletin*, no later than September 15 of each year, the name of the contract brand of **infant formula, juice and cereal** and, if applicable, the names of [**allowable**] brands and types of **allowable** foods [, and the maximum price permitted for those allowable foods for which the Department establishes a maximum price].

(d) [**Waivers**] *Exceptions to minimum inventory requirements.* The Department [**may**] will grant an **exception to the** minimum inventory [**waivers**] requirements for an allowable [**foods**] food listed in

subsection (e) [**under the following circumstances:**] **when the Department's most recent check redemption information for a store shows no purchases of the allowable food for more than 90 days.**

[(1) For a WIC authorized store, the Department has no current reported purchases of the allowable foods based upon WIC checks redeemed by the store.

(2) For a store seeking certification, the Department has no current reported purchases of the allowable foods based upon WIC checks redeemed by the WIC authorized store closest to the store applying for certification.

(3) The store occupies the same physical location as a prior WIC authorized store, the waiver was granted to the prior WIC authorized store, and the application for certification from the new owner is received by the Department within 3 months after the date the prior WIC authorized store's certification to participate in the WIC Program terminated.]

(e) [**Waiverable allowable**] *Allowable foods to which exception may apply.* These foods are:

(1) **Contract brand milk based with iron liquid concentrate infant formula.**

[(1)] (2) Contract **brand** milk based with iron ready-to-feed infant formula.

[(2)] (3) Contract **brand** milk based with iron powdered infant formula.

(4) **Contract brand soy based liquid concentrate infant formula**

[(3)] (5) Contract **brand** soy based ready-to-feed infant formula.

[(4)] (6) Contract **brand** soy based powdered infant formula.

[(5)] (7) * * *

[(6)] (8) * * *

[(7)] (9) * * *

[(8)] (10) * * *

(f) *Expiration of [waivers] exception to minimum inventory requirements.* [A] The exception to minimum inventory [**waiver of**] requirements for an allowable food granted by the Department shall expire upon the presentation to the store, on behalf of a participant, of a WIC check for the purchase of that allowable food. The WIC authorized store shall provide the food item within [**72**] **48** hours after presentation of the WIC check.

§ 1103.6. [**Waiting list**] (Reserved).

[(a) *Placement of stores on the waiting list.* The Department will place on a waiting list eligible stores as follows:

(1) A store that seeks to become a WIC authorized store if no store slots are open in the trade area where the store is located.

(2) When the total number of stores seeking certification or recertification is greater than the total number of store slots available for the trade area,

and the store meets all selection criteria and has prices within the maximum allowable costs of Food Prescription One and Food Prescription Two, but is denied authorization because its weighted price is higher than other stores meeting all selection and limitation criteria.

(3) A store that seeks to apply during a moratorium as set forth in § 1103.1(c) (relating to certification and recertification reviews).

(4) When a store slot is open and the store seeking certification is located within 1 mile of a WIC authorized store, if the Department determines that there is not sufficient WIC participant shopping within the 1-mile area to support an additional WIC authorized store.

(b) *Certification review of stores on waiting list.* The Department will ensure that all stores on the waiting list in a trade area will be reviewed when a store slot becomes available in the trade area, or when stores in the trade area are reviewed during the next contemporaneous certification/recertification review process. The only exception to reviewing all stores on the waiting list is when a store slot opens as a result of a change of ownership of a store and the store, under new ownership, applies for certification under section § 1105.4(c) (relating to change of ownership of a WIC authorized store). The Department will review the store under its new ownership to determine if the store should receive certification.]

§ 1103.7. Inadequate participant access.

(a) The Department will consider whether there is inadequate participant access when considering whether to place a store on probation, rather than deny [**recertification**] authorization or reauthorization, for failure to meet selection [**and limitation**] criteria in § 1103.4 [(a) and (b)] (relating to selection [**and limitation**] criteria [;] for authorization [**process**] and reauthorization) during [**recertification reviews**] the onsite review.

(b) The Department may [**also**] consider whether there is inadequate participant access when deciding [**whether to place on probation a store undergoing a change of ownership under § 1105.4(b) and (c) (relating to change of ownership of a WIC authorized store) whether to impose a civil money penalty in lieu of disqualification under § 1107.1 (relating to imposition of sanctions).**]

(c) Inadequate participant access is any of the following:

(1) Ten or more participants whose specific nationality, ethnicity or religious dietary needs can not be served properly by another WIC authorized store located in accordance with one of the following:

(i) Less than 3 miles of the store for counties with [**WIC**] participant density less than 25 participants per square mile.

(ii) Less than 2 miles of the store for counties with [**WIC**] participant density of 25 to 100 participants per square mile.

(iii) Less than 1 mile of the store for counties with [**WIC**] participant density greater than 100 participants per square mile.

(2) Ten or more participants will be required to travel in accordance with one of the following:

(i) Three or more miles to the next closest WIC authorized store for counties with [**WIC**] participant density less than 25 participants per square mile.

(ii) Two or more miles to the next closest WIC authorized store for counties with [**WIC**] participant density of 25 to 100 participants per square mile.

(iii) One or more miles to the next closest WIC authorized store for counties with [**WIC**] participant density greater than 100 participants per square mile.

(3) A participant has a physical disability that cannot be accommodated by another WIC authorized store in accordance with one of the following:

(i) Within 3 miles of the store for counties with [**WIC**] participant density less than 25 participants per square mile.

(ii) Within 2 miles of the store for counties with [**WIC**] participant density of 25 to 100 participants per square mile.

(iii) Within 1 mile of the store for counties with [**WIC**] participant density greater than 100 participants per square mile.

* * * * *

[(5) One hundred or more participants but less than 200 participants use WIC checks to purchase allowable foods at the store and the distance to the next closest WIC authorized store exceeds 2 miles.

(6) Two hundred or more participants but less than 300 participants use WIC checks to purchase allowable foods at the store and the distance to the next closest WIC authorized store exceeds 1 mile.

(7) Three hundred or more participants use WIC checks to purchase allowable foods at the store and the distance to the next closest WIC authorized store exceeds 3/10 of a mile.

(8) A WIC authorized store changes ownership without the Department receiving prior notice sufficient to arrange other accommodations for participants.]

CHAPTER 1105. REQUIREMENTS OF WIC AUTHORIZED STORES

§ 1105.1. Training.

(a) *Initial training.* Following [**certification**] authorization, the local agency shall provide initial training for the personnel [**a certified**] the WIC authorized store designates. The training shall be mandatory and shall occur within 30 days after the date of [**certification**] authorization. A store receiving [**certification**] authorization may not accept WIC checks prior to having its designated personnel attend the initial mandatory training.

(b) *Annual training.* The Department will provide for WIC authorized stores annual training which is designed to prevent WIC Program errors and abuses and to improve WIC Program services. The following apply to annual training:

* * * * *

(5) Failure to have at least one representative attend training shall result in the Department imposing sanc-

tions against the WIC authorized store [as in] under § 1107.1a(d)(16) (relating to disqualifications).

(c) *Corrective training.* The Department will provide corrective training as set forth in §§ 1103.2 and 1105.6 (relating to probationary [certification] authorization; and monitoring of WIC authorized stores). Attendance is mandatory.

§ 1105.2. [Overcharge recovery system] Price adjustment.

(a) [Quarterly price reports. A WIC authorized store shall provide to the Department, in a format prescribed by the Department, the highest prices the store charged for allowable foods during the previous quarter for which the Department collects prices. The report shall be known as the Quarterly Price Report. A store may submit its Quarterly Price Report by mail or fax. If submitted by mail, the Quarterly Price Report shall be postmarked no later than the 15th of the month following the end of the calendar quarter. If submitted by fax, the Quarterly Price Report must be received by the Department by the 15th of the month following the end of the calendar quarter.

(b) *Department review.* The Department will review WIC check amounts redeemed by a WIC authorized store against the prices reported on the store's Quarterly Price Report to determine and collect overcharges owed to the Department.

(c) *Determination of maximum redemption amount of each WIC check.* For each WIC check redeemed for which the store was reimbursed for the sale of foods for which the Department collects prices, the Department will determine the maximum amount for which the WIC authorized store could have redeemed the check based upon prices provided in the Quarterly Price Reports supplied by the store.

(d) [Determination of [overcharges] overpayment. [The] In each calendar quarter, the Department will compare the maximum amount for which a WIC authorized store could have redeemed a WIC check based upon [the prices in the store's Quarterly Price Report,] the maximum allowable prices for foods authorized for purchase on the check against the actual amount for which [each] the WIC check [accepted by the store during a reporting quarter] was redeemed, to determine [any overcharge owed to the Department] whether there was an overpayment.

[(e)] (b) *Pursuit of reimbursement.* The Department will seek reimbursements from a WIC authorized store [for the store's overcharges totaling \$10 or more for] when the price comparison reveals overpayments to the store in excess of \$10 in a calendar quarter.

[(f)] (c) *Reimbursement of [overcharges] overpayments.* A WIC authorized store shall [submit reimbursement of overcharges to] reimburse the Department for overpayments within 20-calendar days of the date on the Department's [billing] notice [for the overcharge] of the overpayment, unless the WIC authorized store disputes the [overcharge] determination of overpayment.

[(g) Overcharge disputes] (d) *Dispute of overpayments.* A WIC authorized store that disputes [an overcharge billing] a determination of overpayment shall submit the basis for its dispute in writing to the Department, postmarked within 15-calendar days of the date on the Department's [billing] notice. [Upon resolution of an overcharge dispute, any overcharge] Reimbursement the Department determines to be owing shall be due within 15-calendar days of the mailing date [on] of the Department's notification of its resolution of the dispute. **The Department's resolution of a dispute regarding overpayments is not an adverse action that may be appealed.**

[(h)] (e) *Sanctions.* The Department will impose a sanction against a WIC authorized store under § 1107.1a(d)[(14)](12) (relating to disqualifications) if the store fails to [pay overcharges due] reimburse the Department for an overpayment within the time required under subsections [(f)] (c) and [(g)] (d).

[(i) Disqualification. The Department may disqualify a WIC authorized store if the store's reported prices on the Quarterly Price Report exceed the current maximum allowable cost as published by the Department for Food Prescription One or Food Prescription Two, set forth in § 1103.4(a)(6)(i) and (ii) (relating to selection and limitation criteria; authorization process).]

§ 1105.3. Terms and conditions of participation.

(a) *General terms and conditions.* A WIC authorized store shall adhere to this subsection. Failure to do so shall result in the imposition of sanctions [as in] under § 1107.1 (relating to imposition of sanctions). A WIC authorized store shall:

* * * * *

(3) [Monitor, supervise and be] Be accountable for the actions of owners, officers, managers, agents and [employees] employees in the handling of WIC checks, the selling of allowable foods, and the performance of other conduct related to the WIC Program.

(4) [Maintain the minimum inventory of allowable foods on the premises] Comply with the selection criteria in § 1103.4 (relating to selection criteria for authorization and reauthorization) throughout the authorization period.

[(5) Ensure that allowable foods are properly stored and refrigerated.

(6) Ensure that there are no stale dated allowable foods on the sales floor.

(7) Provide the Department, on the Quarterly Price Report Form provided by the Department, the highest prices of allowable foods specified on the report form.

(8) Maintain a clean and sanitary store.]

[(9)] (5) * * *

[(10)] (6) * * *

[(11)] (7) * * *

[(12)] (8) * * *

[(13)] (9) * * *

[(14)] (10) * * *

[(15)] (11) Provide Federal, State, Department and local agency representatives who are involved in monitoring the store's compliance with statutes and regulations governing the WIC Program, access, **which includes providing copies if requested by the Department, to [price and inventory] purchase records [during an onsite review] used for Federal tax reporting purposes and other records as requested to determine compliance with WIC Program requirements**

[(16)] (12) Agree that **authorization does not constitute a license or a property interest, that the store must reapply for authorization in accordance with § 1103.1(c) (relating to authorization and reauthorization process and requirements), and that neither the Department nor the WIC authorized store has an obligation to renew the store's authorization to participate in the WIC Program.**

[(17)] (13) * * *

[(18)] (14) * * *

[(19)] (15) Not transfer or assign its WIC [**certification or recertification**] **authorization or reauthorization** to another person or entity.

[(20)] **Reimburse the Department for funds received through transactions involving WIC checks which were not conducted in accordance with this part.**

(21) (16) Maintain [**price and inventory**] **purchase records and records used for Federal tax reporting purposes** for allowable foods for a minimum [**period**] of [**6 months from the date of receipt of the inventory**] **2 years.**

(b) *Terms and conditions of participation with regard to participants.* A WIC authorized store shall serve participants **and authorized representatives** as set forth in this subsection. The Department will impose sanctions against a WIC authorized store that fails to do so, as set forth in § 1107.1. A WIC authorized store shall:

(1) Provide allowable foods to [**participants**] **a participant or authorized representative** only as authorized on the WIC food list and as specified on the WIC check.

(2) Not encourage or discourage a participant **or authorized representative** from purchasing **an allowable [foods] food** specified on the WIC check.

(3) Provide **an allowable [foods] food** to [**participants**] **a participant or authorized representative** at or below the current price the store charges other customers, **and at or below the maximum allowable price.**

(4) Not seek restitution or payment from [**participants**] **a participant or authorized representative** for a WIC [**checks**] **check** not reimbursed by the Department, or contact [**participants**] **a participant or authorized representative** concerning a WIC [**transactions**] **transaction** that [**occur**] **occurs** in the store.

(5) Not seek restitution or payment from [**participants**] **a participant or authorized representative**

for an allowable [foods when the price the store charges for the allowable foods exceeds the "Not to Exceed" amount on the WIC check] food authorized for purchase on the WIC check tendered by the participant or authorized representative.

(6) Not request the personal [**addresses**] **address**, telephone [**numbers**] **number** or other personal identification of [**participants**] **a participant or authorized representative.**

(7) Offer [**participants**] **each participant or authorized representative** the same courtesies offered other customers, and not distinguish or identify [**participants**] **a participant or authorized representative** from other customers, **if no other terms and conditions of participation are violated in doing so.**

(8) Provide services to [**participants**] **each participant or authorized representative** without regard to race, color, age, sex, religion, national origin or disability.

(9) [**Give trading stamps to participants**] **Provide the same promotional incentive for [purchases] a purchase made with a WIC [checks] check [if trading stamps are] as given for a cash [purchases] purchase.**

(10) Accept cents-off coupons, a store discount card or other discounts from [**participants**] **a participant or authorized representative for an allowable [foods] food**, and deduct the savings in calculating the total purchase price entered into the "Pay Exactly" amount on WIC checks.

(11) Accept "buy one get one free" coupons and manufacturers' promotional free product offers from [**participants**] **a participant or authorized representative.**

(12) **Provide a promotional incentive for use of a WIC check only if the same incentive is offered for a cash purchase.**

(c) *Terms and conditions of participation with regard to WIC check processing and redemption.* A WIC authorized store shall adhere to the requirements of this subsection with regard to WIC check processing and redemption. The Department will impose sanctions against a WIC authorized store that fails to do so, as set forth in § 1107.1. A WIC authorized store shall:

(1) Treat the acceptance of a WIC check as a financial transaction between [**only the Department and**] the WIC authorized store **and the Department**, not the participant.

* * * * *

(3) Accept a WIC check only if the participant [**, endorser or proxy**] **or authorized representative** presents the WIC check on or between the "First Day to Use" and the "Last Day to Use" designations on the WIC check.

(4) Accept a WIC check only if a valid WIC identification card is presented at the time of [**redemption**] **the WIC transaction.**

(5) Accept a WIC check only if the signature of the participant [**, endorser or proxy**] **or authorized representative** is obtained [**,**] **on the WIC check** at the time of [**purchase,**] **the WIC transaction [on the WIC check,**] and the [**signature on the WIC check**

matches the signature on the WIC identification card] family identification number on the WIC check matches the family identification number on the identification card.

* * * * *

(7) Charge the WIC Program only for the types and quantities of allowable foods specified on the WIC check and selected for purchase by the participant[, endorser or the participant's proxy] or authorized representative.

(8) Record in ink, on each WIC check immediately after completion of the WIC transaction and prior to the participant[, endorser or proxy] or authorized representative signing the WIC check, the actual purchase amount of the transaction net of any cents-off coupons or other discounts.

(9) Properly correct an error made in recording the "Pay Exactly" amount of a WIC check by drawing a single line through the incorrect amount and writing the correct amount above or below the error and having the participant[, endorser or proxy] or authorized representative initial next to the corrected amount. No other corrections are permissible.

(10) Not alter any information on the WIC check as presented by the participant[, endorser or proxy] or authorized representative.

(11) Not provide a substitute [items, rainchecks] item, raincheck or cash reimbursement for an allowable [foods] food that [are] is unavailable.

* * * * *

(13) Not provide change for [the difference between the "Not to Exceed" and the "Pay Exactly" amounts on the WIC check nor for any coupons] a coupon tendered during the WIC transaction.

(14) Not [refund money or] provide [exchanges] an exchange to replace an allowable [foods] food returned by [participants, endorsers or proxies] a participant or authorized representative unless the exchange is to replace an identical product that was found to be damaged or otherwise unusable.

(15) Not refund money for an allowable food purchased in a WIC transaction that is returned by a participant or authorized representative.

(16) Not accept a WIC check as payment for [items] an item other than an allowable [foods] food specified on the WIC check.

[(16)] (17) Not charge the WIC Program for an allowable [foods] food not received by the [WIC] participant or authorized representative or for an allowable [foods provided] food in excess of [those listed] the quantity prescribed on the WIC check.

[(17)] (18) * * *

[(18)] (19) Deposit a WIC [checks] check accepted by it directly to its bank account no later than 45 days after the "First Day to Use" date on the WIC check.

[(19)] (20) Not receive, transact, redeem or otherwise dispose of a WIC check [outside] in violation of check redemption procedures set forth in this section.

[(20)] (21) Not use a WIC check for the purchase of any [commodity] item other than an allowable food or for the payment of any debt.

[(21)] (22) Not collect sales tax [on allowable food purchases] in connection with a WIC transaction.

[(22) Reimburse the Department for payments the store has received for improperly executed WIC checks.]

(d) [The Department will deny payment to a WIC authorized store for WIC checks which the store did not process under subsection (c).] When the Department determines, prior to payment of a check submitted for redemption, that the store has committed a violation of this section that affects the payment to the store, the Department will deny payment. If payment already has been made, Department will establish a claim for reimbursement by sending the store a written notice of the overcharge or other improper charge. The store may dispute the Department's claim and shall submit the basis for its dispute in writing within 15 calendar days of the date of the Department's written notice. The Department will notify the store of the resolution of the claim dispute. The Department's resolution of a claim dispute is not an adverse action that may be appealed.

§ 1105.4. Change of ownership of a WIC authorized store.

(a) [A certification or recertification] A store's status as a WIC authorized store is void when a change of ownership of [a WIC authorized] the store occurs.

(b) To allow uninterrupted service to participants subsequent to a change of ownership of a WIC authorized store, the Department may accept an application for [certification] authorization from the prospective new owner of [a WIC authorized] the store prior to a change of ownership.

(c) [When a change of ownership occurs and inadequate participant access as defined in § 1103.7(c)(8) (relating to inadequate participant access) would result, the store under the new ownership may receive probationary certification for a period not to exceed 6 months if the State conducts an immediate onsite visit followed by a complete certification visit at the store. Until the immediate onsite visit is conducted, the new owner may not accept WIC checks. As soon as possible within the 6-month probationary period or during the next recertification process, whichever occurs first, the store under the new ownership shall compete with stores on the waiting list in the trade area for the store slot.

(d) The Department will not accept an application for certification from a store that has been provided notice of disqualification or is serving a disqualification if an individual who had at least a 10% ownership interest in the store has at least a 10% ownership interest in the applicant or such ownership interest has been transferred or sold to immediate family members of the individual.]

The Department will not accept a store's application for authorization if the Department determines

that the store submitting the application, either under prior ownership or in a previous location, was disqualified and the purpose of the relocation or sale of the store was to avoid a disqualification.

§ 1105.5. Changes in availability or location of WIC authorized stores.

(a) *Notification of store closing.* A WIC authorized store shall notify the Department at least 15 days prior to a temporary or permanent closing of the store, and [of] provide the reason for closing and the expected duration of a temporary closing, if it has at least 15 days prior knowledge. Otherwise, it shall provide this information to the Department immediately after it acquires the information.

(b) *Temporary store closing.* The Department may permit a WIC authorized store to temporarily close for reasons such as a natural disaster, death in immediate family or personal illness, without imposing a sanction against the store. In making a determination to permit a temporary closure, as well as the length of time of the closure, the Department will consider circumstances such as the nature of the disaster, number of WIC authorized stores affected by the disaster, nature and expected duration of illness, length of closing anticipated by the WIC authorized store, number of and distance to other WIC authorized stores, number of participants served by the store, [number of stores on the waiting list] or any other information that the Department may determine to be relevant.

(c) *Store closing for remodeling.*

(1) A WIC authorized store that closes for [more than 24 hours but] less than [3] 15 days for remodeling [will not lose its certification, provided] shall continue as a WIC authorized store if it notifies the Department at least 15-calendar days prior to the day the store closes for remodeling.

(2) A WIC authorized store that closes in excess of [3] 15 store operation days for remodeling, shall automatically lose its [WIC authorization] status as a WIC authorized store and shall [reapply] apply for and secure [certification] authorization before it may again serve as a WIC authorized store.

(d) *Store relocations.*

(1) A WIC authorized store that relocates 1 mile or less from its current location or within the same geographical area assigned to the local agency, and reopens within [3-] 15-calendar days at its new location, shall provide the Department with written notification of its new address. The store will [not lose its certification, provided] continue as a WIC authorized store if it notifies the Department at least 15-calendar days prior to the day the store closes for relocating.

(2) A WIC authorized store [relocating] that relocates in excess of 1 mile of its current location and to a geographical area assigned to another local agency shall [lose its WIC authorization and shall reapply for certification] automatically lose its status as a WIC authorized store and shall apply for authorization at its new location to again serve as a WIC authorized store.

(3) A WIC authorized store that closes in excess of 3 store operation days for relocating [, without applying

for and securing permission from] shall notify the Department [to do] before doing so, or shall automatically lose its status as a WIC [authorization] authorized store and shall [reapply] apply for [certification] authorization to again serve as a WIC authorized store.

* * * * *

§ 1105.6. Monitoring of WIC authorized stores.

(a) *Purpose and types of monitoring of WIC authorized stores.* Federal, State or local representatives will conduct announced and unannounced onsite reviews of WIC authorized stores to determine compliance with applicable Federal and State regulations, and to investigate complaints regarding a store. The types of onsite reviews that may be conducted for monitoring purposes are [high risk reviews] compliance investigations, inventory audits, routine reviews and [training buys] WIC transaction reviews. The monitoring process, to determine compliance with applicable Federal and State regulations, operates independently of the authorization process and may overlap more than one authorization period.

(b) [High risk reviews] *Compliance investigations.* [The Department will monitor all high risk stores. The Department will use either compliance investigations or inventory audits as methods to monitor high risk stores. The Department also may conduct compliance buys and inventory audits on stores that have not been identified as high risk stores.

(1) *Compliance investigations.* [The following standards apply:

[(i)] (1) * * *

[(ii)] (2) * * *

[(iii)] (3) The Department will provide written notification to the WIC authorized store of the results of each compliance buy, including the store's violation of a statute or regulation governing its participation in the WIC Program, unless [subparagraph (viii)] paragraph (8) applies.

[(iv)] (4) The Department will provide to the personnel of the WIC authorized store mandatory corrective training after two compliance buys detect violations of [statutes or regulations] a statute or regulation governing the store's participation in the WIC Program, unless paragraph (8) applies.

[(v)] (5) [The] If paragraph 8 does not apply, the Department will [conduct a third compliance buy at] continue a compliance investigation of the WIC authorized store after store personnel have attended mandatory corrective training.

[(vi)] (6) The Department will impose a sanction in accordance with § 1107.1 (relating to imposition of sanctions) [against the store] if three compliance buys detect violations of [statutes or regulations] a statute or regulation governing the store's participation in the WIC Program. If multiple violations are found during the compliance investigation, the Department will impose the sanction against the store for the term corresponding to the most serious violation.

[(vii)] (7) The Department will close the compliance investigation on a WIC authorized store if **the Department discovers no [violations] violation** of a statute or regulation governing the store's participation in the WIC Program **[are discovered]** after two consecutive compliance buys.

[(viii)] (8) The Department may withhold notification of compliance buy results, and may withhold providing training or conducting further compliance investigations, when fraudulent **[activities] activity** by the WIC authorized store **[are] is** indicated during a compliance investigation or by local agency or participant complaint.

[(2)] (c) *Inventory audits.* The Department will disqualify **[the] a** WIC authorized store when an inventory audit establishes **[the claim of reimbursement for authorized] that the store has redeemed or attempted to redeem WIC checks for the purported sale of an allowable** food in excess of documented inventory. No warning **[letters] letter** will be issued.

[(c)] (d) *Routine reviews.* The Department will use **routine** reviews as follows to determine whether a WIC authorized store is in compliance with the **[selection and limitation criteria in § 1103.4(a) and (b) (relating to selection and limitation criteria; authorization process) and]** terms and conditions of participation in § 1105.3 (relating to terms and conditions of participation):

* * * * *

(6) The Department will impose a sanction in accordance with § 1107.1 against a store if a third routine review detects violations of a statute or regulation governing the store's participation in the WIC Program. If multiple violations are found during the routine reviews, the Department will impose **[the sanction]** against the store **[for the term corresponding to the most serious violation] the most severe sanction the Department may impose for any one of the violations committed by the store.**

[(d) *Training buys*] (e) *WIC transaction reviews.* The Department will use **[training buys] WIC transaction reviews** to monitor WIC **[check]** transaction procedures and compliance with statutes and regulations governing the store's participation in the WIC Program. The following standards **[shall]** apply:

(1) The Department will not notify the WIC authorized store that a **[training buy] WIC transaction review** is scheduled.

(2) The Department will provide written notification to the WIC authorized store of the results of each **[training buy] WIC transaction review**, including violations of a statute or regulation governing the store's participation in the WIC Program.

(3) The Department will conduct a second **[training buy] WIC transaction review** at the WIC authorized store if the first **[training buy] WIC transaction review** detects **[violations] a violation** of a statute or regulation governing the store's participation in the WIC Program.

(4) The Department will provide the personnel of the WIC authorized store mandatory corrective training after

two **[training buys] WIC transaction reviews** detect violations of a statute or regulation governing the store's participation in the WIC Program.

(5) The Department will conduct a third **[training buy] WIC transaction review** at the WIC authorized store after store personnel have attended the mandatory corrective training.

(6) The Department will impose a sanction in accordance with § 1107.1 **[against a store]** if a third **[training buy] WIC transaction review** detects **[violations] a violation** of a statute or regulation governing the store's participation in the WIC Program. If multiple violations are found during the **[training buys] WIC transaction reviews**, the Department will impose **[the sanction]** against the store **[for the term corresponding with the most serious violation] the most severe sanction the Department may impose for any one of the violations committed by the store.**

[(e)] (f) * * *

[(f)] (g) *Reimbursement.* The Department will seek reimbursement from a WIC authorized store that received funds improperly due to a violation of regulations governing the store's participation in the WIC Program discovered during monitoring reviews. The Department will send notice to the store of the amount of money to be reimbursed to the WIC Program. The store shall make payment within 20 days from the date **[of] on** the notice.

CHAPTER 1107. SANCTIONS

§ 1107.1. Imposition of sanctions.

(a) The Department may disqualify a **WIC authorized** store or impose a civil money penalty in lieu of disqualification for reasons of **[program] WIC Program** abuse. In the case of fraud, trafficking, sale of alcohol or alcoholic beverages or tobacco products the Department will not provide the store with a prior warning that violations were occurring before imposing the sanctions. For other serious program violations or offenses, the Department may choose to not provide the store with prior warning that violations were occurring before imposing the sanctions. The store may appeal a Department decision pertaining to disqualification, denial of **[application to participate] authorization or reauthorization**, or other adverse **[actions] action** that **[affect participation during the agreement performance period] affects the store's status as a WIC authorized store** in accordance with § 1113.1 (relating to right to **administrative** appeal). Expiration of **[an agreement with a store] authorization**, disqualification of a store as a result of disqualification from the Food Stamp Program, and the Department's determination regarding inadequate participant access are not subject to review.

(b) The Department will disqualify a store which has been disqualified from the Food Stamp Program unless the Department determines that the disqualification of the store would result in inadequate participant access under § 1103.7 (relating to inadequate participant access). If the Department determines that disqualification of the store would result in inadequate participant access under § 1103.7, the Department will give the store the option of paying a civil money penalty in lieu of **[WIC]** disqualification.

(c) The Department will disqualify a store that has been assessed a civil money penalty in lieu of disqualification under the Food Stamp Program unless disqualification of the store from the WIC Program would result in inadequate participant access or would otherwise adversely affect the interest of participants. If the Department disqualifies a store under this subsection, the length of the disqualification will correspond to the period for which the store would otherwise have been disqualified from participating in the Food Stamp Program.

(d) The Department will disqualify a store for WIC Program violations in § 1107.1a (relating to disqualifications) unless the Department determines that disqualification of the store under § 1107.1a(b)—(d) would result in inadequate participant access. In that case, the Department will give the store the option of paying a civil money penalty in lieu of disqualification. The Department will not [impose] give the store the option of paying a civil money penalty in lieu of disqualification for third or subsequent [sanctions for] violations. A violation committed during a prior authorization period will support a disqualification.

[(d)] (e) Disqualification from the WIC Program may result in disqualification as a retailer in the Food Stamp Program under regulations governing the Food Stamp Program. [The disqualification may not be subject to administrative or judicial review under the Food Stamp Program.] Applicable Federal regulations may prohibit administrative or judicial review of a disqualification from the Food Stamp Program based upon a disqualification from the WIC Program.

[(e)] (f) In addition to imposing a sanction against a WIC authorized store that commits fraud or abuse of the WIC Program, the Department may prosecute or make a referral [for prosecution] of the WIC authorized store to a criminal prosecution agency for prosecution under applicable Federal, State or local laws.

[(f)] (g) A WIC authorized store that has a sanction imposed against it by the Department for accepting a WIC check for [items] an item other than those specified on the WIC check shall also reimburse the Department for [monies received for the purchase of these items with the] moneys it receives through the WIC check redemption process after accepting a WIC check for the purchase of the item.

[(g)] (h) The Department may impose a sanction against a WIC authorized store for failing to remit any amount demanded due to violations of statutes or regulations governing its participation in the WIC Program within the time frame [in § 1105.2(f) and (g) (relating to reimbursement of overcharges)] imposed by regulation or in the notice given to the store by the Department [under § 1105.6(f) (relating to monitoring of WIC authorized stores)] of the store's obligation to reimburse the Department.

§ 1107.1a. Disqualifications.

* * * * *

(c) *Three-year disqualification.* The Department will disqualify a WIC authorized store for 3 years for any of the following violations:

* * * * *

(2) A pattern of claiming reimbursement for the sale of an amount of a specific allowable food, which exceeds the store's documented inventory of that specific allowable food [item] for a specific period of time. A pattern may be established during a single inventory audit encompassing a 2-month period when a WIC authorized store's records indicate that the WIC authorized store's WIC check redemptions for a specific allowable food exceed the WIC authorized store's documented inventory for that allowable food.

(3) Two or more incidences of [charging participants more for an allowable food than non-WIC customers or charging participants more than the current shelf price] overcharges.

(4) Two or more incidences of receiving, transacting or redeeming [WIC checks outside of authorized channels, including the use of an unauthorized store or an unauthorized person, or both] a WIC check that the store is not authorized to receive, transact or redeem.

* * * * *

(d) *One-year disqualification.* The Department will disqualify a WIC authorized store for 1 year for any of the following violations:

(1) Two or more incidences of providing [unauthorized food items] a food item other than an allowable food in exchange for WIC checks[, including charging for allowable food provided in excess of those listed on the WIC check].

(2) Providing an allowable food in excess of the amount authorized for purchase on the WIC check.

(3) Having a stale-dated allowable food on the sales floor.

[(3)] (4) Failing to maintain on the premises at all times minimum inventory requirements of an allowable food at or below the current maximum allowable price for that food.

[(4)] (5) Failing to request [the participant's] a WIC identification card prior to accepting a WIC check.

[(5)] (6) * * *

[(6)] (7) * * *

[(7)] (8) Failing to properly store [and] or refrigerate an allowable [foods] food.

[(8)] (9) * * *

[(9)] (10) Charging or demanding that a participant or authorized representative pay for an allowable food with [the participant's own] money or with another WIC check for purchases made with a WIC check.

[(10)] (11) Securing the signature of the participant[, endorser or proxy] or authorized representative prior to completing the "Pay Exactly" box on the WIC check.

[(11)] (12) [Overcharging] Charging the WIC Program [by charging] sales tax.

[(12)] Having or charging prices which exceed the current maximum allowable costs established by the Department and published in the *Pennsylvania*

Bulletin for either Food Prescription One or Food Prescription Two set forth in § 1103.4(a)(6)(i) and (ii) (relating to selection and limitation criteria; authorization process).]

(13) Giving monetary change to **[an authorized individual]** the person who tenders a WIC check.

(14) Failing to **[remit payment for an overcharge]** reimburse the Department for overpayments, overcharges or other improper charges within the specified time frame **[under either §§ 1105.2(f) and (g) or 1105.6(f) (relating to overcharge recovery system; monitoring of WIC authorized stores)]**.

* * * * *

(17) Providing false information on the application for authorization or reauthorization.

(e) *Second mandatory sanction.* **[When]** If a WIC authorized store, which previously has been assessed a sanction for any of the violations in subsections (b)—(d), receives another sanction for any of these violations, the Department will double the second sanction. The Department will double civil money penalties up to the limits allowed under § 1107.2(c) (relating to civil money penalties).

(f) *Third or subsequent mandatory sanction.* **[When]** If a WIC authorized store, which previously has been assessed two or more sanctions for any of the violations listed in subsections (b)—(d), receives another sanction for any of these violations, the Department will double the third sanction and all subsequent sanctions. The Department will not **[impose]** permit the store to pay a civil money **[penalties]** penalty in lieu of disqualification for third or subsequent **[sanctions for]** violations listed in subsections (b)—(d).

(g) *Multiple violations during a single investigation.* When during the course of a single investigation the Department determines a WIC authorized store has committed multiple violations, the Department will disqualify the WIC authorized store for the period corresponding to the most serious violation. However, the Department will include all violations in the notice of disqualification **[action]**.

(h) *Disqualification based on a Food Stamp Program disqualification.* The Department will disqualify a WIC authorized store which has been disqualified from the Food Stamp Program. The disqualification shall be for the same length of time as the Food Stamp Program disqualification, but may begin at a later date than the Food Stamp Program disqualification. Under 7 CFR 246.12(k)(1)(vii) and § 1113.1(b)(3) (relating to right to administrative appeal), the WIC **[program]** Program disqualification is not subject to administrative or judicial review **[under the WIC Program]**.

(i) *Voluntary withdrawal or nonrenewal of agreement.* The Department will not accept voluntary withdrawal of the WIC authorized store from the WIC Program as an alternative to disqualification for the violations listed in subsections (a)—(d), but will enter the disqualification on the record. The Department will not permit the store to use **[nonrenewal of a store agreement]** expiration of authorization as an alternative to disqualification.

(j) *Other violations.* For **[any]** a violation of a statute or regulation governing the store's participation in the

WIC Program which is not specifically classified in subsections (a)—(d), the Department will determine the appropriate type and level of sanction to be imposed upon the store based upon the nature and severity of the violation. A disqualification imposed under this subsection will not exceed 1 year.

(k) *Advance notice.* The Department will provide a WIC authorized store at least 30 days advance notice of the effective date of **[any disqualifications and, if appropriate, an opportunity to appeal the disqualification under § 1113.1]** a disqualification. The notice will include the store's appeal rights, if applicable.

(l) **[Certification]** *Authorization following expiration of disqualification period.* A store that has been disqualified from the WIC Program may apply for **[certification]** authorization following expiration of the disqualification period. If the store chooses to apply for **[certification]** authorization after expiration of the disqualification, the Department will not consider the prior disqualification **[from the WIC Program]** when determining eligibility. The **[store will be considered]** Department will consider the store's application in accordance with § 1103.4 (relating to selection **[and limitation]** criteria **[;]** for authorization **[process]** and reauthorization) **[or placed on a waiting list in accordance with § 1103.6 (relating to waiting list)]**.

§ 1107.2. Civil money penalties.

(a) *Option available in lieu of a disqualification or denial of reauthorization.* The Department may offer to a WIC authorized store the option of paying a civil money penalty in lieu of a denial of **[recertification]** reauthorization or a disqualification required under § 1107.1 (relating to imposition of sanctions), only if the Department finds inadequate participant access as set forth in § 1103.7 (relating to inadequate participant access). The Department will not provide this option for third or subsequent violations **[in]** under § 1107.1a(b)—(d) (relating to disqualifications).

(b) *Calculation of civil money penalty.*

(1) For a civil money **[penalties]** penalty in lieu of **[disqualifications]** a disqualification under § 1107.1a(b), (c) **[and]** or (d)(1) and (2), the Department will calculate the civil money penalty for each violation identified by multiplying 10% of the average monthly total value of WIC checks redeemed for the most recent 6-month period by the number of months the store would be disqualified under § 1107.1. If 6 months of information relating to the monthly value of WIC checks redeemed is not available, the Department will calculate the monthly average based upon the number of months for which information is available.

(2) For **[disqualifications identified in § 1107.1a(d)(2)—(16)]** a civil money penalty in lieu of disqualification under § 1107.1a(d)(3)—(16), the Department will calculate the civil money penalty for each violation identified by multiplying 5% of the average monthly total value of WIC checks redeemed for the most recent 6-month period by the number of months the store would be disqualified under § 1107.1. For **[stores which are denied recertification]** a store to which the Department may deny reauthorization and for which this option is available, the Department will multiply 5% of the average monthly total value of WIC

checks for the most recent 6-month period by 6 months to determine the civil money penalty to be paid. If 6 months of information relating to the monthly value of WIC checks redeemed is not available, the Department will calculate the monthly average based upon the number of months for which information is available.

(c) *Limitation of [Penalties] penalties.* The amount of the civil money penalty will not exceed \$10,000 for each violation. [When] If, during the course of a single investigation, the Department determines a store has committed multiple violations, the Department will impose a civil money penalty for each violation. The total [amount of] civil money [penalties imposed] penalty for all violations investigated as part of a single investigation will not exceed \$40,000.

* * * * *

(e) *Payment of the civil money penalty.* If a WIC authorized store does not pay, only partially pays, or fails to timely pay a civil money penalty assessed in lieu of disqualification, the Department will disqualify the WIC authorized store for the length of the disqualification [corresponding to] authorized for the violation for which the civil money penalty was assessed. If a civil money penalty is assessed for more than one violation, the Department will impose the disqualification for the period [corresponding to] authorized for the most serious violation. The Department may permit payment of a civil money [penalties] penalty by installments.

(f) *Outstanding financial liabilities.* Payment of the civil money penalty, unless specifically provided for in a written agreement between the Department and the store, does not relieve the store of any other past or future financial liability incurred by the store by reason of its participation in the WIC Program. This includes, by way of example, [payment] reimbursement to the Department of [outstanding overcharges for the acceptance of WIC checks for the sale of unauthorized foods] overpayments.

CHAPTER 1109. ADMINISTRATIVE APPEALS

§ 1109.2. Scope and purpose.

Chapters 1111 and 1113 (relating to applicant and participant appeals; and [local agency and] store appeals) apply to hearings held under 42 U.S.C.A. § 1786(f)(9), relating to the WIC Program. Those chapters supplement the Federal regulations, 7 CFR Part 246 (relating to special supplemental nutrition program for women, infants, and children) governing hearings afforded under this part to applicants, participants, and stores [denied certification or recertification and local agencies], and supplement or supersede regulations in 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) when their application would be inappropriate or inadequate.

CHAPTER 1113. [LOCAL AGENCY AND] STORE APPEALS

§ 1113.1. Right to administrative appeal.

(a) A store [or local agency adversely affected by a Division of WIC action] has the right to appeal an adverse action of the Division of WIC that affects the store's participation in the WIC Program as a WIC authorized store. [The right of appeal shall be granted when a local agency's or store's application

to participate in the WIC Program is denied; or during the course of an agreement or period of authorization, when a local agency or store is disqualified; or when any other adverse action during the period of authorization which affects participation is taken against the store or local agency by the Division of WIC] Adverse actions include:

(1) Termination of authorization or reauthorization in accordance with § 1103.1(d) (relating to authorization and reauthorization process and requirements).

(2) Denial of an application for authorization or reauthorization.

(3) Refusal to accept an application for authorization or reauthorization.

(b) [The following actions are not subject to appeal] A store may not appeal the following:

(1) The expiration of [a WIC] authorization or reauthorization.

(2) [The Division of WIC's determination regarding participant access] The validity or appropriateness of selection criteria.

(3) [Disqualification from the WIC Program of a store as a result of disqualification from the Food Stamp Program] The validity or appropriateness of the Department's participant access criteria and the Division of WIC's participant access determination.

(4) Disqualification from the WIC Program as a result of disqualification from the Food Stamp Program.

(5) The resolution of an overpayment dispute under § 1105.2(d) (relating to price adjustment) or the resolution of an overcharge dispute under § 1105.3(d) (relating to terms and conditions of participation).

(c) [The appeal process is designed to secure and protect the interest of both the store or local agency and the Division of WIC and to ensure equitable treatment for all involved.] A denial of authorization under § 1103.1(b)(6) and a disqualification imposed under § 1107.1a(a) (relating to disqualifications) shall be effective on the date of the store's receipt of notice of the adverse action. All other adverse actions shall be effective on the date set forth in the written notice.

[(d) Except for permanent disqualifications assessed under § 1107.1a(a) (relating to disqualifications), the Department may take adverse action against a store after 30 days advance notification.

(e) In the case of a disqualification of a local agency, the Department will provide at least 60 days advance notice.]

§ 1113.2. [Appeal] Administrative appeal procedures.

(a) *Notification.* [At the time the Division of WIC denies an application of a store, or disqualifies a WIC authorized store or takes an adverse action against a local agency or store during a period in which the local agency or store is authorized, the

Division of WIC will notify the local agency or store of its right to an administrative appeal] The Division of WIC will provide to the store written notice of the adverse action, the procedures to follow to appeal the adverse action and the cause for and the effective date of the action.

(b) *Form of administrative appeal.* The appeal shall be made by the [local agency or] store or its authorized representative, in writing, stating the reasons for the appeal.

(c) *Time for and effect of filing an administrative appeal.* The appeal shall be filed with the Director of the Division of WIC within 30 days after [any final decision by the Division of WIC] the effective date of the adverse action. The filing of an appeal shall serve to stay the Department's adverse action pending issuance of an adjudication and order by the hearing examiner under § 1113.3 (relating to adjudication and order). The stay shall be lifted upon receipt of the hearing examiner's adjudication and order affirming the adverse action, or upon receipt of the store's written notice of withdrawal of the appeal.

(d) *Scheduling the hearing.*

* * * * *

(3) The hearing examiner shall send notice to the [local agency or] store, or its authorized representative, at least 10 days in advance of the date of the hearing.

(4) The hearing examiner shall schedule the hearing to be held within 21 days after the date of receipt by the Division of WIC of the [local agency or] store appeal.

(5) The [Department] Division of WIC or the [appellant] store may request in writing that the hearing be rescheduled for another time or date and the hearing examiner shall consider the request.

(e) *Hearing examiner.* The Secretary will appoint a hearing examiner to preside over the appeal. The person shall be an impartial decision-maker, whose [decision as to the validity of the Department's action shall rest solely on the evidence presented at the hearing and the statutory and regulatory provisions governing the WIC program, and who may not have participated in the decision made by the Division of WIC or have any personal stake in the outcome] determination is based solely on whether the Division of WIC has correctly applied Federal and State statutes, regulations, policies and procedures governing the WIC Program, according to the evidence presented at the hearing.

(f) *Hearing procedures.*

(1) The [local agency or] store may be assisted or represented by an attorney or other authorized representative.

(2) The [local agency or] store, or its authorized representative, may examine, prior to and during the hearing, the documents and records considered by the Division of WIC in reaching its decision under appeal.

* * * * *

§ 1113.3. Adjudication and order.

* * * * *

(b) The hearing examiner shall provide the Director of the Division of WIC and the [local agency or] store, or its authorized representative, with the adjudication and order within 60 days after the date of the receipt by the Division of WIC of the appeal, adjusted for any continuance of the hearing that causes it to be held more than 21 days after the date the appeal was filed.

(c) **If the hearing examiner upholds the Department's adverse action, the adverse action shall be effective as of the date of the store's receipt of written notice of the hearing examiner's adjudication and order.**

(d) The hearing examiner shall maintain a written record of the hearing. The record shall include a docket number and caption for the appeal, any documentary evidence submitted, the transcript of the testimony presented at the hearing, the adjudication and order of the hearing examiner, and a copy of the document transmitting the adjudication and order to the [local agency or] store, or its authorized representative.

[(d)] (e) * * *

§ 1113.4. Continuing responsibilities.

Appealing an action does not relieve the [local agency or] store from the responsibility of continued compliance with [the terms of any written agreement or contract with the Department or certification or recertification by the Department] regulations under this part applicable to a WIC authorized store.

§ 1113.5. Judicial review.

If the adjudication and order of the hearing examiner [is rendered against the local agency or store] upholds the Department's adverse action, the hearing examiner will inform the [local agency or] store within the adjudication and order, or by notice accompanying the adjudication and order, of the right to pursue judicial review of the adjudication and order.

[Pa.B. Doc. No. 02-1634. Filed for public inspection September 20, 2002, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending September 3, 2002.

BANKING INSTITUTIONS

Mutual Holding Company Reorganization

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-28-02	Keystone Savings Bank Bethlehem Northampton County	Bethlehem	Filed
	Application represents reorganization into a mutual holding company to be known as "Keystone Mutual Holding Company."		

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-26-02	Abington Savings Bank Jenkintown Montgomery County	Regency Towers 1001 Easton Road Willow Grove Montgomery County (Limited Service Facility)	Filed
8-26-02	Abington Savings Bank Jenkintown Montgomery County	12106-B Centennial Station Warminster Montgomery County (Limited Service Facility)	Filed
8-26-02	First Financial Bank Downingtown Chester County	300 Simpson Drive Chester Springs Chester County	Filed
8-28-02	Community Banks Millersburg Dauphin County	55 Wetzel Drive Hanover Conewago Township Adams County	Approved

Branch Relocations/Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-28-02	Pennview Savings Bank Souderton Montgomery County	<i>To:</i> Route 309 and Stump Road Montgomeryville Montgomery County <i>From:</i> 706 N. Wales Road Montgomeryville Montgomery County	Approved
8-28-02	Northwest Savings Bank Warren Warren County	<i>Into:</i> 3805 Peach Street Erie Erie County <i>From:</i> 121 West 26th Street Erie Erie County	Filed
8-28-02	Keystone Savings Bank Bethlehem Northampton County	<i>To:</i> Giant Store 301 Town Center Blvd. Forks Township Northampton County	Effective

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
		<i>From:</i> 1800 Sullivan Trail Forks Township Northampton County	
8-30-02	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	<i>To:</i> 2001 Market Street Philadelphia Philadelphia County	Filed
		<i>From:</i> 2200-2202 Market St. Philadelphia Philadelphia County	

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

PAUL H. WENTZEL, Jr.,
Acting Secretary

[Pa.B. Doc. No. 02-1635. Filed for public inspection September 20, 2002, 9:00 a.m.]

Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending September 10, 2002.

BANKING INSTITUTIONS**Bank Holding Acquisitions**

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
9-7-02	S&T Bancorp, Inc., Indiana, to acquire 100% of the voting shares of Peoples Financial Corporation, Inc., Ford City	Indiana	Effective

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-6-02	S&T Bank, Indiana, and PFC Bank, Ford City Surviving Institution— S&T Bank, Indiana	Indiana	Approved Effective 9-7-02

As a result of the merger, all branches of PFC Bank will become branches of S&T Bank, including the former main office located at:

323 Ford Street
Ford City
Armstrong County

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-12-02	Commonwealth Bank Norristown Montgomery County	Giant Supermarket 2910 Springfield Road Broomall Delaware County	Opened
8-22-02	Iron Workers Savings Bank Aston Delaware County	Old Ridge Village Wilmington Pike and Ridge Road Chadds Ford Delaware County	Opened

NOTICES

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-5-02	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	2775 West Main St. Norristown Montgomery County	Approved
9-6-02	Community Banks Millersburg Dauphin County	16 N. George St. York York County	Approved
9-9-02	First American Bank of Pennsylvania Everett Bedford County	24 N. Cedar Street Lititz Lancaster County	Filed
9-10-02	HomeTowne Heritage Bank Intercourse Lancaster County	1298 Georgetown Road Quarryville Bart Township Lancaster County	Filed

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-10-02	S&T Bank Indiana Indiana County	Route 119 Black Lick Burrell Township Indiana County	Filed
9-10-02	S&T Bank Indiana Indiana County	Chestnut Ridge Plaza Route 22 East Blairsville Indiana County	Filed

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

PAUL H. WENTZEL, Jr.,
Acting Secretary

[Pa.B. Doc. No. 02-1636. Filed for public inspection September 20, 2002, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS

NPDES APPLICATIONS

PART I PERMITS

Under the Federal Clean Water Act and The Clean Streams Law, the following parties have applied for an NPDES permit or to renew their current permit to discharge controlled wastewaters into the waters of this Commonwealth or to conduct other activities required by the NPDES permit. For renewal applications listed 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 all new permit applications, renewal application with major changes or applications for permits not waived by the EPA, the Department, based upon preliminary reviews, also made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications listed in Section II. These determinations are published as proposed actions for comments prior to taking final actions.

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

Persons wishing to comment on the proposed permit are invited to submit a statement, to the office noted before the application, within 30 days from the date of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding this application. The 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. A public hearing may be held if the responsible office considers the public response significant. Following the comment period, the Department's Water Management Program Manager will make a final determination regarding these applications. 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 renewal application, including proposed effluent limitations and special conditions, is available on file. For new permit applications, information submitted with the applications is available on file. The information may be inspected and arrangements made for copying at the office indicated before the application.

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0062243 Minor Renewal	Borough of Nesquehoning 114 West Catawissa Street Nesquehoning, PA 18240-1511	Carbon County Borough of Nesquehoning	Nesquehoning Creek 2B	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0113824 Sewerage Nonpublic	GSP Management Company P. O. Box 677 Morgantown, PA 19543-0677	Lycoming County Upper Fairfield Township	Kaiser Hollow 10B	Y
PA0020699 Sewerage	Montgomery Water and Sewer Authority 35 South Main Street Montgomery, PA 17752-0125	Lycoming County Montgomery Borough	West Branch Susquehanna River 10C	Y

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

PA0030104, Sewage, **Polk Center**, P. O. Box 94, Polk, PA 16342. This proposed facility is located in Polk Borough, **Venango County**.

Description of Proposed Activity: renewal of an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is the Emlenton Water Company intake on the Allegheny River located at Emlenton, approximately 12 miles below point of discharge.

The receiving stream, Little Sandy Creek, is in watershed 16-G and classified for CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.45 MGD.

Interim Limit

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	15		30
(11-1 to 4-30)	25		50
Total Suspended Solids	30		60
NH ₃ -N (5-1 to 10-31)	2		4
(11-1 to 4-30)	6		12
Fecal Coliform (5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		2,500/100 ml as a geometric average	
Dissolved Oxygen		minimum of 6 mg/l at all times	
Total Residual Chlorine	0.1		0.4

NOTICES

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Copper (Total)			
(Interim)	0.046		0.092
(Final)	0.012		0.024
pH	6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 001 based on a design flow of 0.45 MGD.

Final Limit

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅			
(5-1 to 10-31)	15		30
(11-1 to 4-30)	25		50
Total Suspended Solids	30		60
NH ₃ -N			
(5-1 to 10-31)	2		4
(11-1 to 4-30)	6		12
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric average		
(10-1 to 4-30)	2,500/100 ml as a geometric average		
Dissolved Oxygen	minimum of 6 mg/l at all times		
Total Residual Chlorine	0.1		0.4
Copper (Total)			
(Interim)	0.046		0.092
(Final)	0.012		0.024
Ultraviolet Light Intensity	Monitor and Report the average intensity from the UV intensity meter in microwatts/square centimeter for each bank of modules on the monthly DMRs.		
pH	6.0 to 9.0 standard units at all times		

The EPA Waiver is in effect.

PA0102644, Sewage, **Williams Mobile Home Park**, 320 Dinnerbell Road, Butler, PA 16002-8899. This proposed facility is located in Penn Township, **Butler County**.

Description of Proposed Activity: Permit renewal for the discharge of treated sewage.

The receiving stream, dry/intermittent tributary to Thorn Creek, is in watershed 20-C and classified for CWF, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is the Zelienople Municipal Water Works intake on Connoquenessing Creek located at Zelienople, approximately 18 miles below the point of discharge.

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

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
Total Suspended Solids	30	60
NH ₃ -N		
(5-1 to 10-31)	5.5	11
(11-1 to 4-30)	16.5	33
Fecal Coliform		
(5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	
Total Phosphorus (as P)		
(4-1 to 10-31)	2	4
Total Residual Chlorine	1.5	3.5
Dissolved Oxygen	minimum of 3.0 mg/l at all times	
pH	6.0 to 9.0 standard units at all times	

The EPA Waiver is in effect.

PA0222101, Sewage, **Joel Miller**, 6795 Honey Lane, Erie, PA 16509. This proposed facility is located in Summit Township, **Erie County**.

Description of Proposed Activity: Renewal of an NPDES permit for the discharge of treated sewage from the Honey Estates Association, Inc. sewage treatment plant.

The receiving stream, Walnut Creek, is in Lake Erie watershed and classified for CWF, migratory fishery, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply considered during the evaluation is the City of Erie municipal water plant, located approximately 20 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0052 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25		50
Total Suspended Solids	30		60
Dissolved Oxygen		minimum of 3.0 mg/l at all times	
Total Residual Chlorine	0.50		0.75
Phosphorus	1.0		
Fecal Coliform (5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		94,000/100 ml as a geometric average	
pH		6.0 to 9.0 standard units at all times	

The EPA Waiver is in effect.

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

Southeast Region: Water Management Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

No. PA0054909, Industrial Waste, **North Penn and North Wales Water Authorities**, P. O. Box 317, Chalfont, PA 18914-0317. This application is for renewal of an NPDES permit to discharge untreated from Bradshaw Reservoir in Plumstead Township, **Bucks County**. This is existing discharge to North Branch Neshaminy Creek.

The receiving stream is classified for WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 22.0 MGD, are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Dissolved Oxygen (2-15 to 7-31)	6.0	5.0 Inst. Min.	
(8-1 to 2-14)	5.0	4.0 Inst. Min.	
Temperature	Monitor		
pH	Within limits of 6.0—9.0 Standard Units at all times		
Aluminum, Total	Monitor		
Cadmium, Total	Monitor		
Iron, Total	Monitor		
Iron, Dissolved	Monitor		
Mercury, Total	Monitor		
Phenolics, Total (4AAP)	Monitor		
Zinc, Total	Monitor		

The EPA Waiver is in effect.

No. PA0032301, Sewage, **American Water Services, Inc.**, 435 Booth Road, Downingtown, PA 19335. This application is for renewal of an NPDES permit to discharge treated sewage from an existing STP in Concord Township, **Delaware County**. This is an existing discharge to West Branch of Chester Creek.

The receiving stream is classified for TSF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of .02 MGD, are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
Suspended Solids	30	60
Ammonia (as N) (5-1 to 10-31)	3.0	6.0
(11-1 to 4-30)	9.0	18.0
Total Residual Chlorine	0.5	1.2
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 2 mg/l at all times	
pH	Within limits of 6.0—9.0 Standard Units at all times	

The EPA Waiver is in effect.

No. PA0057045, Industrial Waste, **Shryock Brothers, Inc., Dorlans Paper Mill**, P. O. Box 415, Route 282 and Dorlans Mill Road, Downingtown, PA 19335-0415. This application is for renewal of an NPDES permit to discharge stormwater from the Dorlans Paper Mill in Downingtown Borough, **Chester County**. This is an existing discharge to East Branch Brandywine Creek.

The receiving stream is classified for HQ-TSF, aquatic life, water supply and recreation.

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

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅			Monitor Only
Chemical Oxygen Demand			Monitor Only
Total Suspended Solids			Monitor Only
Total Phosphorus (as P)			Monitor Only
Oil and Grease			Monitor Only
Dissolved Iron			Monitor Only
Total Kjeldahl Nitrogen			Monitor Only
pH	Within limits of 6.0—9.0 Standard Units at all times		

The EPA Waiver is in effect.

No. PA0052965, Industrial Waste, **Rex Heat Treat—Lansdale, Inc.**, P. O. Box 270, Lansdale, PA 19446. This application is for renewal of an NPDES permit to discharge treated groundwater from groundwater remediation system and stormwater from the facility in Lansdale Borough, **Montgomery County**. This is an existing discharge to an unnamed tributary to West Branch of Neshaminy Creek.

The receiving stream is classified for WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 003, based on an average flow of 60,000 gpd, are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH	Within limits of 6.0—9.0 Standard Units at all times		
Tetrachloroethylene	Monitor and Report	Monitor and Report	
Trichloroethylene	Monitor and Report	Monitor and Report	
1, 1-Dichloroethylene	Monitor and Report	Monitor and Report	
Vinyl Chloride	Monitor and Report	Monitor and Report	

The proposed effluent limits for stormwater Outfalls 001—004 are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅			Monitor and Report
COD			Monitor and Report
Oil and Grease			Monitor and Report
pH			Monitor and Report
Total Suspended Solids			Monitor and Report
Total Kjeldahl Nitrogen			Monitor and Report
Total Phosphorus			Monitor and Report
Iron (Dissolved)			Monitor and Report

The EPA Waiver is in effect.

No. PA0054704, Sewage, **Tri County Respite**, 1096 Apple Road, Quakertown, PA 18951. This application is for renewal of an NPDES permit to discharge treated sewage from Tri County Respite STP in East Rockhill Township, **Bucks County**. This is an existing discharge to an unnamed tributary to Tohickon Creek.

The receiving stream is classified for TSF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 0.0077 MGD, are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
Total Suspended Solids	30	60
Ammonia (as N)		
(5-1 to 10-31)	2.0	4.0
(11-1 to 4-30)	6.0	12.0
Phosphorus (as P)	0.5	1.0
Total Residual Chlorine	0.05	0.12
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	Minimum of 6.0 mg/l at all times	
pH	Within limits of 6.0—9.0 Standard Units at all times	

The EPA Waiver is in effect.

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

PA0044920, Industrial Waste, **Lehighon Electronics, Inc.**, 208 Memorial Drive, Lehighon, PA 18235-0328. This proposed facility is located in Mahoning Township, **Carbon County**.

Description of Proposed Activity: Renew NPDES Permit.

The receiving stream, Mahoning Creek, is in the State Water Plan watershed #2B and is classified for CWF. The nearest downstream public water supply intake for Northampton Borough Authority is located on Lehigh River, over 20 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.010 MGD.

Parameter	Mass (lb/day)		Concentration (mg/l)	
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily
Trichloroethylene			50.0	78.0

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

PA0246905, CAFO, **Lauden Farms**, 2248 Back Road, Halifax, PA 17032. This proposed facility is located in Wayne Township, **Dauphin County**.

Description of Proposed Activity: Lauden Farms is an expanding dairy operation with a total AEU's of 1,493.3. An estimated quantity of total annual manure production is 31,858 tons. The operation consists of 800 mature Holstein cows, 325 heifers and 150 calves. The dairy will be expanding by adding an addition to the existing dairy barn. The expansion will be approximately 132 ft. x 112 ft. with a 10 foot deep below-house manure storage providing an additional 995,000 gallons of storage. The existing barn has two below-house pits each 45 ft. x 386 ft. x 8 ft. with a combined storage capacity of 1.819 million gallons. With the existing storage and the expansion, there will be a total of 2.814 million gallons of storage assuming 1 foot of freeboard. These pits will handle all of the manure from the milking herd and half of the dry cows as well as the milk house wash water. Shavings will be used as bedding in the free-stall. Confined heifers will be in an adjacent barn. The manure will be handled as a liquid stored in a steel slurry store 60 ft. x 15 ft. with a useable storage of 250,000 gallons assuming 2 feet of freeboard. Approximately 40 of the mature cows and the calves will be kept on a bedded pack. All of the manure generated on the farm will be used on the farm.

The receiving stream, Powell Creek, is in the State Water Plan watershed 6-C and is classified for TSF.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25 year/24 hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the State narrative water quality standards.

PA0246948, CAFO, **Donald M. Eckman**, 357 Black Barren Road, Peach Bottom, PA 17563. This proposed facility is located in Fulton Township, **Lancaster County**.

Description of Proposed Activity: The Eckman Farm is an existing swine and dairy operation with a total AEU's of 516.35. An estimated quantity of total annual manure production is 6,231 tons. The operation consists of 3,200 swine and 50 dairy cows. The swine manure storage system was designed and built by King Construction in 1997-1998. The barn dimensions are 101 feet x 294 feet with a 6 foot manure storage vault beneath the animal living area. There is no leak detection system around the perimeter of the storage structure. Manure is stored in the structure until it can be properly applied to the agricultural crop fields. There is no storage for the dairy manure at this time. Of the 1.262 million gallons of swine manure produced on the farm, 595,000 gallons is used on the farm with 667,000 gallons exported. All of the 1,284 tons of dairy manure produced is used on the farm.

The receiving streams, Conowingo Creek and Little Conowingo Creek, are in the State Water Plan watershed 7-K and is classified for HQ.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25 year/24 hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the State narrative water quality standards.

PAG123564, CAFO, **Mike Buckwalter**, 350 Rock Point Road, Marietta, PA 17547. This proposed facility is located in East Donegal Township, **Lancaster County**.

Description of Proposed Activity: The Buckwalter Farm is an existing swine and steer operation with a total AEU's of 499. An estimated quantity of total annual manure production is 5,962 tons. The operation consists of 3,000 swine and 350 steers. The swine manure storage system was designed and built in 1993 and then rebuild in 1996. The barn dimensions are 100 feet x 240 feet with a 5 foot manure storage vault beneath the animal living area. There is no leak detection system around the perimeter of the storage structure. Manure is stored in the structure until it can be properly applied to the agricultural crop fields. The steer operation uses manure produced on the farm as bedding that is temporarily stacked until it can be applied to land according to the nutrient management plan. Of the 947,489 gallons of swine manure produced on the farm, 852,250 gallons is used on the farm with 95,239 gallons exported. All of the 2,015 tons of steer manure produced is used on the farm.

The receiving stream, UNT to Susquehanna River, is in the State Water Plan watershed 7-G and is classified for CWF.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25 year/24 hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the State narrative water quality standards.

PAG123561, CAFO, **Elvin Martin**, 980 Little Mountain Road, Myerstown, PA 17067. This proposed facility is located in Bethel Township, **Berks County**.

Description of Proposed Activity: The Martin Farm is an existing/expanding swine and beef cattle operation with a total AEU's of 422.63. An estimated quantity of total annual manure production is fattening hogs—945,172 gallons; beef cattle—204 tons; and piglets—288,605 gallons. The operation consists of 4,400 swine and 25 beef cattle. Their Nutrient Management Plan is based on the additional building for 2,200 head fattening barn. The old facility has an outside lagoon and the new structure will have its own storage under the building. The manure that is generated by the beef cattle will be spread on the pasture. Of the swine manure, 945,172 gallons is used on the farm and 661,277 gallons is exported. All the manure from the piglets is exported.

The receiving stream, Little Swatara Creek, is in the State Water Plan watershed 7-D and is classified for CWF.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25 year/24 hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the State narrative water quality standards.

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

PA0228605, Sewage, SIC 4952, **Lee R. Kaltenbach**, R. R. 6, Box 106A, Wellsboro, PA 16901. This proposed facility is located in Delmar Township, **Tioga County**.

Description of Proposed Activity: This is an application for a SFTF serving a bed and breakfast.

The receiving stream, UNT to Kelsey Creek, is in the State Water Plan watershed 9A and is classified for CWF. The nearest downstream public water supply intake is Jersey Shore Area Joint Water Authority, located on Pine Creek, 69.4 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0019 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	Monitor			
Fecal Coliforms	200/100 ml			
CBOD ₅	10			20
Total Suspended Solids	20			40
Total Chlorine Residual	Monitor and Report			
pH	Within the Range of 6.0 to 9.0			

The EPA waiver is in effect.

PA0027553, Sewerage SIC, 4952, **Pine Creek Municipal Authority**, P. O. Box 608, Avis, PA 17721. This existing facility is located in Pine Creek Township, **Clinton County**.

Description of Proposed Activity: This proposed action is for renewal of an NPDES permit for an existing discharge of treated sewage wastewater.

The receiving stream, West Branch Susquehanna River, is in the State Water Plan watershed 9B and classified for WWF. The nearest downstream public water supply intake for Pennsylvania-American Water Company is located on West Branch Susquehanna River, 51 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 1.3 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40		50
TSS	30	45		60
Total Cl ₂ Residual	0.50			1.6
Fecal Coliform	200 col/100 ml as a geometric mean			
(5-1 to 9-30)	2,000 col/100 ml as a geometric mean			
(10-1 to 4-30)	6.0 to 9.0 at all times			
pH				

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

PA0027618-A1, Sewage, **Bethel Park Municipal Authority**, 5100 West Library Avenue, Bethel Park, PA 15102. This application is for amendment of an NPDES permit to discharge treated sewage from the Bethel Park Sewage Treatment Plant (Piney Fork STP) in South Park Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Piney Fork, which are classified as a TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Pennsylvania-American Water Company.

Outfall 001: existing discharge, design flow of 4.92 mgd.

Based on the results of a water effects ratio, as published at 32 Pa.B. 3655 (July 27, 2002), a copper limit for this discharge is not necessary. Therefore, the copper limit was removed from the Bethel Park Municipal Authority's NPDES Permit.

The EPA waiver is not in effect.

PA0098094, Sewage, **Stonewood Family Limited Partnership**, 116 East Pittsburgh Street, Suite 200, Greensburg, PA 15601. This application is for renewal of an NPDES permit to discharge treated sewage from Pittsburgh Airport Park STP in Independence Township, **Beaver County**.

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

Outfall 001: existing discharge, design flow of 0.0125 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0098299, Sewage, **Laurel Highlands Lodge/Donegal Inn, Inc.**, 4 Snyder Road, Donegal, PA 15628. This application is for renewal of an NPDES permit to discharge treated sewage from Laurel Highlands Lodge STP in Donegal Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as drainage swale tributary to Four Mile Run, which are classified as a TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Latrobe Municipal Authority.

Outfall 001: existing discharge, design flow of 0.022 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	2.5			5.0
(11-1 to 4-30)	7.5			15.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0205257, Sewage, **Greensboro-Monongahela Township Joint Sewage Authority**, P. O. Box 342, Greensboro, PA 15338-0342. This application is for renewal of an NPDES permit to discharge treated sewage from Greensboro-Monongahela Township Sewage Treatment Plant in Monongahela Township, **Greene County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as back channel of the Monongahela River, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Dunkard Valley Joint Municipal Authority.

Outfall 001: existing discharge, design flow of 0.110 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	100,000/100 ml as a geometric mean			
Total Residual Chlorine	0.5			1.6
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

WATER QUALITY MANAGEMENT PERMITS

CONTROLLED INDUSTRIAL WASTE AND SEWAGE WASTEWATER

APPLICATIONS UNDER THE CLEAN STREAMS LAW

PART II PERMITS

The following permit applications or requests for plan approval have been received by the Department of Environmental Protection (Department).

Persons wishing to comment on any of the applications are invited to submit a statement to the office noted before the application within 15 days from the date of this public notice. Comments received within this 15-day comment period will be considered in making the final decision regarding the application. The 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 reserves the right to hold a public hearing 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 of the area. If no hearing is held, the Department's Water Management Program Manager will make a final determination regarding the applications after a complete review. 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.

A copy of the permit application or proposed plan is on file in the office indicated and is open to public inspection. Appointments to review the application may be made by contacting Records Management at the indicated telephone number.

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

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

WQM Permit No. 4602411, Sewerage, **New Hanover Township**, 2943 N. Charlotte Street, Gilbertsville, PA 19525. This proposed facility is located in New Hanover Township, **Montgomery County**.

Description of Proposed Action/Activity: Construction and operation of a sewage pump station to serve Acorn Hills golf course and residential subdivision.

WQM Permit No. 3502402, **Scranton Sewer Authority**, 307 North Washington Avenue, Scranton, PA 18503. This proposed facility is located in the City of Scranton, **Lackawanna County**.

Description of Proposed Action/Activity: This project (Minooka interceptor upgrade) is to increase the size of existing sewer lines to accept additional peak flow and eliminate overflows.

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

WQM Permit No. 2897402 (Transfer), Sewerage, **Sean W. and Monique B. White**, 8835 Iron Bridge Road, Chambersburg, PA 17201. This proposed facility is located in Letterkenny Township, **Franklin County**.

Description of Proposed Action/Activity: Permit transfer.

WQM Permit No. 5095401, Amendment 02-1, Sewerage, **Caldwell Development Company, Inc.**, P. O. Box 80, Lemoyne, PA 17043. This proposed facility is located in Howe Township, **Perry County**.

Description of Proposed Action/Activity: Addition/modification to the wastewater treatment facility serving the Newport Plaza.

WQM Permit No. 0102406, Sewerage, **Lutheran Camping Corporation of Central Pennsylvania**, P. O. Box 459, Arendtsville, PA 17303-0459. This proposed facility is located in Menallen Township, **Adams County**.

Description of Proposed Action/Activity: Construction/operation of a wastewater treatment facility with effluent disposal to a wooded spray field at Camp Nawakwa.

WQM Permit No. 0602408, Sewerage, **Borough of Lenhartsville**, P. O. Box 238, Lenhartsville, PA 19534. This proposed facility is located in Lenhartsville Borough, **Berks County**.

Description of Proposed Action/Activity: Construction/operation of a wastewater treatment facility to serve the Borough of Lenhartsville.

WQM Permit No. 2202201, CAFO Operation, **Lauden Farms**, 2248 Back Road, Halifax, PA 17032. This proposed facility is located in Wayne Township, **Dauphin County**.

Description of Proposed Action/Activity: Authorization for the expansion of manure storage facilities.

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

WQM Permit No. 0802403, Sewerage, **Smithfield Township Authority**, R. R. 2, Box 189, Columbia Cross

Roads, PA 16914. This proposed facility is located in Smithfield Township, **Bradford County**.

Description of Proposed Action/Activity: The project involves the construction of a conventional gravity and a low-pressure conveyance system, including a new pump station, to a new 60,000 gpd extended aeration wastewater treatment plant. The system will be owned and operated by the Smithfield Township Authority and will provide sanitary sewer collection and treatment for the area in and around the unincorporated Village of East Smithfield.

WQM Permit No. 1402404, Sewerage, **Huston Township Authority**, P. O. Box 40, Julian, PA 16844. This proposed facility is located in Huston Township, **Centre County**.

Description of Proposed Action/Activity: The project involves the construction of sewerage facilities to serve the Village of Julian and surrounding areas with public sewer service. The facilities will include gravity sewer lines and appurtenances, main pressure sewer lines plus laterals, individual residential grinder pumps, a sewage pump station with a force main and a 40,000 gpd package wastewater treatment plant.

WQM Permit No. 5502401, Sewerage, **Spring Township Municipal Authority**, P. O. Box 133, Beaver Springs, PA 17812. This proposed facility is located in Spring Township, **Snyder County**.

Description of Proposed Action/Activity: The Authority proposes to rerate the hydraulic and organic capacities of the contact stabilization process sewage treatment plant serving the Village of Beaver Springs.

WQM Permit No. 1702403, Sewerage, **Sandy Township Board of Supervisors**, 12th Street and Chestnut Avenue, DuBois, PA 15801.

Description of Proposed Action/Activity: This application covers two projects. A proposed collection facility is located in the West Liberty area of Sandy Township, **Clearfield County** with an interceptor sewer passing through Brady Township, Clearfield and Winslow Township, **Jefferson County** along US 119 to the Sykesville wastewater treatment plant. This application also covers the replacement of some existing 8- and 12-inch sewers southwest of the City of DuBois near US 219.

WQM Permit No. 5302201, CAFO SIC 0241, **Tor-View Farms**, 59 SR 244, Coudersport, PA 16915. This proposed facility is located in Hebron Township, **Potter County**.

Description of Proposed Action/Activity: Construction and operation of a 1,727,300 gallon liquid manure storage.

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

Application No. 0202409, Sewerage, **Neva and Joe Stanger**, 3823 Anderson Road, Gibsonia, PA 15044. Application for the construction and operation of a single residence sewage treatment plant to serve the Stanger Residence located in Richland Township, **Allegheny County**.

Application No. 0302402, Sewerage, **Leechburg Borough**, 260 Market Street, Leechburg, PA 15656. Application for the construction and operation of a sanitary sewer extension to serve the Kiski Valley Area in Leechburg Borough, **Armstrong County**.

The Pennsylvania Infrastructure Investment Authority (PennVEST), which administers the State Revolving

Fund, has been identified as a possible funding source. The Department's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

Application No. 6502407, Sewerage, **Mark and Carrie Hult**, P. O. Box 170 Main Street, Slickville, PA 15650. Application for the construction and operation of a single residence sewage treatment plant to serve Mark and Carrie Hult in Salem Township, **Westmoreland County**.

Application No. 6502408, Sewerage, **Washington Township Municipal Authority**, 283 Pine Run Church Road, Apollo, PA 15613. Application for the construction and operation of a sanitary sewer extension to be served by the Paulton Area of Washington Township, **Westmoreland County**.

PennVEST has been identified as a possible funding source. The Department's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

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

WQM Permit No. 4202201, Industrial Waste, **American Refining Group, Inc.**, 77 North Kendall Avenue, Bradford, PA 16701. This proposed facility is located in Bradford City, **McKean County**.

Description of Proposed Action/Activity: This project is to add additional wastewater treatment equipment to an existing wastewater treatment plant.

WQM Permit No. 6202407, Sewerage, **Frank J. Malena, Jr.**, 1811 West 8th Street, Erie, PA 16505. This proposed facility is located in Spring Creek Township, **Warren County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment plant.

NPDES Stormwater Individual Permit

The following parties have applied for an NPDES permit to discharge stormwater associated with a construction activity into waters of this Commonwealth. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain limitations set forth in the permit conditions. These proposed determinations are tentative. Limitations are provided as erosion and sediment control best management practices which restrict the rate and quantity of sediment discharged.

Where indicated, the EPA Region III Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.24(d).

Persons wishing to comment on the proposed permit are invited to submit a statement to the appropriate Department Regional Office noted before the application within 30 days from the date of this public notice. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses 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 relevant facts upon which it is based. A public hearing may be held after consideration of comments received by the appropriate Department Regional Office during the 30-day public comment period.

Following the 30-day comment period, the appropriate Regional Office Water Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The application and related documents, including the erosion and sediment control plan for the earth disturbance activity, are on file and may be inspected at the office identified in this notice.

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

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

NPDES Permit PAS10G541, Stormwater, **David Nelson**, 960 Street Road, Oxford, PA 19363, has applied to discharge stormwater associated with a construction activity located in Upper Oxford Township, **Chester County** to West Branch Big Elk Creek (HQ-TSF-MF).

NPDES Permit PAS10G542, Stormwater, **All County Properties, Inc.**, Suite 610, 2500 East High Street,

Pottstown, PA 19464, has applied to discharge stormwater associated with a construction activity located in East Coventry Township, **Chester County** to unnamed tributary to Pigeon Creek (HQ-TSF).

NPDES Permit PAS10G543, Stormwater, **Valley View Property Development**, 180 Pumpkin Hill Road, Glenmoore, PA 19343, has applied to discharge stormwater associated with a construction activity located in East Coventry Township, **Chester County** to unnamed tributary to Pigeon Creek (HQ-TSF).

NPDES Permit PAS10G544, Stormwater, **Distinctive Contractors, Inc.**, 886 Vaughn Road, Pottstown, PA 19464-0886, has applied to discharge stormwater associated with a construction activity located in East Coventry Township, **Chester County** to unnamed tributary to Pigeon Creek (HQ-TSF).

NPDES Permit PAS10J059, Stormwater, **Henderson Group, Inc.**, 112 Chesley Drive, Suite 200, Media, PA 19063, has applied to discharge stormwater associated with a construction activity located in Middletown Township, **Delaware County** to Ridley Creek/Delaware River Basin (HQ-TSF).

Northeast Region: Water 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 No.</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Receiving Water/Use</i>
PAS10N023R-2	Jefferson Township Sewer Authority 487 Cortez Road Lake Ariel, PA 18436	Lackawanna County Jefferson Township and Olyphant Borough	Eddy Creek—WWF Little Roaring Brook—HQ-CWF Unnamed tributary to West Branch of Wallenpaupack Creek—HQ-CWF Unnamed tributary to Rock Bottom Creek—HQ-CWF

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

<i>NPDES No.</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Receiving Water/Use</i>
PAS10S115	Evergreen Estates Romec, Inc. P. O. Box 99 Pocono Lake, PA 18347	Monroe County Middle Smithfield Township	Bushkill Creek HQ-CWF

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

Berks County Conservation District, P. O. Box 520, 1238 County Welfare Road, Leesport, PA 19533; (610) 372-4657.

<i>NPDES No.</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Receiving Water/Use</i>
PAS10C052	PA SE Conf. of United Church of Christ 505 S. Second Street Collegetown, PA 19426	District and Hereford Townships	West Branch of Perkiomen EV

Cumberland County Conservation District, 43 Brookwood Avenue, Suite 4, Carlisle, PA 17013; (717) 240-7812.

<i>NPDES No.</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Receiving Water/Use</i>
PAS10H097	Silver Spring Township Paul Walter Mem. Park 6475 Carlisle Pike Mechanicsburg, PA 17050	Silver Spring Township Cumberland County	Trindle Spring Run HQ
PAS10H098	Michael Joseph Acquisition Corp. P. O. Box 1198 Wexford, PA 15090	Carlisle Borough Cumberland County	Letort Spring Run HQ-CWF

PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act, the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on the 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 this 30-day comment period will be considered in the formulation of the final determinations regarding this application. Comment responses 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. 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 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 may 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 (35 P. S. §§ 721.1—721.17).

Southeast Region: Water Supply Management Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Permit No. 2302502, Public Water Supply.

Applicant	Pennsylvania Suburban Water Company
Townships	Springfield and Nether Providence
Responsible Official	Morris Coulter 762 W. Lancaster Avenue Bryn Mawr, PA 19010
Type of Facility	PWS
Consulting Engineer	CET Engineering, Service 6240 N. Mountain Road Harrisburg, PA 17112-1788
Application Received Date	September 5, 2002
Description of Action	For the modifications to the Crum Water Treatment Plant. Proposed modifications include construction of a chlorine scrubber, residuals basin, raw water pumping station, flocculation/sedimentation basin and water lines.

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

Permit No. 3602509, Public Water Supply.

Applicant	Timber Villa Inc.
Municipality	West Donegal Township
County	Lancaster
Responsible Official	David G. Heisey, President Timber Villa Inc. 1898 North Market Street P. O. Box 408 Elizabethtown, PA 17022
Type of Facility	PWS
Consulting Engineer	David J. Gettle Kohl Bros., Inc. P. O. Box 350 Myerstown, PA 17067
Application Received Date	April 29, 2002
Description of Action	Addition of Well No. 2 to augment the existing source of supply. Water will be treated through the existing treatment system.

MINOR AMENDMENT

Applications Received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

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

Application No. Minor Amendment.

Applicant	Pennsylvania-American Water Company
Township or Borough	Middle Smithfield Township
Responsible Official	Paul A. Zielinski, Director Water Quality Pennsylvania-American Water Company 800 West Hersheypark Drive Hershey, PA 17033
Type of Facility	PWS
Application Received Date	August 30, 2002
Description of Action	Transfer of PWS Permit No. 4594503

Application No. Minor Amendment.

Applicant	Pennsylvania-American Water Company
Township or Borough	Middle Smithfield Township
Responsible Official	Paul A. Zielinski, Director Water Quality Pennsylvania-American Water Company 800 West Hersheypark Drive Hershey, PA 17033
Type of Facility	PWS
Application Received Date	August 30, 2002

Description of Action	Transfer of PWS Permit No. 4594513
Application No. Minor Amendment.	
Applicant	Pennsylvania-American Water Company
Township or Borough	Middle Smithfield Township
Responsible Official	Paul A. Zielinski, Director Water Quality Pennsylvania-American Water Company 800 West Hersheypark Drive Hershey, PA 17033
Type of Facility	PWS
Application Received Date	August 30, 2002
Description of Action	Transfer of PWS Minor Permit Amendment originally issued on March 4, 2002, to the Mid-Monroe Development Corporation.

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 any 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, or 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 under 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 listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

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

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

CFI Property, Manheim Township, **Lancaster County**. Lancaster County Solid Waste Management Authority, 1299 Harrisburg Pike, P. O. Box 4425, Lancaster, PA 17604, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with BTEX, PHCs, PAHs and solvents. The applicant proposes to remediate the site to meet the Site-Specific standard requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Lancaster New Era* on August 26, 2002.

Rite Aid Store No. 246, Derry Township, **Dauphin County**. BL Companies, 830 Sir Thomas Court, Harrisburg, PA 17109, on behalf of Rite Aid Corporation, 451 South St. John's Church Road, Camp Hill, PA 17011, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with BTEX and PHCs. The applicant proposes to remediate the site to meet the Statewide Health standard requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Hershey Chronicle* on July 5, 2002.

Eric and Holly Stokes Residence, Myerstown Borough, **Lebanon County**. Eric Stokes, 242 East Main Street, Myerstown, PA 17067 submitted a Notice of Intent to Remediate site soils contaminated with fuel oil No. 2. The applicant proposes to remediate the site to meet the Statewide Health standard requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Lebanon Daily News* on August 7, 2002.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSES

Applications received or withdrawn under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and the Infectious and Chemotherapeutic Waste Law (35 P. S. §§ 6019.1—6019.6) and regulations to transport infectious and chemotherapeutic waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Renewal Applications Received

Cole Care, Inc., 1001 E. Second Street, Coudersport, PA 16915. License No. **PA-HC 0178**. Received on September 4, 2002.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Applications received under the Solid Waste Management Act (35 P. S. §§ 6018.101–6018.1003) and regulations to operate a hazardous waste treatment, storage or disposal facility.

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

PA5213820892, Tobyhanna Army Depot, 11 Hap Arnold Boulevard, Tobyhanna, PA 18466-50866. An application to renew Tobyhanna Army Depot's hazardous waste storage permit. This facility is a United States military support and service facility located in Tobyhanna Township, **Monroe County**. Activities at the base include: fabrication and repair/rebuilding of military electronic and communication equipment, printed circuit board fabrication, metal surfaces preparation, painting, metal finishing and vehicle maintenance. Wastes generated as a result of these activities include spent plating solutions, alkalis, acids, sandblasting residues, waste stripper solvent and solid residues and sludges. The application was received in the Regional Office on June 26, 2002; on September 5, 2002, the application was found to be administratively complete.

Under 25 Pa. Code § 270a.80, the Department gives public notice of an application for a permit under 25 Pa. Code § 270a.41.

Persons wishing to comment on the permit renewal application should submit the comments in writing to the William Tomayko, Regional Solid Waste Manager, Department of Environmental Protection, Waste Management Program, 2 Public Square, Wilkes-Barre, PA 18722-0790. Copies of the permit renewal application may be reviewed at the Northeast Regional Office, 2 Public Square, Wilkes-Barre, PA 18711-0790. Contact Robert C. Wallace at (570) 826-2511 for further information.

RESIDUAL WASTE GENERAL PERMITS

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 Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.

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

General Permit Application No. WMGR084, Geo Specialty Chem. Inc., 2409 Cedar Crest Blvd., Allentown, PA 18104-9733. The application is for beneficial use of industrial wastewater treatment residual from the production of formaldehyde, trimethylolpropane, dimethylolpropionic acid and calcium formate. The proposed beneficial uses of the residual are as a soil additive for agricultural utilization and land reclamation and as an ingredient to produce other soil additives. The application was accepted by the Central Office on September 6, 2002.

Comments concerning the application should be directed to Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania 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 application.

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.

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

Permit Application No. 100739, Western Berks Refuse Authority, 455 Popular Neck Road, Birdsboro, PA 19508, Cumru Township, **Berks County**. Application received is for WBRA Municipal Waste Landfill. The application was determined to be administratively complete by Southcentral Regional Office on September 5, 2002.

Comments concerning the application should be directed to John Krueger, Program Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Persons interested in obtaining more information about the general permit application may contact the Waste Management Program, (717) 705-4706. TDD users may contact the Department through the Pennsylvania 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 application.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit Application No. 300837, Reliant Energy NE Management Company, 1001 Broad Street, P. O. Box 1050, Johnstown, PA 15907-1050. Conemaugh Station Disposal Site, 1442 Power Plant Road, SR 2008, New Florence, PA 15944-9154. An application for a major permit modification to add six minor waste streams to the existing residual waste landfill in West Wheatfield, **Indiana County**, was received in the Regional Office on September 3, 2002.

Comments or information concerning the application should be directed to Michael Forbeck, Facilities Manager, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. TDD users may contact the Department through the Pennsylvania 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 application.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State

Operating Permit and Title V Operating Permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

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

Copies of these 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 the 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. TDD users may 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 and regulations adopted under the Act.

PLAN APPROVALS

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

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

54-399-033: Pine Grove Manufactured Homes, Inc. (P. O. Box 128, Pine Grove, PA 17963) for construction of a cutting, adhesive and seal operation and associated air cleaning device in Pine Grove Township, **Schuylkill County**.

39-399-054: Agere Systems, Inc. (555 Union Boulevard, Allentown, PA 18109) for installation of an air cleaning device to control atmospheric emissions from a dielectric isolation operation in Allentown, **Lehigh County**.

54-305-020: WPS Westwood Generation LLC (1088 Springhurst Drive, Green Bay, WI 54304-5495) for installation of a coal crusher in Frailey and Porter Townships, **Schuylkill County**.

40-302-147: Fairchild Semiconductor Corp. (125 Crestwood Road, Mountaintop, PA 18707-2189) for installation of two 12.5 mmBtu Cleaver Brooks boilers fired on natural gas/#2 oil in Wright Township, **Luzerne County**.

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

08-399-047B: OSRAM SYLVANIA Products, Inc. (Hawes Street, Towanda, PA 18848) on August 13, 2002, for operation of four CVD phosphor coating reactors and associated air cleaning devices (a catalytic oxidizer and a selective catalytic reduction system) in North Towanda Township, **Bradford County**.

41-318-047: Reynolds Iron Works, Inc. (157 Palmer Industrial Road, Williamsport, PA 17701) on August 27, 2002, for operation of a steel parts surface coating operation in Woodward Township, **Lycoming County**.

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

32-00365A: Rosebud Mining Co. (301 Market Street, Kittanning, PA 16201) for installation of screen at Dutch Run/Parker Mine in Washington Township, **Indiana County**.

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

25-069H: Engelhard Corp. (1729 East Avenue, Erie, PA 16503) for installation of a new dust collector at the Sphere Plant (Catalyst Manufacturing Plant) in the City of Erie, **Erie County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Contact: Thomas Barsley, Chief, (215) 685-9428.

02122: Calpine Philadelphia, Inc. (Pilot House, 2nd Floor, Lewis Wharf, Boston, MA 02110) for installation of an 875 HP digester gas fired internal combustion engine to replace two existing 593 hp engines at Southwest Water Pollution Control Plant, 8200 Enterprise Avenue, City of Philadelphia, **Philadelphia County**. This is a Title V facility. With this plan approval, facility emission limit for NO_x will change from 30 tons per year to 24 tons per year, CO emissions will change from 58.0 tons per year to 76.7 tons per year, VOC emissions will change from 15.0 tons per year to 13.4 tons per year, SO₂ emissions will change from 15.1 tons per year to 7.26 tons per year and PM/PM₁₀ emissions will change from 1.5 tons per year to 3.84 tons per year. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

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

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Michael Saffo, Facilities Permitting Chief, (570) 826-2531.

39-318-111: Gateway Industrial Services (805 Harrison Street, Allentown, PA 18103) for construction of two paint spray booths and associated air cleaning devices in the City of Allentown, **Lehigh County**. The manufacturing facility is a non-Title V facility. Annual VOC emissions from the spray booths will be 10.27 tons per year of which 9.16 tons per year will be HAPs. Particulate matter emissions from the process will be controlled through the use filter panels and will be less than 0.02 gr/dscf. The plan approval will include all appropriate monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

35-318-082: Gentex Corporation (P. O. Box 315, Carbondale, PA 18407) for installation of an air cleaning device (regenerative thermal oxidizer) as a replacement to an existing oxidizer, to control atmospheric emissions from three coating lines in Fell Township, **Lackawanna County**. The volatile organic emissions from the facility shall never exceed 50 tons per any 12 consecutive month rolling sum. The thermal oxidizer will be operated at 1,400°F. The plan approval will include all appropriate monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

39-309-058: Lafarge North America (5160 Main Street, Whitehall, PA 18052) for installation of an air cleaning device (fabric collector) for the loadout spouts of Nos. 2 and 6 clinker storage silos at the Whitehall Plant in Whitehall Township, **Lehigh County**. Only one loadout spout can be in operation at any given time. The particulate emissions from the fabric collector will not exceed the Best Available Technology standard of 0.015 grain/DSCFT (0.65 ton per year). The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements. The facility currently has a Title V Operating Permit No. 39-00011. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date.

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

06-05121A: Williams Metal Finishing, Inc. (P. O. Box 2029, Sinking Spring, PA 19608) for construction of a vapor degreaser controlled by a refrigerated chiller in the Borough of Sinking Spring, **Berks County**. The source is subject to 40 CFR Part 63, Subpart T—National Emission Standards for Halogenated Solvent Cleaning. This is a non-Title V (State only) facility at this time. This construction will result in no change in the potential to emit VOC. The applicant will be required to remove from service an existing degreaser. The applicant will be required to record the solvent usage and calculate the VOC emissions monthly. The approval will include monitoring, recordkeeping, work practices and reporting requirements designed to keep the source operating within all applicable air quality requirements.

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

63-00016: Allegheny Energy Supply Co., LLC (4350 Northern Pike, Monroeville, PA 15146-2841) administratively amended for correction of typographical errors and clarification of permit condition language for their facility in Monongahela Township, **Washington County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

24-083E: Carbone of America—Graphite Materials Division (215 Stackpole Street, St. Marys, PA 15857) for installation of a scrubber to control sulfur oxide emissions from existing Car Kilns (Nos. 1—3 and CBH Kiln Nos. 29—32) in St. Marys, **Elk County**. This installation will result in approximately 90% reduction in sulfur oxide emissions from the kilns. The facility currently has a Title V Operating Permit (24-00083). This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date.

37-248D: US Can Co. (1902 Old Butler Road, New Castle, PA 16101) for construction of an ultraviolet lithographic press coating line in Shenango Township, **Lawrence County**. The facility currently has a Title V Operating Permit No. 37-00248. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date. This installation will result in no increase in air emissions.

43-278B: Jones Performance Products, Inc. (1 Jones Way, West Middlesex, PA 16159) for modification of the defined facility VOC limit from 25.0 tons/year to 35.0 tons/year for their plant in West Middlesex, **Mercer County**. The facility currently has a Title V Operating Permit No. 43-00287. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date. This installation will result in an increase in the facility potential to emit; however, the increase is the result of changing emission factors for this process type.

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

02122: Calpine Philadelphia, Inc. (Pilot House, 2nd Floor, Lewis Wharf, Boston, MA 02110) for installation of an 875 HP digester gas fired internal combustion engine to replace two existing 593 hp engines at Southwest Water Pollution Control Plant, 8200 Enterprise Avenue, City of Philadelphia, **Philadelphia County**. This is a Title V facility which will become a natural minor facility due to this change. With this plan approval, facility emission limit for NOx will change from 30 tons per year to 24 tons per year, CO emissions will change from 58.0 tons per year to 76.7 tons per year, VOC emissions will change from 15.0 tons per year to 13.4 tons per year, SO₂ emissions will change from 15.1 tons per year to 7.26 tons per year and PM/PM₁₀ emissions will change from 1.5 tons per year to 3.84 tons per year. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable 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, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

09-00083: Brinker's Fuels, Inc. (445 West North Street, Doylestown, PA 18901) for operation of a bulk gasoline plant in Doylestown Township, **Bucks County**. The sources of emissions include a 30,000-gallon bulk

headed aboveground storage tank for regular and premium gasoline and two 10,000-gallon underground storage tanks for gasoline. The facility has the potential to emit 9.48 tons of VOCs per year. Emissions from the tanks are controlled by vapor recovery systems. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

09-00093: Castrol Industrial North America, Inc. (775 Louis Drive, Warminster, PA 18974) for operation of a manufacturing plant of sulfurized products for the automotive industry in Warminster Township, **Bucks County**. The sources of emissions include four batch reactors and 14 blow tanks with a potential to emit 121 tons of hydrogen sulfide gas per year and 0.7 ton of mercaptans per year. Emissions from the facility are controlled by a two-stage and a three-stage scrubber system. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

23-00053: Delaware County Memorial Hospital (501 North Lansdowne Avenue, Drexel Hill, PA 19026) for operation of boilers and emergency generators in Upper Darby Township, **Delaware County**. This facility has the potential to emit 24.9 tons per year of NOx. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the plant operating within all applicable air quality requirements

46-00072: Department of the Air Force, Air Reserve Station (2164 McGuire Street, Willow Grove, PA 19090) for operation of an aircraft repair facility in Horsham Township, **Montgomery County**. The sources of emissions include boilers, emergency generators, spray booths, degreasers and aboveground storage tanks. The facility has a potential to emit VOCs. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

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

01-03024: Tucker Industrial Liquid Coatings, Inc. (407 North Avenue, East Berlin, PA 17316) for operation of its miscellaneous metal parts job shop in East Berlin Borough, **Adams County**. The potential annual VOC emissions are approximately 25 tons. The Natural Minor Operating Permit will include testing, monitoring, recordkeeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

06-03056: Bodycote Lindberg Corp. (41 Denis Drive, Reading, PA 19606) for operation of its metal heat treating facility in Exeter Township, **Berks County**. The facility has the potential to emit 22.6 tons per year of CO, 7.7 tons per year of NOx, 6.7 tons per year of particulate matter and 1.5 tons per year of SOx. The Natural Minor Operating Permit shall contain additional testing, monitoring, recordkeeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

21-03057: Pennsy Supply, Inc. (P. O. Box 3331, Harrisburg, PA 17105) for operation of a crushing plant and concrete plant controlled by wet suppression and fabric collectors at the Silver Spring Quarry in Silver Spring Township, **Cumberland County**. Actual emissions for criteria pollutants will be below Title V thresholds. The operating permit will contain appropriate conditions de-

signed to keep the facility operating below Title V thresholds for criteria pollutants and within all other applicable air quality requirements.

22-05023: ExxonMobil Oil Corp. (formerly Mobil Oil Corp.) (5140 Paxton Street, Harrisburg, PA 17111) for a Synthetic Minor Operating Permit administrative amendment to operating permit No. 22-05023 to incorporate modifications to a loading rack controlled by a new vapor combustion unit as per Plan Approval 22-05023A at the Harrisburg Terminal in Swatara Township, **Dauphin County**. The sources primarily emit VOCs. The Synthetic Minor Operating Permit shall contain additional monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

22-05040: Pennsy Supply, Inc. (P. O. Box 3331, Harrisburg, PA 17105) for operation of a drum mix asphalt plant controlled by a knockout box and fabric collector at the Fiddlers Elbow Quarry in Lower Swatara Township, **Dauphin County**. Actual emissions for criteria pollutants will be below Title V thresholds. This will be accomplished by limiting the production of drum mix asphalt. The operating permit will contain appropriate conditions designed to keep the facility operating below Title V thresholds for criteria pollutants and within all other applicable air quality requirements.

36-03039: TYCO Electronics Corp. (30 Kauffman Road, Landisville, PA 17538) for electroplating and connector component production and a gas-fired emergency generator in East Hempfield Township, **Lancaster County**. The annual emissions of VOCs, HAPs and NOx from the operation are approximately 3 tons, 2 tons and 2 tons respectively; and the annual emissions of the particulate matter and oxides of sulfur are less than a ton each. The Natural Minor Operating Permit shall contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to the 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 before 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 certification.

Written comments, objections or requests for informal conferences on applications, may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the same address 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 (relating to public notices of filing of permit applications, opportunity for comment and informal conferences).

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations (as described in the Department's regulations—25 Pa. Code §§ 77.522, 87.102, 88.92, 88.187, 88.242, 89.52 and 90.102) for iron, manganese, suspended solids, settleable solids, alkalinity and pH. In addition to the previous, more restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies which have requested review of the NPDES permit requirements for a particular mining activity within the previously-mentioned public comment period will be provided with a 30-day period to review and submit comments on those requirements.

Written comments or objections 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 must contain the name, address and telephone number of requestor; 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.

Coal Applications Received

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

17970106 and NPDES Permit No. PA0220612. Forcey Coal, Inc., P. O. Box 225, Madera, PA 16661. Renewal of an existing bituminous surface mine permit in Decatur Township, **Clearfield County** affecting 119.9 acres. Receiving streams: Big Run to Moshannon Creek, Moshannon Creek to the West Branch of the Susquehanna River. Application received July 17, 2002.

17970101 and NPDES Permit No. PA0220167. Sky Haven Coal, Inc., R. D. 1, Box 180, Penfield, PA 15849. Renewal of an existing bituminous surface mine-auger permit in Lawrence Township, **Clearfield County** affecting 103.9 acres. Receiving streams: unnamed tributary to Pine Run, unnamed tributary to Clearfield Creek, Clearfield Creek, unnamed tributary to Flegals Run to Lick Run to West Branch of the Susquehanna River. Application received August 8, 2002.

McMurray District Mining Office: 3913 Washington Road, McMurray, PA 15317, (724) 941-7100.

30743711. NPDES Permit PA0033511, RAG Cumberland Resources, L. P. (158 Portal Rd., P. O. Box 1020, Waynesburg, PA 15370), to revise the permit for the Cumberland Coal Refuse Disposal Facility No. 1 in Whiteley Township, **Greene County** to increase the height of the slurry pond embankment and final reclamation plan, Surface Acres Proposed N/A, Underground Acres Proposed N/A, SCP Acres Proposed N/A, CRDP Support Acres Proposed N/A, CRDP Refuse Disposal

Acres Proposed N/A, no additional discharges, classified for the following uses: N/A. The first downstream potable water supply intake from the point of discharge is N/A. Application received August 1, 2002.

32851601. NPDES Permit PA0095966, P & N Coal Company, Inc. (240 Mahoning St., P. O. Box 331, Punxsutawney, PA 15767), to renew the permit for the Hillman Tipple in Banks Township, **Indiana County**, renewal, Surface Acres Proposed N/A, Underground Acres Proposed N/A, SCP Acres Proposed N/A, CRDP Support Acres Proposed N/A, CRDP Refuse Disposal Acres Proposed N/A, no additional discharges, classified for the following uses: N/A. The first downstream potable water supply intake from the point of discharge is N/A. Application received August 28, 2002.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

16010103 and NPDES Permit No. PA0242021. RFI Energy, Inc. (555 Philadelphia Street, Indiana, PA 15701). Revision to an existing bituminous and tipple refuse disposal operation in Perry Township, **Clarion County** affecting 136.5 acres. Receiving streams: unnamed tributaries to the Allegheny River, classified for WWF and unnamed tributaries to the Clarion River classified for CWF. The first downstream potable water supply intake from the point of discharge is the West Freedom Water Company. Revisions to include a land use change from cropland and pastureland to forestland on a tract owned by Frederick J. Dunlap et al., an insignificant boundary correction for an additional 3.5 acres and the addition of Module 27: Coal Ash Beneficial Use as a soil additive/substitute. Application received September 5, 2002.

33970113 and NPDES Permit No. PA0227633. Falls Creek Energy Co., Inc. (R. D. 6, Box 231, Kittanning, PA 16201). Renewal of an existing bituminous surface strip operation in Young Township, **Jefferson County** affecting 43.0 acres. Receiving streams: Elk Run, classified for CWF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received September 6, 2002.

24870102 and NPDES Permit No. PA0107875. Black Oak Development, Inc. (P. O. Box 205, Glen Campbell, PA 15742-0205). Renewal of an existing bituminous surface strip and tipple refuse disposal operation in Jay Township, **Elk County** affecting 94.5 acres. Receiving streams: unnamed tributary to Bennett Branch Sinnemahoning Creek, classified for CWF. There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received September 6, 2002.

Noncoal Applications Received

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

39970301C and NPDES Permit PA0223786. Lafarge North America, Inc. (5160 Main Street, Whitehall, PA 18052-1827), renewal of NPDES Permit in Whitehall Township, **Lehigh County**, receiving stream: Coplay Creek (CWF). First potable water supply intake from the point of discharge is the Allentown City Filtration Plant. Application received August 30, 2002.

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

41990301 and NPDES Permit No. PA0238287. Glenn O. Hawbaker, Inc., P. O. Box 135, State College, PA 16803. Revision to an existing Large Industrial Miner-

als (Sandstone) permit for an extension of the permit to 97.56 acres. The permit is located in Armstrong Township, **Lycoming County**. Receiving streams: Hagersmans Run, tributary to the Susquehanna River. Application received August 8, 2002.

18020803. Tom Evers Plumbing & Heating, 113 N. Water Street, Mill Hall, PA 17751. Commencement, operation and restoration of a Small Industrial Minerals (Rock) permit in Wayne Township, **Clinton County** affecting 5 acres. Receiving streams: unnamed tributary, tributary to Susquehanna River. Application received August 9, 2002.

PROJECTS UNDER THE ENVIRONMENTAL GOOD SAMARITAN ACT

The Environmental Good Samaritan Act (27 Pa.C.S. §§ 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 proposals is available for inspection at the office indicated before each proposal.

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 at the same address 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 objection and the relevant facts upon which it is based.

Project Proposals Received

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

11970104 and NPDES Permit No. PA0234486. M. B. Energy, Inc., 175 McKnight Road, Blairsville, PA 15717-7960, permit renewal for reclamation only and for continued restoration of a bituminous surface and auger mine and for discharge of treated mine drainage in Blacklick Township, **Cambria County**, affecting 449.6 acres. Receiving streams: unnamed tributaries to and South Branch Blacklick Creek classified for CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 30, 2002.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications and requests for Environmental Assessment approval and requests for 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(a)), 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. Initial requests for 401 Water Quality Certification will be published concurrently with the permit application. Persons object-

ing to approval of a request for certification under section 401 or to the issuance of a Dam Permit or Water Obstruction and Encroachment Permit, or the approval of an Environmental Assessment must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the 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. Each individual 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 the hours of 8 a.m. and 4 p.m. on each working day at the office noted before the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users may 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 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

E09-841. Orleans Homebuilders, One Greenwood Square, Suite 101, Bensalem, PA 19020, Newtown Township, **Bucks County**, ACOE Philadelphia District.

To construct and maintain 642 linear feet of twin 34-inch by 53-inch, elliptical reinforced concrete stream enclosure in and along an unnamed tributary of Core Creek (CWF, MF). The structure will replace several existing private enclosures and driveway crossings along the west side of Upper Silver Lake Road located within 700 feet of the intersection of Upper Silver Lake Road and Newtown Yardley Road. The project also proposes to construct and maintain approximately 69 linear feet of 18 inch high by 8 foot wide concrete box culvert crossing of an unnamed tributary of Core Creek to replace the existing culvert crossing of the Upper Silver Lake Road at the intersection with Newtown Yardley Road. The project site is located at the corner of Upper Silver Lake Road and Newtown Yardley Road (Langhorne, PA Quadrangle N: 19.5 inches; W: 4 inches).

E09-842. Bucks County Chapter Trout Unlimited, 507 Union Street, Perkasie, PA 18974, Durham Township, **Bucks County**, ACOE Philadelphia District.

To restore and stabilize 770 linear feet of stream banks along Cooks Creek (EV-CWF) using bioengineering and conventional structural methods. The work will involve grading, planting and seeding of the streambanks; the installation of flow deflectors, boulders and other habitat

enhancement devices; the placement of tree revetment, bush layering willow post and other related activities. The project site is located approximately 1,364 feet south of the intersection of Dogwood Lane and Durham Road (Riegelsville, PA Quadrangle N: 14.62 inches; W: 13.85 inches).

E09-843. Richland Township, 1328 California Road, P. O. Box 249, Richlandtown, PA 18955, Richland Township, **Bucks County**, ACOE Philadelphia District.

To replace, construct and maintain the Trumbauersville Road Bridge crossing Beaver Run. The project involves the removal of the existing 20 feet by 35 feet spanning bridge structure. The proposed structure is an 18-foot wide, 5-foot high, 39-foot long concrete box culvert and associated wing-walls. The bridge replacement is part of a larger project to widen a portion of Trumbauersville Road. The project site is located approximately 1,000 feet south of the intersection of Williams Street and Trumbauersville Road (Quakertown, PA Quadrangle N: 9.6 inches; W: 14.9 inches).

E23-425. Pennsylvania Department of Transportation, District 6-0, 7000 Geerdes Boulevard, King of Prussia, PA 19406-1525, Upper Chichester Township, **Delaware County**, ACOE Philadelphia District.

To remove an existing single span reinforced concrete frame bridge and to construct and maintain, in its place, a single cell precast reinforced concrete box culvert across Spring Run (WWF) associated with the roadway improvements for Bethel Road. The proposed culvert will have a clear span of 20.0 feet and an underclearance of 4.5 feet. This work also includes placement and maintenance of associated riprap protection at the inlet and outlet of the culvert. The site is located approximately 200 feet west of the intersection of Bethel Road (SR 3017, Sec. 31M) and Larkin Road (Marcus Hook, PA-NJ USGS Quadrangle N: 16.6 inches; W: 12.0 inches).

E15-694. Chester County Parks and Recreation Department, 601 Westtown Road, Suite 160, West Chester, PA 19380-0990, West Caln Township, **Chester County**, ACOE Philadelphia District.

To install and maintain 200 linear feet of streambank stabilization consisting of bio-logs and plantings along Birch Run (HQ-TSF-MF) at Hibernia County Park (Wagontown, PA Quadrangle N: 4.7 inches; W: 13.0 inches).

E15-695. Chester County Parks and Recreation Department, 601 Westtown Road, Suite 160, West Chester, PA 19380-0990, Warwick Township, **Chester County**, ACOE Philadelphia District.

To construct and maintain a 12-foot by 20-foot wood deck and an attached 5-foot by 144-foot boardwalk over existing riprap partially within the floodway of French Creek (HQ-TSF) at Warwick County Park (Pottstown, PA Quadrangle N: 8.25 inches; W: 13.35 inches).

E23-426. Delaware County Council, Government Services Center, 2nd and Orange Streets, Media, PA 19063, Springfield and Nether Providence Townships, **Delaware County**, ACOE Philadelphia District.

To modify and expand Smedley Park which involves the construction of a new 13-foot wide by 65-foot span new steel bridge and the replacement of an existing bridge across the Crum Creek (WWF); grading and construction work in the floodway, utility crossings and the construction of a stormwater basin and associated outlet piping. The project is located approximately 2,300 feet north of the Exit 3 interchange of Interstate Route 476 and Baltimore Pike (Lansdowne, PA Quadrangle N: 8.50 inches; W: 16.50 inches).

E51-203. Summit Realty Advisors, 621 Delaware Street, New Castle, DE 19720, City of Philadelphia, **Philadelphia County**, ACOE Philadelphia District.

To construct and maintain a CVS pharmacy building and associated parking areas in the floodway of the Tacony-Frankford Creek (WWF). The project consists of the demolition and removal of two existing buildings as well as grading activities. Proposed floodway encroachments consist of the placement of fill and a portion of the CVS building on the southern most corner of the property. The site is located at the corner of Vandyke Street and Torresdale Avenue (Frankford, PA Quadrangle N: 1.0 inch; W: 12.7 inches).

E15-696. Valley Township Board of Supervisors, P. O. Box 467, Coatesville, PA 19320, **Chester County**, ACOE Philadelphia District.

To reconstruct and maintain a damaged retaining wall structure and to construct and maintain approximately 100 linear feet of new retaining wall to improve the deteriorated section of Wagontown Road (T-230) for traffic safety. Total retaining rehabilitation is 300 feet long and about 25 feet high within the 100-year floodplain of West Branch Brandywine Creek (WWF-MF). The site is located approximately 1,000 feet northwest of the intersection of Glencrest East Road and Manor Road (Coatesville, PA-USGS Quadrangle, N: 20.20 inches; W: 10.90 inches).

E23-422. County of Montgomery, Court House, P. O. Box 311, Norristown, PA 19404-0311, Towamencin Township, **Montgomery County**, ACOE Philadelphia District.

To remove an existing deteriorated iron beam and truss bridge over Towamencin Creek (TSF) and to construct and maintain a single span composite prestressed box beam bridge having a span of 80 linear feet at the same location and with approximately the same horizontal alignment. The site is located between Metz and Kriebel Roads (Lansdale, PA Quadrangle, N: 18.8 inches; W: 16.0 inches).

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

E40-611. Pennsylvania Department of Transportation, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501, in Slocum Township, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To remove the existing structures and to construct and maintain two road crossings of a tributary to Pond Creek (known as Black Brook) (CWF), located approximately 1,000 feet apart. The upstream proposed structure is a 10.0-foot by 6.0-foot reinforced concrete box culvert with its invert depressed 1.0 foot and the downstream structure is a 14.0-foot by 6.0-foot reinforced concrete box culvert with its invert depressed 1.0 foot. Temporary culverts are proposed to divert flow during construction, bypassing approximately 160 linear feet of channel at the upstream structure and approximately 260 linear feet of channel at the downstream structure. The project is located along SR 3005, Sections 370 and 371, approximately 500 feet east of the Slocum Township/Conyngham Township boundary (Nanticoke, PA Quadrangle N: 0.8 inch; W: 10.3 inches).

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

E06-574. Ronald Knepp, Centre Township, 449 Bucks Hill Road, Mohrsville, PA 19541 in Centre Township, **Berks County**, ACOE Philadelphia District.

To remove the existing 17-foot, 9-inch span girder bridge and to construct and maintain a 24-foot span

concrete box culvert with a 6-foot, 6-inch rise at a point crossing Irish Creek (WWF) along Trolley Road (T-726) (Bernville, PA Quadrangle N: 18.5 inches; W: 14.1 inches) in Centre Township, Berks County.

E21-344. Robert Kemper, 31 N. Humer Street, Enola, PA 17025 in East Pennsboro Township, **Cumberland County**, ACOE Baltimore District.

To maintain fill placed within the floodway of an unnamed tributary to Conodoquinet Creek (WWF) at a point behind the residence at 31 Hummer Street, Enola, PA (Harrisburg West, PA Quadrangle N: 7.5 inches; W: 9.1 inches) in East Pennsboro Township, Cumberland County.

E22-443. George Zimmerman, Kendale Oaks Corp., 113 S. Market St., P. O. Box 151, Elizabethtown, PA 17022 in Lower Paxton Township, **Dauphin County**, ACOE Baltimore District.

To place fill and to a 36-inch culvert in approximately 0.21 acre of wetlands adjacent to Beaver Creek (WWF) and to construct a sewer line crossing and a temporary stream crossing in a tributary to Beaver Creek (Nyes Run) at a point near the intersection of Nyes Run and Beaver Creek (Harrisburg East, Quadrangle N: 5.0 inches; W: 0.5 inch) for the purpose of constructing the Kendale Oaks Residential Development in Lower Paxton Township, Dauphin County.

E36-745. William Adams, Lancaster Township, 1240 Maple Avenue, Lancaster, PA 17603 in Lancaster Township, **Lancaster County**, ACOE Baltimore District.

To construct the existing abutments and to construct and maintain: (1) two pedestrian footbridges crossing the Little Conestoga Creek (WWF) at points near the intersection of Columbia Avenue and Stonemill Road (Lancaster, PA Quadrangle N: 6.9 inches; W: 13.0 inches); and (2) a single pedestrian bridge with abutments across an unnamed tributary to Little Conestoga Creek (WWF) at a point approximately 1,000 feet south of the intersection of Columbia Avenue and Stonemill Road (Lancaster, PA Quadrangle N: 5.9 inches; W: 12.95 inches) in Lancaster Township, Lancaster County.

E36-747. Ivan Smucker, 6251 Division Highway, Narvon, PA 17555 in Caernarvon Township, **Lancaster County**, ACOE Baltimore District.

To construct and maintain: (1) a 16-foot by 80-foot concrete manure storage tank; (2) two 6-inch diameter outfall structures from downspouts; and (3) a 10-inch outfall from an existing 2-foot x 3-foot drop box all to be located within the floodway of an unnamed tributary to Conestoga Creek (WWF) at a point approximately 1,000 feet south of Beartown (Honeybrook, PA Quadrangle N: 20.0 inches; W: 14.8 inches) in Caernarvon Township, Lancaster County.

E38-134. Kathleen Moe, Friends of Old Annville, Quittie Creek Nature Park Committee, 308 E. Main Street, Annville, PA 17003 in Annville and South Annville Township, **Lebanon County**, ACOE Baltimore District.

To construct and maintain a 72-foot span pedestrian bridge crossing the Quittapahilla Creek (TSF) at a point along Bachman Road (Palmyra, PA Quadrangle N: 14.0 inches; W: 1.0 inch) in Annville and South Annville Township, Lebanon County.

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

E02-012 A. Victor A. and Susan Sutey, 1 River Road, Vic's Boat Park, McKees Rocks, PA 15136-2859. McKees Rocks Borough, **Allegheny County**, ACOE Pittsburgh District.

To reissue and amend Permit E02-012 to operate and maintain the existing boat docking facility and two mobile homes along with their associated fill, to place and maintain additional fill for a total distance of 226 feet and to construct and maintain a 6 foot high by 131 foot long precast concrete wall along the left bank of the Ohio River back channel near River Mile 2.7 (Pittsburgh West, PA Quadrangle N: 16.7 inches; W: 7.3 inches).

E02-1394. Levin Furniture, 301 Fitz Henry Road, Smithton, PA 15479. Municipality of Monroeville, **Allegheny County**, ACOE Pittsburgh District.

To place and maintain fill in 0.17 acre of wetlands, to construct and maintain a stormwater pond within a tributary to Thompson Run (WWF) and to construct and maintain various outfall structures to Thompson Run for a proposed Levin Furniture Store. The project is located in the northeast corner of the intersection of Old William Penn Highway and Elliott Road. To meet wetland replacement requirements the applicant proposes to pay into the wetland replacement fund. This project will also culvert approximately 665 feet of stream channel that qualifies for authorization under the Department's waiver 105.12(a)(2) (Murrysville, PA Quadrangle N: 16.7 inches; W: 14.9 inches).

E02-1396. Township of Indiana, 941 Route 910, P. O. Box 788, Indianola, PA 15051-0788. Township of Indiana, **Allegheny County**, ACOE Pittsburgh District.

To construct and maintain a pedestrian walking bridge having a span of 56.0 feet across the channel of Deer Creek (CWF) for the purpose of providing pedestrian access at Emmerling Park. The project is located at Emmerling Park, approximately 2,400 feet north from the intersection of Bull Run Road and SR 910 (New Kensington West, PA Quadrangle N: 14.3 inches; W: 16.1 inches).

E03-410. Pennsylvania Department of Transportation, Engineering District 10-0, 2550 Oakland Avenue, P. O. Box 429, Indiana, PA 15701. West Franklin Township, **Armstrong County**, ACOE Pittsburgh District.

To remove the existing structure and to construct and maintain a 1.0-foot depressed 8.0-foot x 9.0-foot reinforced concrete culvert in an unnamed tributary to Buffalo Creek (TSF) for the purpose of improving transportation safety and roadway standards. The project is located on SR 4033, Segment 0010, Offset 0605, Section 150, Station 5 + 85 (Kittanning, PA Quadrangle N: 18.3 inches; W: 17.2 inches).

E03-411. North Buffalo Township, R. D. 4, Box 331C, Kittanning, PA 16201. North Buffalo Township, **Armstrong County**, ACOE Pittsburgh District.

To remove the existing structure and to construct and maintain a 5.0-foot x 5.0-foot concrete box culvert in Sipes Run (HQ-TSF) for the purpose of improving transportation safety and roadway standards. The project is located on T-300, approximately 0.7 mile south of the intersection with SR 3015 (Worthington, PA Quadrangle N: 4.4 inches; W: 6.1 inches).

E04-288. Cooper and Cooper Company, 2703 US Route 30, Hookstown, PA 15050. Greene Township, **Beaver County**, ACOE Pittsburgh District.

To operate and maintain the existing fill along the right bank of an unnamed tributary to Mill Creek (TSF) and to

place and maintain fill along the right bank of said stream for a distance of approximately 250 feet for the purpose of constructing a truck garage and parking area and expanding a steel fabrication business. The project is located on the west side of Silver Slipper Road, approximately 600 feet southeast from the intersection of Silver Slipper Road and US Route 30 (Hookstown, PA Quadrangle N: 14.2 inches; W: 13.0 inches).

E26-298. Indian Creek Valley Water Authority, P. O. Box 486, 2068 Indian Health Road, Indian Head, PA 15446-0486. Stewart Township and Ohioyle Borough, **Fayette County**, ACOE Pittsburgh District.

To install and maintain an 8 inch waterline across Bear Run (EV) associated with a water system extension project. The project is located off of SR 0381 (Mill Run, PA Quadrangle N: 5.1 inches; W: 12.6 inches).

E65-809. Westmoreland County Public Works Department, R. D. 12, Box 203 Donohoe Road, Greensburg, PA 15601-9217. Mount Pleasant Township, **Westmoreland County**, ACOE Pittsburgh District.

To construct and maintain a single span pedestrian bridge having a normal span of 50.0 feet and an underclearance of 6.0 feet across Welty Run (HQ-CWF) for the purpose of serving a handicapped accessible walkway around Mammoth Lake. The project is located in Mammoth Park off of SR 982 south, 8 miles south of its intersection with Route 30 (Mammoth, PA Quadrangle N: 16.3 inches; W: 10.8 inches).

ACTIONS

FINAL ACTIONS TAKEN UNDER THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT—NPDES AND WQM PART II PERMITS

INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

The Department of Environmental Protection has taken the following actions on previously received permit applications and requests for plan approval.

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 may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary 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 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. Municipal and Industrial Permit Actions under The Clean Streams Law (35 P. S. §§ 691.1— 691.1001).

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

NPDES Permit No. PA0058530, Industrial Waste, **Georgia-Pacific Corporation**, 133 Peachtree Street Northeast, P. O. Box 105605, Atlanta, GA 30303. This proposed facility is located in Lower Merion Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval is authorized to discharge from a facility located at 600 Righters Ferry Road, Bala Cynwyd, PA 19004 to receiving waters named Schuylkill River-Wissahickon-3F.

NPDES Permit No. PA0058611, Sewage, **Tom Helder**, 3260 Mink Road, Kintnersville, PA 18930. This proposed facility is located in Springfield Township, **Bucks County**.

Description of Proposed Action/Activity: Approval to discharge from an unnamed tributary of Haycock Creek-2D.

NPDES Permit No. PA0030228, Sewage, **East Brandywine Township Municipal Authority**, 1214 Horseshoe Pike, Downingtown, PA 19355 and **Delaware County Community College**, 901 South Media Line Road, Media, PA 19063. This proposed facility is located in East Brandywine Township, **Chester County**.

Description of Proposed Action/Activity: Renewal to discharge into an unnamed tributary to Beaver Creek.

NPDES Permit No. PA0058491, Sewage, **PECO Energy Company**, 300 Front Street, Building No. 1, Conshohocken, PA 19428. This proposed facility is located in Lower Merion Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval to discharge into Cobbs Creek via storm sewer and Dry Swale-3G.

NPDES Permit No. PA0058505, Sewage, **Kilcar House Inc.**, 199 Union Road, Quakertown, PA 18951. This proposed facility is located in Richland Township, **Bucks County**.

Description of Proposed Action/Activity: Approval to discharge into Tohickon Creek-2D-Three Mile.

NPDES Permit No. PA0053279, Sewage, **The McKee Group**, 1490 Durham Road, New Hope, PA 18938. This proposed facility is located in Buckingham Township, **Bucks County**.

Description of Proposed Action/Activity: Renewal to discharge into an unnamed tributary to Mill Creek.

NPDES Permit No. PA0050458, Sewage, **Little Washington Wastewater Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010. This proposed facility is located in East Brandywine Township, **Chester County**.

Description of Proposed Action/Activity: Renewal to discharge into Culbertson Run-3H Watershed.

NPDES Permit No. PA0058513, Sewage, **Greg Thompson**, P. O. Box 18, Ferndale, PA 18921. This proposed facility is located in Springfield Township, **Bucks County**.

Description of Proposed Action/Activity: Approval to discharge into an unnamed tributary to Haycock Creek-Three Mile-2D.

WQM Permit No. 1500421 Amendment No. 1, Sewerage, **Upper Uwchlan Township**, 140 Pottstown Pike, Chester Springs, PA 19425. This proposed facility is located in Upper Uwchlan Township, **Chester County**.

Description of Proposed Action/Activity: Approval to amend existing permit for the construction and operation of gravity sewers two pump stations, spray irrigation and drip disposal system to serve the proposed residential development known as the Reserve at Eagle.

WQM Permit No. 2387434 Amendment No. 1, Sewerage, **Springhill Farms Wastewater Treatment Facility**, P. O. Box 756, Chadds Ford, PA 19317. This proposed facility is located in Chadds Ford Township, **Delaware County**.

Description of Proposed Action/Activity: Amend existing permit to install a dechlorination system at the wastewater treatment facility.

WQM Permit No. 4602402, Sewerage, **Horsham Township Water and Sewer Authority**, 617B Horsham Road, Horsham, PA 19044. This proposed facility is located in Horsham Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the construction and operation of a new pump station a sanitary sewer line and a forcemain.

WQM Permit No. 0902403, Sewerage, **Greg Thompson**, P. O. Box 18, Ferndale, PA 18921. This proposed facility is located in Springfield Township, **Bucks County**.

Description of Proposed Action/Activity: Construction and operation of a single residential sewage treatment plant.

WQM Permit No. 1599201, Industrial Waste, **Pennsylvania Suburban Water Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489. The proposed facility is located in Wallace Township, **Chester County**.

Description of Proposed Action/Activity: On March 19, 1999, the Pennsylvania Suburban Water Company submitted an application for construction and operation of two proposed sludge lagoons to handle residual materials resulting from the water treatment plant and to discharge lagoon supernatant to the Cornog Quarry. A flow of 38,440 gallons per day of wastewater will be directed from the water treatment plant to the sludge lagoons. The proposed facilities will be constructed and operated within Wallace, East Brandywine and West Brandywine Townships in a manner consistent with the franchise service areas authorized by and agreements filed with the Pennsylvania Public Utility Commission and with municipal zoning ordinances and zoning approvals concerning new or expanded development.

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

NPDES Permit No. PA0013064, Industrial Waste, **Elementis Pigments, Inc.**, 1525 Wood Avenue, Easton, PA 18042-1497. This proposed facility is located in City of Easton, **Northampton County**.

Description of Proposed Action/Activity: To renew NPDES Permit.

NPDES Permit No. PA0023051, Sewage, **Borough of Palmerton**, 443 Delaware Avenue, Palmerton, PA 18071. This proposed facility is located in Palmerton Borough, **Carbon County** and discharge to Aquashicola Creek.

Description of Proposed Action/Activity: Renewal of NPDES Permit.

NPDES Permit No. PA0064190, Sewage, **DSV, Inc.**, P. O. Box 87, Hamlin, PA 18427. This proposed facility is located in Salem Township, **Wayne County**.

Description of Proposed Action/Activity: To issue a new NPDES Permit.

WQM Permit No. 3502401, Sewerage, **Lackawanna River Basin Sewer Authority**, P. O. Box 9068, Dickson City, PA 18519. This proposed facility is located in Throop Borough, **Lackawanna County**.

Description of Proposed Action/Activity: Construction and operation of the Throop Borough Pump Station.

WQM Permit No. 4502402, Sewerage, **Coolbaugh Township Board of Supervisors**, 5550 Memorial Boulevard, Tobyhanna, PA 18466. This proposed facility is located in Coolbaugh Township, **Monroe County**.

Description of Proposed Action/Activity: Part II permit to construct a 16,000 gallon equalization tank at the Coolbaugh Township Wastewater Treatment Plant.

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

NPDES Permit No. PA0084948, Sewage, **Waynesboro Borough Authority**, 57 East Main Street, Waynesboro, PA 17320. This proposed facility is located in Quincy Township, **Franklin County**.

Description of Proposed Action/Activity: Authorization to discharge to East Branch Antietam Creek in Watershed 13-C.

WQM Permit No. 3678402 Amendment 01-1, Sewerage, **Mount Joy Borough Authority**, P. O. Box 25, Mount Joy, PA 17552. This proposed facility is located in East Donegal Township, **Lancaster County**.

Description of Proposed Action/Activity: Modifications to the construction/operation of sewage treatment facilities.

NPDES Permit No. 6702404, Sewerage, **Red Lion Municipal Authority**, P. O. Box 190, Red Lion, PA 17356-0190. This proposed facility is located in Red Lion Borough, **York County**.

Description of Proposed Action/Activity: Construction/operation of the High Street Pump Station.

NPDES Permit No. PA0088935, CAFO, **Mike Mul-lady, Harmony Farms, LLC**, P. O. Box 248, Camp Hill, PA 17001. This proposed facility is located in North Codorus Township, **York County**.

Description of Size and Scope of Proposed Operation/Activity: Authorization to operate a 1,717-AEU swine CAFO with a discharge in Watershed 7-H.

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

PA0031283, Sewage, SIC 4952, **West Branch Area School District**, R. R. 2, Box 194, Morrisdale, PA 16858-9312. This existing facility is located in Morris Township, **Clearfield County**.

Description of Proposed Activity: Renewal of an NPDES permit for the sewage treatment facility, which serves the junior/senior high and the elementary schools.

NPDES Permit No. PA0044661, Sewerage SIC 4952, **Lewisburg Area Joint Sewer Authority**, P. O. Box 305, Lewisburg, PA 17837. This proposed facility is located in East Buffalo Township, **Union County**.

Description of Proposed Action/Activity: Renewal of NPDES Permit.

NPDES Permit No. PA0115053, Sewerage 4952, **Nicholas Wolff Foundation**, R. D. 2 Box 180, Millville, PA 17846. This facility is located in Greenwood Township, **Columbia County**.

Description of Action/Activity: Renewal of NPDES permit for nonmunicipal wastewater treatment facilities.

NPDES Permit No. PA0008443, Industrial Waste SIC 4911, **PPL Montour LLC**, Two North Ninth Street, Allentown, PA 18101. This proposed facility is located in Derry Township, **Montour County**.

Description of Proposed Action/Activity: Renewal of NPDES Permit.

NPDES Permit No. PA0113034, Sewerage 4952, **Beaver Lake Sewer Company**, P. O. Box 1, Cambria, PA

18611. This facility is located in Penn Township, **Lycoming County**.

Description of Action/Activity: Renewal of NPDES permit for nonmunicipal wastewater treatment facilities.

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

NPDES Permit No. PA0001287, Industrial, **Armstrong World Industries, Inc.**, 1018 11th Street, Beaver Falls, PA 15010 is authorized to discharge from a facility located at the Beaver Falls Plant, Beaver Falls, **Beaver County** to receiving waters named Walnut Bottom Run (Outfalls 001, 005, 007—009, 011 and 012) and Brighton Alley Run (Outfalls 002—004 and 006).

NPDES Permit No. PA0002933, Industrial Waste, **West Penn Power Company d/b/a Allegheny Power**, South Seventh Street, Connellsville, PA 15425 is authorized to discharge from a facility located at the West Penn/Allegheny Power Connellsville West Side Facility, City of Connellsville, **Fayette County** to receiving waters named Youghiogheny River.

This notice reflects changes from the notice published at 31 Pa.B. 3780 (July 14, 2001).

Internal Outfall 102

Parameter	Average Monthly	Maximum Daily	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
Total PCB	Not Detectable				Not Detectable	

Also, Internal Outfalls 202 and 111 are eliminated because the direct discharge of wastewater has been eliminated.

NPDES Permit No. PA0004740, Sewerage, **Nautical Mile Marina, Inc.**, 206 Butler Road, Kittanning, PA 16201 is authorized to discharge from a facility located at The Nautical Mile Marina at Templeton Sewage Treatment Plant, Pine Township, **Armstrong County** to receiving waters named Allegheny River.

NPDES Permit No. PA0021113, Sewerage, **Borough of Glassport**, Fifth and Monongahela Avenues, Glassport, PA 15045 is authorized to discharge from a facility located at Glassport Sewage Treatment Plant, Borough of Glassport, **Allegheny County** to receiving waters named Monongahela River.

NPDES Permit No. PA0026824, Sewerage, **Clairton Municipal Authority**, One North State Street, Clairton, PA 15025 is authorized to discharge from a facility located at the Clairton Sewage Treatment Plant, City of Clairton, **Allegheny County** to receiving waters named Peters Creek.

NPDES Permit No. PA0046671, Sewerage, **United Steelworkers of America**, Five Gateway Center, Pittsburgh, PA 15222 is authorized to discharge from a facility located at Linden Hall United Steelworkers STP, Lower Tyrone Township, **Fayette County** to receiving waters named drainage swale tributary to Youghiogheny River.

NPDES Permit No. PA0091243, Sewerage, **Allegheny Trails Council (BSA)**, Flag Plaza, Pittsburgh, PA 15219-3699 is authorized to discharge from a facility located at Heritage Reservation Sewage Treatment Plant, Wharton

Township, **Fayette County** to receiving waters named drainage swale tributary to an unnamed tributary of Little Sandy Creek.

NPDES Permit No. PA0096130, Sewerage, **Nemacolin, Inc.**, 803 Pershing Boulevard, P. O. Box 117, Nemacolin, PA 15351 is authorized to discharge from a facility located at Nemacolin, Inc. Sewage Treatment Plant, Cumberland Township, **Greene County** to receiving waters named Monongahela River.

NPDES Permit No. PA0204200, Sewerage, **Joseph T. Naviglia, Jr.**, 1743 Wildlife Lodge Road, Lower Burrell, PA 15068 is authorized to discharge from a facility located at the Naviglia SR STP, Lower Burrell, **Westmoreland County** to receiving waters named unnamed tributary to Little Pucketa Creek.

NPDES Permit No. PA0205681, Sewerage, **Somerset Township Municipal Authority**, 2209 North Center Avenue, P. O. Box 247, Somerset, PA 15501-0247 is authorized to discharge from a facility located at Somerset Correctional Facility Sewage Treatment Plant, Black Township, **Somerset County** to receiving waters named unnamed tributary of Laurel Run.

NPDES Permit No. PA0217727, Sewerage, **Rices Landing Borough**, Main Street, P. O. Box 185, Rices Landing, PA 15357 is authorized to discharge from a facility located at the Rices Landfill STP, Borough of Rices Landing, **Greene County** to receiving waters named Monongahela River.

NPDES Permit No. PA0219177, Sewerage, **Dana Mining Company of PA, Inc.**, P. O. Box 1209, Morgantown, WV 26507 is authorized to discharge from a facility located at Titus Mine Sewage Treatment Plant, Dunkard

Township, **Greene County** to receiving waters named unnamed tributary of Dunkard Creek.

NPDES Permit No. PA0219240, Sewage, **Donald Andrick**, 3919 Constitution Boulevard, Darlington, PA 16115 is authorized to discharge from a facility located at Andrick Property, Bell Acres Borough, **Allegheny County** to receiving waters named unnamed tributary to Little Sewickley Creek.

NPDES Permit No. PA0219258, Sewage, **268 Center, Inc.**, R. D. 1, Box 290, Cowansville, PA 16218 is authorized to discharge from a facility located at Mechling-Shakley Veterans Center Sewage Treatment Plant, Sugarcreek Township, **Armstrong County** to receiving waters named drainage swale tributary to unnamed tributary of Patterson Creek.

Permit No. 2685202-A1, Industrial Waste, **West Penn Power d/b/a Allegheny Power**, 800 Cabin Hill Drive, Greensburg, PA 15601-1689. Construction of wastewater equipment at an electrical utility service and warehouse facility located in City of Connellsville, **Fayette County** to serve West Penn/Allegheny Power Connellsville West Side Facility.

Permit No. 0202407, Sewerage, **Donald Andrick**, 3919 Constitution Boulevard, Darlington, PA 16119. Construction of small flow sewage treatment plant—single residence located in Bell Acres Borough, **Allegheny County** to serve Andrick Property.

Permit No. 3002401, Sewerage, **Dana Mining Company of PA, Inc.**, P. O. Box 1209, Morgantown, WV 26507. Construction of a sewage treatment plant located in Dunkard Township, **Greene County** to serve Titus Mine Sewage Treatment Plant.

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

NPDES Permit No. PA0238759, Sewage, **Nancy Jane Oesterling**, 454 Keck Road, Butler, PA 16002. This proposed facility is located in Summit Township, **Butler County**.

Description of Proposed Action/Activity: This project is authorized to discharge to unnamed tributary to Bonnie Brook.

WQM Permit No. 1002408, Sewerage, **Nancy Jane Oesterling**, 454 Keck Road, Butler, PA 16002. This proposed facility is located in Summit Township, **Butler County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment plant.

WQM Permit No. 2502414, Sewerage, **Paul L. and Esther V. Stewart**, 6832 Garfield Avenue, Harborcreek, PA 16421. This proposed facility is located in Harborcreek Township, **Erie County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment plant.

NPDES STORMWATER INDIVIDUAL PERMITS—(PAS)

The following NPDES Individual Permits for Discharges of Stormwater Associated with Construction Activities have been issued.

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 may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary 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 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.

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAR10D124	Ashley Development Company 559 Main Street, Suite 300 Bethlehem, PA 18018	Bucks	Springfield Township	Cooks Creek EV
PAS10G338	Pennsylvania Suburban Water Co. 762 Lancaster Avenue Bryn Mawr, PA 19010-3489	Chester	Wallace Township	East Branch Brandywine Creek HQ-TSF-MF
PAS10G467	Sandy Hill, LP 960 Pottstown Pike Chester Springs, PA 19425	Chester	West Caln Township	Birch Run HQ
PAS10G520	White Manor County Club 831 Providence Road Malvern, PA 19335	Chester	Willistown Township	Tributary to Crum Creek EV

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10Q234	R.A.B. Management 711 Frutchey Rd. Easton, PA 18040	Lehigh	Lower Macungie Township	Little Lehigh Creek HQ-CWF
PAS10Q242	Lehigh Career & Technical Institute 4500 Education Park Dr. Schnecksville, PA 18078	Lehigh	N. Whitehall Township	Unnamed tributaries to Jordan Creek HQ-CWF
PAS10S105	Price Township Development Corp. 1 Empire Plaza SR 611 Stroudsburg, PA 18360	Monroe	Price and Smithfield Townships	Michael Creek HQ-CWF
PAS10U175	Reen Development Co., LLC 5303 Cider Press Rd. Schnecksville, PA 18078	Northampton	Plainfield Township	Little Bushkill Creek HQ-CWF
PAS10U174	Muschlitz Excavating, Inc. 586 Moorestown Dr. Bath, PA 18014	Northampton	Moore Township	Bushkill Creek HQ-CWF

APPROVALS TO USE NPDES AND/OR OTHER GENERAL PERMITS

The following parties have submitted: (1) Notices of Intent for Coverage under (1) General NPDES Permits to Discharge Wastewater into the Waters of the Commonwealth. The approval for coverage under these general NPDES permits is subject to applicable effluent limitations. Monitoring, reporting requirements and other conditions set forth in the general permit; (2) General Permits for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in this Commonwealth; (3) General NPDES Permit Authorizing the Discharge of Stormwater Associated with Construction Activities to Waters of the Commonwealth; (4) Notification for First Use Application of Sewage Sludge.

The approval of coverage for land application of sewage sludge or residential septage under these general permits 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. The Department of Environmental Protection approves the following coverage under the specific General Permit.

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).

The application 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.

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 Single Residence Sewage Treatment Plant
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water 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 Nonexceptional Quality Sewage Sludge 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)

General Permit Type—PAG 2

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Butler County Jackson Township	PAR10E194	Kenny Ross Chevrolet-Buick 5989 Penn Circle South Pittsburgh, PA 15206	Breakneck Creek WWF	Butler Conservation District (724) 284-5270
Butler County Washington Township	PAR10E179	Seneca Land Fill Inc. P. O. Box 1080 Mars, PA 16046	Hilliards Branch of Slippery Rock Creek CWF	Butler Conservation District (724) 284-5270
Washington Township Jefferson County	PAS103313	Robert W. Shaffer P. O. Box 229 Falls Creek, PA 15840	Kyle Run Tributary to Falls Creek	Jefferson County (814) 849-7463
Harborcreek Township Erie County	PAR10K202	The Pennsylvania State University Behrend College University Support Bldg. II Room 110 5091 Station Road Erie, PA 16553	Tributary to Four Mile Creek WWF; MF	Erie County Conservation District (814) 825-6403
Millcreek Township Erie County	PAR10K200	Eagles L. P. 3435 West Lake Road Erie, PA 16506	UNT to Walnut Creek WWF; CWF	Erie County Conservation District (814) 825-6403
City of Erie Erie County	PAR10K201	Pennsylvania Department of Transportation 255 Elm Street Oil City, PA 16301	Millcreek WWF; MF	Erie County Conservation District (814) 825-6403
City of Erie Erie County	PAR10K203	Erie-Western Pennsylvania Port Authority 100 State Street Suite 205 Erie, PA 16507	Millcreek WWF; MF	Erie County Conservation District (814) 825-6403
Scott Township Lawrence County	PAR103751	Samuel and Becky McCracken R. D. 3 Box 301 Slippery Rock, PA 16057	Slippery Rock Creek CWF	Lawrence County Conservation District (724) 652-4512
Hilltown Township Bucks County	PAR10D600	Frank McGowen P. O. Box 794 Uwchlan, PA 19480-0794	Neshaminy Creek WWF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Upper Makefield Township Bucks County	PAR10D606	John Lehman 1054 Creamery Road Upper Makefield, PA 18940	Delaware River WWF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Tullytown Borough Bucks County	PAR10D655	DLC Management Corp. 580 White Plains Road Tarrytown, NY 10591	Unnamed tributary to Delaware River WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Buckingham Township Bucks County	PAR10D661	DeLuca Enterprises 107 Floral Vale Boulevard Yardley, PA 19067	Neshaminy Creek WWF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000

NOTICES

4639

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Northampton Township Bucks County	PAR10D468-1	Site Development Inc. 1700 Horizon Way Mt. Laurel, PA 08054	Iron Works Creek TSF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Middletown Township Bucks County	PAR10D507-1	Pennswood Village 1382 Langhorne Road Newtown, PA 18940	Neshaminy Creek WWF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Newtown Township Bucks County	PAR10D578-1	Orleans Homebuilders, Inc. 3333 Street Road Suite 1 Bensalem, PA 19020	Core Creek WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Upper Providence Township Delaware County	PAR10J233	Greenbriar LLP 347 East Conestoga Road Wayne, PA 19087	Crum Creek CWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Lower Chichester Township Marcus Hook Borough Delaware County	PAR10J252	PECO Energy 405 Park Avenue Warminster, PA 18974	Unnamed tributary to Delaware River WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Worcester Township Montgomery County	PAR10T811	Cedars Hill, LLP 900 East 8th Avenue Suite 300 King of Prussia, PA 19406	Zacharias Creek WWF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Pottstown Borough Montgomery County	PAR10T859	Borough of Pottstown 100 East High Street Pottstown, PA 19464	Schuylkill River CWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Montgomery Township Montgomery County	PAR10T869	Montgomery Sq. Partnership 585 Skippack Pike Blue Bell, PA 19422	Little Neshaminy Creek WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Towamencin Township Montgomery County	PAR10T843	Dock Woods Community 275 Dock Drive Lansdale, PA 19446	Unnamed tributary to Skippack Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Montgomery Township Montgomery County	PAR10T892	United Stor-All Centers 1787 Sentrey Parkway West Blue Bell, PA 19422	Trewellyn Creek WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Montgomery Township Montgomery County	PAR10T765	Integral Development Corp. 1809 Walnut Street Suite 425 Philadelphia, PA 19103	Tributary of Little Neshaminy Creek WWF, MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Upper Pottsgrove Township Montgomery County	PAR10T356-R2	Rouse Chamberlin Homes 500 Exton Commons Exton, PA 19341	Manatawny Creek CWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Upper Providence Township Montgomery County	PAR10T704	The Sukonick Building 1250 Germantown Pk. Suite 100 Plymouth Meeting, PA 19462	Mingo Creek WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Limerick Township Montgomery County	PAR10T736	40-44 High Street, Inc. 1030 Germantown Pk P. O. Box 19409 Fairview Village, PA 19409	Brook Evans Creek WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Lackawanna County City of Scranton	PAR10N116-1	Christopher J. Speicher Tripp CDC, Inc. 1710 Madison Ave. Dunmore, PA 18512	Lackawanna River TSF	Lackawanna County Conservation District (570) 281-9495
Northampton County Allen Township	PAR10U180	Louis Tepes, Jr. 3185 Center Rd. Northampton, PA 18067	Lehigh River WWF	Northampton County Conservation District (610) 746-1971
Silver Spring Township Cumberland County	PAR10H297	Robert Yentzer 6355 Basehore Road Mechanicsburg, PA 17055	Simmons Run WWF	Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812
Lancaster City Lancaster County	PAR10O459	High Steel Service Center Inc. 400 Steel Way Lancaster, PA 17604	UNT to Little Conestoga Creek WWF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361
Lancaster City Lancaster County	PAR10O526	Redevelopment Authority of Lancaster 120 N. Duke St. Box 1599 Lancaster, PA 17602	Conestoga Creek WWF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361
East Lampeter Township Lancaster County	PAR10O577	Metzler/Hess Partnership 1172 Penn Grant Rd. Strasburg, PA 17579	Mill Creek WWF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601
Rapho Township Lancaster County	PAR10O580	Leroy G. Musser 1901 Cider Press Rd. Manheim, PA 17545	Little Chickies Creek TSF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361
West Lampeter Township Lancaster County	PAR10O584	Scott H. Haverstick 1970 Water St. Washington Borough, PA 17582	UNT to Mill Creek WWF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361

NOTICES

4641

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Conoy Township Lancaster County	PAR10O587	Construction & Develop Solutions 1219 Willow Street Pike Lancaster, PA 17602	UNT to Conoy Creek TSF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601 (717) 299-5361
York Township York County	PAR10Y598	Cider Ridge Clark Drenning Hantz Enterprises 2152 Bayberry Lane York, PA 17403	UNT to Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Richmond Township Berks County	PAR10C437	Daniel Dellicker, Director Environmental Affairs E. Penn Mfg. Co. Inc. Deka Rd. Lyon Station, PA 19536	Moselem Creek CWF	Berks County Conservation District P. O. Box 520 1238 Co. Welfare Rd. Leesport, PA 19533-0520 (610) 372-4657
Centre County Gregg Township	PAR10F169	Stonefield Subdivision Paul Zubler 3896 Penns Valley Pike Spring Mills, PA 16875	UNT to Penns and Sinking Creeks CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817
Northumberland County Delaware Township	PAR104950	Revival Tabernacle Church Old Highway 15 New Columbia, PA 17856	UNT to Muddy Run WWF	Northumberland County Conservation District R. R. 3, Box 238C Sunbury, PA 17801 (570) 286-7114 Ext. 4
Allegheny County Kennedy Township	PAR10A585	Prestige Mortgage Services 1789 Pine Hollow Rd. McKees Rocks, PA 15136	Moon Run WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County O'Hara Township	PAR10A586	Thomson Properties, Inc. 9400 McKnight Rd. Suite 207 Pittsburgh, PA 15237	UNT to Allegheny River WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Findlay and Moon Townships	PAR10A591	Pennsylvania Department of Transportation 45 Thoms Run Rd. Bridgeville, PA 15017	Raccoon Creek WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Marshall Township	PAR10A594	Gary Herbert P. O. Box 297 Wexford, PA 15090	Pine Creek CWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Collier Township	PAR10A602	Collier Town Square 1370 Washington Pike Bridgeville, PA 15017	Chartiers Creek WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Collier Township	PAR10A602	O'Brien Construction Company 30685 Solon Industrial Parkway Solon, OH 44139	Chartiers Creek WWF	Allegheny County Conservation District (412) 241-7645
Beaver County Center Township	PAR100292	Gary Yoko TDS Group, LLC P. O. Box 477 Beaver, PA 15009	UNT to Raccoon Creek WWF Ohio River WWF	Beaver County Conservation District (724) 774-7090
Washington County North Strabane Township	PAR10W214	Canon-McMillan School District One North Jefferson Ave. Canonsburg, PA 15317-1305	Chartiers Creek WWF	Washington County Conservation District (724) 228-6774

General Permit Type—PAG-3

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Bensalem Township Bucks County	PAR230062	Betz Dearborn Inc. 4636 Somerton Rd. Trevose, PA 19053	Poquessing Creek 2F Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6131
City of Philadelphia Philadelphia County	PAR800085	Roadway Express Inc. 1077 Gorge Blvd. Akron, OH 44309	Frankford Creek 3J Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6131
East Goshen Township Chester County	PAR110029	MEI/ISI/FLAVIA 1301 Wilson Dr. West Chester, PA 19380	Chester Creek 3G Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6131
Middletown Township Bucks County	PAR230046	Betz Dearborn Inc. 4636 Somerton Rd. Trevose, PA 19053	Mill Creek 2F Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6131
Lebanon County Lebanon City	PAR203598	Lancaster Aluminum Co., Ltd. 24 Keystone Drive Lebanon, PA 17042	Quittapahilla Creek TSF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Franklin Township Snyder County	PAR214824	Architectural Precast, LLC P. O. Box 157 Middleburg, PA 17824	UNT to Middle Creek CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
City of Hermitage Mercer County	PAR808336	Con-Way Transportation Services c/o CNF, Inc. 3240 Hillview Avenue Palo Alto, CA 94304	Shenango River	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
City of St. Marys Elk County	PAR228301	Babcock Lumber Company P. O. Box 8348 Pittsburgh, PA 15218	Unnamed tributary of Iron Run and unnamed tributary of Elk Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Clinton Township Butler County	PAR608321	Saxonburg Boulevard Auto Parts, Inc. P. O. Box 152 Mars, PA 16046	Bull Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Clinton Township Butler County	PAR118320	II-IV Incorporated 375 Saxonburg Boulevard Saxonburg, PA 16056	Unnamed tributary to Thorn Creek and Lardintown Run Bull Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
City of Erie Erie County	PAR218306	A. Duchini, Inc. P. O. Box 10005 Erie, PA 16514-0005	Garrison Run to Lake Erie	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Conewango Township Warren County	PAR708318	West Penn Oil Company, Inc. P. O. Box 805 Warren, PA 16365	Jackson Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
<i>General Permit Type—PAG-4</i>				
<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Franklin County Letterkenny Township	PAG043584 (Transfer)	Sean W. and Monique B. White 8835 Iron Bridge Road Chambersburg, PA 17201	Lehman Run WWF	DEP—SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707
Lewis Township Northumberland County	PAG045011	Frank A. Brown R. D. 3, Box 415A Muncy, PA 17765	UNT to Warrior Run WWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Harborcreek Township Erie County	PAG048824	Paul L. and Esther V. Stewart 6832 Garfield Avenue Harborcreek, PA 16421	Unnamed tributary to Sevenmile Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

PUBLIC WATER SUPPLY PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Safe Drinking Water Act 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 may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary 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 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 (35 P. S. §§ 721.1—721.17).

Southeast Region: Water Supply Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Permit No. 1598513, Public Water Supply.	
Applicant	Pennsylvania Suburban Water Company 762 W. Lancaster Avenue Bryn Mawr, PA 19101
Township	Wallace
County	Chester
Type of Facility	PWS
Consulting Engineer	CET Engineering Services 1240 N. Mountain Road Harrisburg, PA 17112-1788
Permit to Construct Issued	September 6, 2002
Permit No. 0902505, Minor Amendment. Public Water Supply.	
Applicant	Newtown Artesian Water Company P. O. Box 217 Newtown, PA 18940-0217
Borough	Newtown

County **Bucks**
 Type of Facility PWS
 Consulting Engineer Gannett Fleming, Inc.
 P. O. Box 67100
 Harrisburg, PA 17106-7100
 Permit to Construct September 3, 2002
 Issued

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

Operations Permit issued to **Huckleberry Land Water Association**, 705 South Mountain Estates Road, Shippensburg, PA 17257, 7210052, Southampton Township, **Cumberland County** on August 26, 2002, for the operation of facilities approved under Construction Permit No. 2100502.

Operations Permit issued to **Cavalry Heights, Inc.**, 2160 Hanover Road, Gettysburg, PA 17325, 7010039, Mt. Pleasant Township, **Adams County** on August 30, 2002, for the operation of facilities approved under Construction Permit No. 0101506.

Operations Permit issued to **Lincoln Utilities Incorporated**, P. O. Box 308, Greencastle, PA 17225 7280063, Antrim Township, **Franklin County** on July 5, 2002, for the operation of facilities approved under Construction Permit No. 2801507.

Operations Permit issued to **Pennsylvania American Water Company**, 800 West Hersheypark Drive, P. O. Box 888, Hershey, PA 16335, 7210029, Hampden Township, **Cumberland County** on August 26, 2002, for the operation of facilities approved under Construction Permit No. 2101505.

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

Permit No. 1401506, Public Water Supply.

Applicant **Aaronsburg Water Pipes, Inc.**
 P. O. Box 254
 Aaronsburg, PA 16820
 Township Haines Township
 County **Centre**
 Type of Facility PWS
 Consulting Engineer Jason Wert, P.E.
 Herbert, Rowland & Grubic, Inc.
 474 Windmere Drive
 State College, PA 16801
 Permit to Construct September 6, 2002
 Issued

Operations Permit issued to **Williamsport Municipal Water Authority**, 253 West Fourth Street, Williamsport, PA 17701, Old Lycoming Township, **Lycoming County** on September 4, 2002, for the operation of the new Grimesville finished water storage tank.

Operations Permit (Special Permit-by-Rule) issued to **Harmony Brook d/b/a Culligan Store Solutions**, 1030 Lone Oak Road, Suite 110, Eagan, MN 55121-2251, on August 30, 2002, for the installing and operation of Culligan Store Solutions Fresh Drinking Water System at the Wal-Mart Supercenter #1640, PWS ID 4146363, 1640

North Atherton Place, State College, PA 16803-1417, Patton Township, **Centre County**.

Operations Permit (Special Permit-by-Rule) issued to **Harmony Brook d/b/a Culligan Store Solutions**, 1030 Lone Oak Road, Suite 110, Eagan, MN 55121-2251, on August 30, 2002, for the deactivation and removal of a vended water machine, entry point 103 located in Giant Food Store #68, PWS ID 414363, in the Borough of Shamokin Dam, **Snyder County**.

Operations Permit (Special Permit-by-Rule) issued to **Harmony Brook d/b/a Culligan Store Solutions**, 1030 Lone Oak Road, Suite 110, Eagan, MN 55121-2251, on August 30, 2002, for the deactivation and removal of a vended water machine, entry point 103 located in Giant Food Store #108, PWS ID 414363, in the Borough of Danville, **Montour County**.

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

Permit No. 2402501, Public Water Supply.

Applicant **Johnsonburg Municipal Authority**
 520 A Market Street
 Johnsonburg, PA 15845
 Borough or Township Ridgway
 County **Elk**
 Type of Facility PWS
 Consulting Engineer Uni-Tec Consulting Engineers,
 Inc.
 2007 Cato Avenue
 State College, PA 16801
 Permit to Construct September 9, 2002
 Issued

Permit No. 1002502, Public Water Supply.

Applicant **Petrolia Water Authority**
 P. O. Box 222
 Petrolia, PA 16050
 Borough or Township Petrolia Borough
 County **Butler**
 Type of Facility PWS
 Consulting Engineer Olsen Engineering
 126 S. Main Street
 Butler, PA 16991
 Permit to Construct September 9, 2002
 Issued

Operation Permit issued to **Foxburg Area Water and Sewer Authority**, P. O. Box 2, Foxburg, PA 16036-0002, PWS ID 6160004, Foxburg Borough, **Clarion County** on September 6, 2002, for the operation of facilities approved under Construction Permit #1601502.

Operation Permit issued to **Cedar Acres MHP**, 1650 Harlansburg Road, New Castle, PA 16101, PWS ID 6370910, Scott Township, **Lawrence County** on September 4, 2002, for the operation of facilities approved under Construction Permit #3702501.

Operation Permit issued to **Mars Borough**, P. O. Box 395, 598 Spring Street, Mars, PA 16046, PWS ID 5100049, Adams Township, **Butler County** on September 4, 2002, for the operation of facilities approved under Construction Permit #1095501.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following final 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 final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site where 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.

For further information concerning the final report, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

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

Rite Aid Store No. 246, Derry Township, Dauphin County. BL Companies, 830 Sir Thomas Court, Harrisburg, PA 17109, on behalf of Rite Aid Corporation, 451 South St. John's Church Road, Camp Hill, PA 17011, submitted a final report concerning remediation of site soils and groundwater contaminated with BTEX and PHCs. The report is intended to document remediation of the site to the Statewide Health standard.

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

Lucas Brothers Garage, Westover Borough, Clearfield County. Bolger Brothers, Inc., on behalf of Gene Hagens, 120 N. Main Street, Westover, PA 16692, has submitted a Work Plan concerning soil and groundwater contaminated with BTEX, PAHs and PHCs in partial fulfillment of the Special Industrial Area requirements.

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) requires the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of its 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. 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. A cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. 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. 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 under 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 listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

Northeast Region: Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Former Alcock Residence, Westfall Township, Pike County. Salvatore Sciascia, President, S&M Management, Inc., P. O. Box 1429, 522 Routes 6 and 209, Milford, PA 18337 submitted a Final Report (on behalf of Thomas and Laureen Alcock, Cramer Drive, Chester, NJ 07930) concerning the remediation of site soils found or suspected to be contaminated with no. 2 fuel oil. The report demonstrated attainment of the Statewide health standard and was approved on September 3, 2002.

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

Washington Square Phase II, Parcel 2, City of Harrisburg, Dauphin County. EPSYS Corporation, 1414 North Cameron Street, Suite 1, Harrisburg, PA 17103, on behalf of UGI Utilities, Inc., 100 Kachel Blvd., Reading, PA 19612-2677 and Harristown Realty Improvement, P. O. Box 1224, Harrisburg, PA 17108, submitted a final report concerning the remediation of site soils and groundwater contaminated with BTEX and PAHs. The final report demonstrated attainment of the site-specific standard and was approved by the Department on September 6, 2002.

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

Newberry Rail Yard—SEDA-COG, City of Williamsport, **Lycoming County**. Converse Consultants, on behalf of SEDA-COG, R.R. 1, Box 372, Lewisburg, PA 17827, has submitted a Remedial Investigation Report and Final Report concerning remediation of soil and groundwater contaminated with lead, heavy metals, BTEX, PHCs and PAHs. The Remedial Investigation Report was approved by the Department and the Final Report demonstrated attainment of the Site-Specific Standards and was also approved by Department on August 13, 2002.

Lucas Brothers Garage, Westover Borough, **Clearfield County**. Bolger Brothers, Inc. on behalf of Gene Hagens, 120 N. Main Street, Westover, PA 16692, has submitted a Work Plan in partial fulfillment of the Special Industrial Area requirements. It was approved by the Department on September 5, 2002.

Naftel Residence, Valley Township, **Montour County**. Chambers Environmental Group, Inc., on behalf of Mr. and Mrs. Brian Naftel, 7 Breezy Court, Danville, PA 16821, has submitted a Final Report concerning soil contaminated with BTEX and PAHs. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on September 6, 2002.

HAZARDOUS WASTE TRANSPORTER LICENSE

Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Hazardous Waste Transporter License Renewed

Chemclene Corporation, 258 N. Phoenixville Pike, Malvern, PA 19355-1126. License No. **PA-AH 0150**. Effective September 10, 2002.

S&M Management Incorporated, P. O. Box 1429, Milford, PA 18337-1429. License No. **PA-AH 0412**. Effective September 10, 2002.

Suttles Truck Leasing, Inc., P. O. Box 129, Demopolis, AL 36723. License No. **PA-AH 0332**. Effective September 5, 2002.

Mid-State Trading Co., P. O. Box 3275, 2525 Trenton Avenue, Williamsport, PA 17701. License No. **PA-AH 0148**. Effective September 3, 2002.

AIR QUALITY

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

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

21-03006A: Nestlé Purina PetCare Co. (6509 Brandy Lane, Mechanicsburg, PA 17055) on September 5, 2002, for installation of a boiler and pet food processing line in Hampden Township, **Cumberland County**. The boiler is

subject to 40 CFR Part 60, Subpart Dc—Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.

28-03039: Warrior Roofing Manufacturing of Pennsylvania, LLC (3050 Warrior Road, P. O. Box 40185, Tuscaloosa, AL 35404-0185) on September 5, 2002, for construction of an asphalt roofing manufacturing facility in Greene and Letterkenny Townships, **Franklin County**. This facility is subject to 40 CFR Part 60, Subpart UU—Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture and also 40 CFR Part 60, Subpart Kb—Standards of Performance for Volatile Organic Liquid Storage Vessels (including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.

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

49-00019C: Sunoco Partners Marketing and Terminals, L. P. (1801 Market Street, Philadelphia, PA 19103) on August 13, 2002, for installation of an air cleaning device (a John Zink vapor combustion unit) on two petroleum product loading racks in Point Township, **Northumberland County**.

08-301-016A: Faithful Companions Pet Cemetery, Inc. (R. R. 2, Box 210, Ulster, PA 18850) on August 20, 2002, for construction of an animal crematory incinerator in East Smithfield Township, **Bradford County**.

14-313-042: Rutgers Organics Corporation (201 Struble Road, State College, PA 16801) on August 20, 2002, for modification of a chemical process facility and associated air cleaning devices (various condensers and two packed tower scrubbers) to produce a new product, ROC-8, in College Township, **Centre County**.

41-0010B: Andritz, Inc. (35 Sherman Street, Muncy, PA 17756) on August 27, 2002, for construction of a 650 pound per hour steel-melting electric induction furnace in Muncy Borough, **Lycoming County**.

41-00010B: Andritz, Inc. (35 Sherman Street, Muncy, PA 17756) on August 27, 2002, for construction of a thermal foundry sand reclamation system and associated air cleaning devices (one fabric collector and two cartridge collectors) in Muncy Borough, **Lycoming County**.

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

56-00011A: New Enterprise Stone and Lime Co., Inc. (P. O. Box 77, New Enterprise, PA 16664) on September 3, 2002, for installation of screen at Central City Sand Plant in Shade Township, **Somerset County**.

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

43-310F: Dufenco Farrell Corp. (15 Roemer Boulevard, Farrell, PA 16121) on July 14, 2002, for reactivation of the No. 3 Slab Reheat Furnace in Farrell, **Mercer County**.

25-197C: Erie Bronze and Aluminum Co. (6300 West Ridge Road, Erie, PA 16505) on July 22, 2002, for modification of the electric induction furnace in Fairview, **Erie County**.

25-025D: GE Transportation Systems, Inc. (2901 East Lake Road, Erie, PA 16531) on August 28, 2002, for modifications to Boilers 1, 5 and 9 in Erie, **Erie 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, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.

15-0108: Refractory Minerals Co., Inc. (150 South Jennersville Road, West Grove, PA 19390) on September 3, 2002, for operation of a gas fired dryer in Penn Township, **Chester County**.

46-0210: Cellco Partnership d/b/a Verizon (5175 Campus Drive, Plymouth Meeting, PA 19462) on September 3, 2002, for operation of a 600 kW diesel generator in Whitmarsh Township, **Montgomery County**.

46-0037E: Cabot Performance Materials (County Line Road, Boyertown, PA 19512) on September 4, 2002, for operation of a sources building No. 49 in Douglass Township, **Montgomery County**.

23-0001L: Sunoco, Inc. (R and M) (Delaware Avenue and Green Street, Marcus Hook, PA 19061) on September 4, 2002, for operation of two racing fuel storage tanks in Marcus Hook Borough, **Delaware County**.

15-0037: Oberthur Card Systems, Inc. (523 James Hance Court, Exton, PA 19341) on September 5, 2002, for operation of a nonheatset lithographic press in West Whiteland Township, **Chester County**.

15-0014C: Saint Gobain Performance Plastics Corp. (57 Morehall Road, Malvern, PA 19355) on September 5, 2002, for operation of an air cleaning control device in East Whiteland Township, **Chester County**.

09-0131: Pyramid Graphics, Inc. (1021 Washington Avenue, Croydon, PA 19021) on September 9, 2002, for operation of a heatset web offset printing line in Bristol Township, **Bucks County**.

09-0028A: FiberMark, Inc. (45 North 4th Street, Quakertown, PA 18951) on September 6, 2002, for operation of Graphic Art Line No. 2 (DEP Source #302) in Quakertown Borough, **Bucks County**.

09-0028: FiberMark, Inc. (45 North 4th Street, Quakertown, PA 18951) on September 6, 2002, for operation of Graphic Art Line No. 1 (DEP Source #301) in Quakertown Borough, **Bucks County**.

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

07-03034B: Fry Metals, Inc. (4100 Sixth Avenue, Altoona, PA 16602) on August 18, 2002, for construction of a soft metal melting area controlled by a fabric filter in the City of Altoona, **Blair County**. This plan approval was extended.

21-05021B: Arnold Fuel Oil, Inc. (P. O. Box 2621, Harrisburg, PA 17105) on August 1, 2002, for construction of two gasoline (or distillate) storage tanks at its Mechanicsburg North Terminal in Silver Spring Township, **Cumberland County**. This facility is subject to 40 CFR Part 60, Subpart Kb—Standards of Performance for Volatile Organic Liquid Storage Vessels (including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984. This plan approval was extended.

36-05067F: C and D Technologies, Inc. (82 East Main Street, Leola, PA 17540) on August 29, 2002, for operation of a lead-acid battery manufacturing plant in Upper Leacock Township, **Lancaster County**. This facility is subject to 40 CFR Part 60, Subpart KK—Standards of Performance for Lead-Acid Battery Manufacturing Plants. This plan approval was extended.

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

19-302-031: Dillon Floral Corporation (P. O. Box 180, Bloomsburg, PA 17815-0180) on September 3, 2002, for operation of two natural gas, #4 oil, #6 oil and reprocessed oil-fired boilers on a temporary basis until January 1, 2003, in Bloomsburg, **Columbia County**. The plan approval was extended.

49-317-003: Butter Krust Baking Co., Inc. (249 North Eleventh Street, Sunbury, PA 17801) on September 4, 2002, for operation of a bread and roll baking line and associated air cleaning device (a catalytic oxidizer) on a temporary basis until January 2, 2003, in Northumberland Borough, **Northumberland County**. The plan approval was extended.

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

63-00650A: Goldschmidt Industrial Chemical Corp. (941 Robinson Highway, McDonald, PA 15057) on September 3, 2002, for installation of a hydrochloric acid storage tank venting to a packed column scrubber in Robinson Township, **Washington County**. This plan approval was extended.

26-00288D: Better Materials Corp. (P. O. Box 721, Berkeley Springs, WV 25411) on September 3, 2002, for installation of baghouse in Connellsville Township, **Fayette County**. This plan approval was extended.

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

42-197A: M and M Royalty, LTD—Irishtown Plant (Route 307, Lewis Run, PA 16738) on August 31, 2002, for a natural gas production facility in Lafayette Township, **McKean County**.

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

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

62-00151: CB and I Water (1420 Lexington Avenue, Warren, PA 16365) on September 3, 2002, for operation of several natural gas-fired heaters, a stress-relief furnace, steel fabrication, abrasive blasting, surface coating and several degreasers in Warren, **Warren County**. The initial Title V Operating Permit was issued on August 29, 1997 and revised on February 19, 2002. The facility, because of rulemaking, is a Title V facility and is therefore subject to the Title V Operating Permit requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. This operating permit was reissued.

62-00018: Warren State Hospital (33 Main Drive, North Warren, PA 16365) for operation of combustion sources in Conewango Township, **Warren County**. This operating permit was reissued.

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

01-005: PAID Steam Boiler Plant—Philadelphia Naval Business Center (2000 Constitution Avenue, Philadelphia, PA 19112) on September 6, 2002, for operation of a facility that acquires, holds, constructs, improves, maintains, operates, owns, finances and leases, either in the capacity of lessor or lessee, industrial, commercial or specialized development projects in the City of Philadelphia, **Philadelphia County**. The Title V facility's air emission sources include a 100 HP diesel powered water pump and three 217/207 mmBtu/hr boilers that can burn natural gas, no. 6, no. 2 or waste oil controlled by low NOx burners with associated flue gas recirculation.

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

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

23-00046: Container Research Corp. (Hollow Hill Road, Glen Riddle, PA 19037) on September 3, 2002, for operation of a Synthetic Minor Operating Permit in Aston Township, **Delaware County**.

09-00091: Columbia Lighting—LCA, Inc. (1119 Beaver Street, Bristol, PA 19007) on September 5, 2002, for operation of a Natural Minor Operating Permit in Bristol Borough, **Bucks County**.

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

06-05090: Chiyoda America, Inc. (P. O. Box 470, Morgantown, PA 19543) on August 29, 2002, for operation of a graphic arts facility consisting of four rotogravure presses controlled by two thermal oxidizers in Caernarvon Township, **Berks County**.

22-03036: Alfa-Laval, Inc. (300 Chestnut Street, Lykens, PA 17048) on September 5, 2002, for operation of a fabricated metal products plant in Lykens Borough, **Dauphin County**.

36-05006: Burle Industries, Inc. (1000 New Holland Avenue, Lancaster, PA 17601) on September 5, 2002, for operation of an electronics manufacturing facility in the City of Lancaster, **Lancaster County**.

38-03007: Con-O-Lite Burial Vault Co. (P. O. Box 377, Schaefferstown, PA 17088) on September 5, 2002, for operation of a human crematorium in Heidelberg Township, **Lebanon County**.

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

08-399-047B: OSRAM SYLVANIA Products, Inc. (Hawes Street, Towanda, PA 18848) on August 13, 2002, for operation of four CVD phosphor coating reactors and associated air cleaning devices (a catalytic oxidizer and a selective catalytic reduction system) in North Towanda Township, **Bradford County**.

41-318-047: Reynolds Iron Works, Inc. (157 Palmer Industrial Road, Williamsport, PA 17701) on August 27,

2002, for operation of a steel parts surface coating operation in Woodward Township, **Lycoming County**.

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

95-071: General Electric International, Inc. (1040 East Erie Avenue, Philadelphia, PA 19124) on September 6, 2002, for repair of industrial transformers, retrofitting and refilling of railroad transformers, large motor repair and rental of energy producing and HVAC equipment in the City of Philadelphia, **Philadelphia County**. The synthetic minor facility's air emission sources include four paint booths, rail bay open coating, surface coating operations outside paint booths for a motor generator department, nine particulate sources, nine combustion units each rated at 2 mmBtu/hr or less and a generator test stand. The facility's air emission control devices include two dust collectors, a cyclone and surface coating filters for particulate capture.

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); 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

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

54860207R3. South Tamaqua Coal Pockets, Inc. (804 West Penn Pike, Tamaqua, PA 18252), renewal of an existing coal refuse reprocessing operation in West Penn Township, **Schuylkill County** affecting 65.0 acres, receiving stream: none. Application received June 11, 2002. Renewal issued September 3, 2002.

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

17970110 and NPDES Permit No. PA 0220655. Moravian Run Reclamation Company, Inc., 605 Sheridan Drive, Clearfield, PA 16830. Renewal of an existing bituminous surface mine-auger permit in Penn Township, **Clearfield County** affecting 256 acres. Receiving streams: unnamed tributaries to Bell Run to Bell Run to the West Branch of the Susquehanna River to the Susquehanna River. Application received June 19, 2002. Permit issued August 27, 2002.

17010103 and NPDES Permit No. PA 0243051. Bell Resources, Inc., R. R. 2, Box 281, Curwensville, PA 16833. Commencement, operation and restoration of a bituminous surface mine-auger permit in Greenwood

Township, **Clearfield County** affecting 23.5 acres. Receiving streams: unnamed tributary to Susquehanna River. Application received June 11, 2001. Permit issued September 4, 2002.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

65970103 and NPDES Permit No. 0201898. Derry Stone & Lime Co., Inc. (R. D. 5, Box 34, Latrobe, PA 15650-9624). Renewal permit for continuous operation and reclamation of a bituminous surface mine located in Derry Township, **Westmoreland County**, affecting 130.3 acres. Receiving stream: unnamed tributary to Stoney Run. Renewal application received July 1, 2002. Renewal permit issued September 3, 2002.

03793072 and NPDES Permit No. 061237. Keystone Coal Mining Corp. (P. O. Box 219, Shelocta, PA 15774). Name change from Kent Coal Mining Co. to continue operation and reclamation of a bituminous surface mine, located in Kiskiminetas and Young Townships, **Armstrong County**, affecting 302 acres. Receiving streams: unnamed tributary to Long Run and Big Run. Application received June 27, 2002. Permit issued September 3, 2002.

65840119 and NPDES Permit No. PA0601047. Derry Stone & Lime Co., Inc. (R. R. 5, Box 34, Latrobe, PA 15650). Permit renewal issued for continued operation and reclamation of a bituminous surface/auger mine and limestone removal/portable stone crushing operation located in Derry Township, **Westmoreland County**, affecting 643.7 acres. Receiving streams: unnamed tributaries to Stony Run and McGee Run. Application received June 28, 2002. Renewal issued September 4, 2002.

65890104 and NPDES Permit No. PA0591734. Gary Gioia Coal Company (319 Karen Drive, Elizabeth, PA 15037). Transfer of permit formerly issued to Purco Coal, Inc., for continued operation and reclamation of a bituminous surface/auger mine located in South Huntingdon Township, **Westmoreland County**, affecting 92.5 acres. Receiving stream: unnamed tributary to Barren Run. Application received April 25, 2002. Transfer permit issued September 4, 2002.

65990104 and NPDES Permit No. PA0202568. Millwood Development, Inc. (200 West Second Street, Derry, PA 15627). Permit issued for commencement, operation and reclamation of a bituminous surface mine located in Murrysville Borough, **Westmoreland County**, affecting 20 acres. Receiving streams: unnamed tributaries to Lyons Run to Turtle Creek to the Monongahela River. Application originally submitted by Daniel Visnic received July 6, 1999. Permit issued September 6, 2002.

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

11970105 and NPDES Permit No. PA0234516. RJC Kohl, Inc., P. O. Box 299, Nicktown, PA 15762, permit renewal for reclamation only and for continued restoration of a bituminous surface mine in West Carroll and Susquehanna Townships, **Cambria County**, affecting 41.0 acres. Receiving streams: unnamed tributaries to Fox Run and Fox Run classified for CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 14, 2002. Permit issued August 30, 2002.

32920102 and NPDES Permit No. PA0599565. Keystone Coal Mining Corporation, P. O. Box 219, Shelocta, PA 15774, permit renewal for reclamation only

and for continued restoration of a bituminous surface and auger mine and for discharge of treated mine drainage in Young Township, **Indiana County**, affecting 190.0 acres. Receiving streams: Marshall Run and unnamed tributaries to Marshall Run classified for CWF. The first downstream potable water supply intake from the point of discharge is Avonmore Kiskiminetas River intake. Application received August 22, 2002. Permit issued August 30, 2002.

32970102 and NPDES Permit No. PA0234354. M. B. Energy, Inc., 175 McKnight Road, Blairsville, PA 15717-7961, permit renewal for reclamation only and for continued restoration of a bituminous surface mine in Blacklick Township, **Indiana County**, affecting 167.7 acres. Receiving streams: unnamed tributaries to Muddy Run; unnamed tributaries to Blacklick Creek classified for CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 18, 2002. Permit issued August 30, 2002.

32970107 and NPDES Permit No. PA0234478. Simpson Coal Company, R. D. 1, Box 244, New Alexandria, PA 15670, permit renewal for reclamation only and for continued restoration of a bituminous surface mine in Young Township, **Indiana County**, affecting 5.7 acres. Receiving streams: unnamed tributaries to Blacklegs Creek classified for CWF. The first downstream potable water supply intake from the point of discharge is Avonmore—Kiskiminetas Intake. Application received July 15, 2002. Permit issued August 30, 2002.

56870101 and NPDES Permit No. PA0597937. Hilltop Mining, Inc., 126 Bronco Drive, Berlin, PA 15530-9210, permit renewal for reclamation only and for continued restoration of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 15.8 acres. Receiving streams: unnamed tributary to Buffalo Creek classified for CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 16, 2002. Permit issued August 30, 2002.

Noncoal Permits Actions

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

08020805. Robert J. Johnson, R. R. 4, Box 4066, Wyalusing, PA 18853. Commencement, operation and restoration of a Small Industrial Minerals (Bluestone) permit in Stevens Township, **Bradford County** affecting 2 acres. Receiving streams: Wyalusing Creek. Application received May 8, 2002. Permit issued August 21, 2002.

41020802. Ronald L. Welshans, 1268 Route 44 North Highway, Jersey Shore, PA 17740. Commencement, operation and restoration of a Small Industrial Minerals (Topsoil) permit in Porter Township, **Lycoming County** affecting 1 acre. Receiving streams: Pine Creek, tributary to the Susquehanna River. Application received June 28, 2002. Permit issued August 27, 2002.

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

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

08024003. Sear-Brown, 261 Governor Park Road, Bellefonte, PA 16823, for construction blasting, located in Leroy Township, **Bradford County**, with an expected duration of 180 days. Permit issued August 28, 2002.

17024001. Bungo Contracting, 406 Curtin Street, Osceola Mills, PA 16666, for construction blasting, located in Boggs Township, **Clearfield County**, with an expected duration of 180 days. Permit issued August 29, 2002.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

04024001. Controlled Demolition, Inc. (2737 Merymans Mill Road, Phoenix, MD 21131). Permit issued for a Valspar Polyurethane Residue Removal project located in Rochester Township, **Beaver County**, with an expected duration of 2 days. Permit issued August 8, 2002.

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

29024002. P & W Excavating, P. O. Box 712, McConnellsburg, PA 17233. Blasting activity permit issued for a building site project located in Todd Township, **Fulton County**, Licking-Tonoloway Creek Watershed. Expected duration of blasting is 45 days. Permit issued September 3, 2002.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

36024090. ABEL Construction Co., Inc. (3925 Columbia Avenue, Mountville, PA 17554), construction blasting in Warwick Township, **Lancaster County** with an expiration date of September 15, 2003. Permit issued August 27, 2002.

67024031. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013-0608), construction blasting in Washington Township, **York County** with an expiration date of September 19, 2007. Permit issued August 27, 2002.

28024024. Marks Contracting, LTD. (1718 Grace Avenue, Lebanon, PA 17046), construction blasting in Quincy Township, **Franklin County** with an expiration date of March 15, 2003. Permit issued August 27, 2002.

21024046. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting in East Pennsboro Township, **Cumberland County** with an expiration date of September 15, 2003. Permit issued August 27, 2002.

36024091. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting in Manheim Township, **Lancaster County** with an expiration date of June 15, 2003. Permit issued August 27, 2002.

36024092. Gerlach's Drilling & Blasting, Inc. (172 Bender Mill Road, Lancaster, PA 17603), construction blasting in East Hempfield Township, **Lancaster County** with an expiration date of September 15, 2007. Permit issued August 27, 2002.

36024093. Gerlach's Drilling & Blasting, Inc. (172 Bender Mill Road, Lancaster, PA 17603), construction blasting in Rapho Township, **Lancaster County** with an expiration date of September 19, 2007. Permit issued August 27, 2002.

36024094. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting in Earl Township, **Lancaster County** with an expiration date of December 19, 2002. Permit issued August 27, 2002.

06024038. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting in Cumru Township, **Berks County** with an expiration date of December 31, 2002. Permit issued August 28, 2002.

35024020. Frank Beier (2,08 Pond Road, Clarks Summit, PA 18411), construction blasting in Newton Township, **Lackawanna County** with an expiration date of October 31, 2002. Permit issued August 28, 2002.

15024027. Allan A. Myers, L. P. (P. O. Box 98, Worcester, PA 19490), construction blasting in Valley Township, **Chester County** with an expiration date of September 21, 2003. Permit issued August 28, 2002.

48024022. M. F. Ronca & Sons (179 Mikron Road, Bethlehem, PA 18020), construction blasting in Palmer Township, **Northampton County** with an expiration date of January 18, 2003. Permit issued August 28, 2002.

48024021. Allan A. Myers, L. P. (P. O. Box 98, Worcester, PA 19490), construction blasting in Williams Township, **Northampton County** with an expiration date of September 19, 2003. Permit issued August 29, 2002.

45024060. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting in Smithfield Township, **Monroe County** with an expiration date of August 6, 2003. Permit issued August 29, 2002.

67024032. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting in Shrewsbury Borough, **York County** with an expiration date of December 31, 2002. Permit issued August 29, 2002.

45024061. Charles R. Francis, Inc. (R. D. 3 Box 3183, Stroudsburg, PA 18360), construction blasting in Barrett Township, **Monroe County** with an expiration date of October 31, 2002. Permit issued August 29, 2002.

09024029. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting in Newtown Township, **Bucks County** with an expiration date of August 7, 2003. Permit issued August 29, 2002.

28024025. Fayetteville Contractors, Inc. (P. O. Box FCI, Fayetteville, PA 17222), construction blasting in Washington Township, **Franklin County** with an expiration date of May 21, 2003. Permit issued August 29, 2002.

45024062. Kenneth P. Hillard (148 Leisure Lands, East Stroudsburg, PA 18301), construction blasting in Middle Smithfield Township, **Monroe County** with an expiration date of September 30, 2002. Permit issued August 29, 2002.

38024027. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting in Union Township, **Lebanon County** with an expiration date of September 21, 2004. Permit issued August 29, 2002.

38024026. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting in South Lebanon Township, **Lebanon County** with an expiration date of September 21, 2007. Permit issued August 29, 2002.

35024022. Wayne Springer Excavating (P. O. Box 92, Fleetville, PA 18420), construction blasting in Benton Township, **Lackawanna County** with an expiration date of October 31, 2002. Permit issued August 29, 2002.

36024095. Gerlach's Drilling & Blasting, Inc. (172 Bender Mill Road, Lancaster, PA 17603), construction blasting in Ephrata Borough, **Lancaster County** with an expiration date of December 31, 2002. Permit issued August 29, 2002.

15024028. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting in Lower Oxford Township, **Chester County** with an expiration date of December 31, 2003. Permit issued August 30, 2002.

46024053. Rock Work, Inc. (1257 DeKalb Pike, Blue Bell, PA 19422), construction blasting in Montgomery Township, **Montgomery County** with an expiration date of March 21, 2003. Permit issued August 30, 2002.

23024009. Eastern Blasting Company, Inc. (1292 Street Road, New Hope, PA 18938), construction blasting in Thornbury Township, **Delaware County** with an expiration date of March 21, 2003. Permit issued August 30, 2002.

36024096. J. Roy's, Inc. (Box 125 Bowmansville, PA 17507), construction blasting in Manheim Township, **Lancaster County** with an expiration date of December 31, 2003. Permit issued August 30, 2002.

36024097. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting in Ephrata Township, **Lancaster County** with an expiration date of December 31, 2003. Permit issued August 30, 2002.

36024098. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting in Elizabeth Township, **Lancaster County** with an expiration date of March 31, 2003. Permit issued August 30, 2002.

36024099. Gerlach's Drilling & Blasting, Inc. (172 Bender Mill Road, Lancaster, PA 17603), construction blasting in East Donegal Township, **Lancaster County** with an expiration date of December 31, 2003. Permit issued August 30, 2002.

360240100. Gerlach's Drilling & Blasting, Inc. (172 Bender Mill Road, Lancaster, PA 17603), construction blasting in Warwick Township, **Lancaster County** with an expiration date of September 27, 2007. Permit issued August 30, 2002.

28024025. Howard Roberson, Inc. (809 Stoney Battery Road, Landisville, PA 17538), construction blasting in Quincy Township, **Franklin County** with an expiration date of November 30, 2002. Permit issued August 30, 2002.

21024048. Brubacher Excavating, Inc. (825 Reading Road, P. O. Box 528, Bowmansville, PA 17507), construction blasting in Lemoyne Borough, **Cumberland County** with an expiration date of September 21, 2003. Permit issued August 30, 2002.

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 may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may

be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary 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 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.

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(a)).

Except as otherwise noted, the Department certifies that the construction and operation herein 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 may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary 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 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 Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)). (Note:

Water Obstruction and Encroachment Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description).

Permits Issued and Actions on 401 Certifications

WATER OBSTRUCTIONS AND ENCROACHMENTS

Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

E446-010SE. Cedars Hill LLP, 900 E. Eighth Avenue, King of Prussia, PA 19406, Worcester Township, **Montgomery County**, ACOE Philadelphia District.

An approval for an environmental assessment for impacts associated with the construction, operation and maintenance of a nonjurisdictional dam across an unnamed tributary to the Zacharias Creek (TSF). The proposed dam will provide stormwater management for a residential subdivision. The application also includes a request for General Permit # 7, "Minor Road Crossing," for three crossings of Zacharias Creek and adjacent wetlands. The project will impact 324 linear feet of stream and 0.11 acre of wetlands (PEM/SS). The project is located about 700 feet southeast of the intersection of Skippack Pike and Bustard Road. (Lansdale, PA Quadrangle N: 16.00 inches; W: 16.00 inches).

E15-589. Pennsylvania Suburban Water Company, 762 West Lancaster Avenue, Bryn Mawr, PA 19010, Wallace Township, **Chester County**, ACOE Philadelphia District.

To construct and maintain an approximately 23-foot wide raw water intake on the East Branch Brandywine Creek (HQ-TSF-MF) for transferring water from the creek to the Cornog Quarry during periods of elevated stream flows and a 48-inch intake tunnel to pump water from the quarry to the water treatment plant for treatment before distributing to customers of the Water Company. The permit also authorizes the construction and maintenance of a surface swale and 16-inch outfall structure to direct water into Cornog quarry, which shall be done in accordance with the conditions of General Permit No. 4. The site is located about 1,500 feet east of the intersection of Marshall Road and Creek Road (Downingtown USGS Quadrangle N: 13.70 inches, W: 17.50 inches).

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

E39-409. Whitehall Township, 3219 MacArthur Road, Whitehall, PA 18052. Whitehall Township, **Lehigh County**, Army Corps of Engineers Philadelphia District.

To construct and maintain a 352-foot concrete box stream enclosure, having cell dimensions of 17-foot by 4.5-foot; to construct and maintain six stormwater outfalls, varying in size from 4-inch diameter to 24-inch diameter; and to place fill in and along a tributary to Coplay Creek for the purpose of constructing the Whitehall Township Municipal Complex. The project is located immediately southeast of the intersection of SR 0145 (MacArthur Road) and Municipal Drive (Cementon, PA Quadrangle N: 5.7 inches; W: 1.0 inch).

E13-131. Carbon County, P. O. Box 129, Jim Thorpe, PA 18229. Packer Township, **Carbon County**, Army Corps of Engineers Philadelphia District.

To remove the existing structure and to construct and maintain a single-span concrete box-beam bridge having a normal span of 30 feet and an approximate underclearance of 6.5 feet across Quakake Creek. The project is

located on Grist Mill Drive, approximately 0.8 mile southeast of its intersection with SR 4010 (Hazleton, PA Quadrangle N: 4.2 inches; W: 2.1 inches).

E40-599. Thomas Smith, 972 Alberdeen Road, Mountaintop, PA 18707. Dorrance Township, **Luzerne County**, Army Corps of Engineers Baltimore District.

To maintain two road crossings of tributaries to Big Wapwallopen Creek and adjacent wetlands, consisting of: (1) a single-span concrete bridge having a span of approximately 21.4 feet and an underclearance of approximately 5 feet; and (2) a 24-inch PVC culvert, for the purpose of providing access to a 10.2-acre property for private, recreational use. The project includes placement of fill in a de minimis area of wetlands equal to 0.04 acre. The project is located along the east side of SR 0081, south of SR 3010 (Alberdeen Road) (Freeland, PA Quadrangle N: 19.7 inches; W: 11.7 inches).

E40-595. Luzerne County Board of Commissioners, Luzerne County Courthouse, 200 North River Street, Wilkes-Barre, PA 18711-1001. Sugarloaf Township, **Luzerne County**, Army Corps of Engineers, Baltimore District.

To remove the existing structure and to construct and maintain a single-span prestressed concrete adjacent box beam bridge, having a span of 34.0 feet and an underclearance of 6.4 feet, across Little Nescopeck Creek. The structure, known as County Bridge #57313, is located along T-338 (Center Hill Road), approximately 0.2 mile south of the intersection of T-338 and T-422 (Conyngham, PA Quadrangle N: 22.0 inches; W: 6.1 inches).

E35-355. Pennsylvania Department of Transportation, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501. Spring Brook Township, **Lackawanna County**, Army Corps of Engineers Baltimore District.

To remove a portion of the existing structure; to construct and maintain a 184-foot long reinforced concrete box stream enclosure, depressed 1 foot below streambed elevation, having cell dimensions of 9 feet by 6 feet in Rattlesnake Creek; to construct and maintain three, 1-foot high rock dams in Rattlesnake Creek; to construct and maintain an 18-inch outfall pipe and rip-rap lined outfall channel in the floodway of Rattlesnake Creek; and to place fill in a de minimis area of wetlands equal to 0.025 acre. The project is located at the intersection of SR 0690, SR 2019 and Matthews Road (Moscow, PA Quadrangle N: 12.9 inches; W: 11.7 inches).

E39-400. Pennsylvania Department of Transportation, Engineering District 5-0, 1713 Lehigh Street, Allentown, PA 18103, Upper Saucon and Lower Milford Townships, **Lehigh County**, Army Corps of Engineers Philadelphia District.

To authorize previously placed fill in 1.51 acres of wetlands within the Saucon Creek Watershed for the purpose of constructing a stormwater management basin associated with the construction of Interstate 78, Section 600 (Violation Site) and to authorize the placement of fill in 0.21 acre of wetlands within the same watershed for the purpose of constructing replacement wetlands (Hoffman Lane Site). The permittee is required to provide 3.80 acres of replacement wetlands at the Hoffman Lane Site. The Violation Site is located 700 feet west of the intersection of I-78 and Vera Cruz Road (Allentown East, PA Quadrangle N: 10.5 inches; W: 9.3 inches) in Upper Saucon Township, Lehigh County. The Hoffman Lane Site is located 900 feet southwest of the intersection of Hoffman Lane and Limeport Pike (Allentown East, PA

Quadrangle N: 0.9 inch; W: 10.2 inches) in Lower Milford Township, Lehigh County.

E45-426. Price Township Development Corporation, One Empire Plaza, Stroudsburg, PA 18360. Price Township, **Monroe County**, Army Corps of Engineers Philadelphia District.

To construct and maintain the following water obstructions: (1) a road crossing consisting of an open-bottom, CMP structural plate arch culvert having a single span of 35.4 feet and an underclearance of 11.5 feet and one 24-inch diameter HDPE culvert (Crossing No. 1) in Michael Creek, the floodway of Michael Creek and 0.23 acre of adjacent wetlands along Road A; (2) an open-bottom, CMP structural plate arch culvert (Crossing No. 2) having a single span of 9 feet and an underclearance of 4.7 feet in a tributary to Michael Creek and 0.04 acre of adjacent wetlands along Road B; (3) a 66-inch diameter CMP culvert (Crossing No. 3) in 0.08 acre of wetlands along Road B; and (4) a 48-inch diameter CMP culvert (Crossing No. 4) in 0.09 acre of wetlands along Road A for the purpose of providing access to a 137-acre planned residential development known as The Highlands at Rob Roy. The permittee is required to provide 0.45 acre of replacement wetlands. The project also includes electric, cable and communication utility line stream crossings at each of the four road crossings and is located southeast of the intersection of Township Road T556 (Wooddale Road) and SR 1005 (School House Road) (East Stroudsburg, PA Quadrangle N: 12.5 inches; W: 8.5 inches).

E48-311. Wind Gap Borough, 29 Mechanic Street, Wind Gap, PA 18091-1320. Wind Gap Borough, **Northampton County**, Army Corps of Engineers Philadelphia District.

To construct and maintain three stormwater outfall structures and associated energy dissipaters in a de minimis area of wetlands equal to 0.05 acre for the purpose of alleviating flooding of the intersection of East West Street and Fairview Street. The work also includes the construction of four 24-inch diameter CMP culverts in a tributary to Little Bushkill Creek for the purpose of providing access to Wind Gap Borough Park. The project is located south of East West Street, approximately 700 feet east of SR 0512 (Wind Gap, PA Quadrangle N: 17.2 inches; W: 5.7 inches).

E52-178. Vincent C. Giampapa, 67 Highland Avenue, Montclair, NJ 07042. Greene Township, **Pike County**, Army Corps of Engineers Philadelphia District.

To excavate in 0.51 acre of wetlands for the construction of a pond. Issuance of this permit also constitutes approval of the Environmental Assessment for a 0.25-acre wetland fill associated with the construction of a nonjurisdictional dam and a 0.2-acre secondary wetland impact associated with the impoundment of water over wetlands. This project was previously authorized by Permit E52-135. The permittee is required to provide 0.96 acre of replacement wetlands. The project is located approximately 1,400 feet east of the intersection of SR 0447 and T-370 (Newfoundland, PA Quadrangle N: 2.6 inches; W: 4.1 inches).

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

E01-234. Biglerville Borough Authority, 33 Musselman Avenue, Biglerville, PA 17307 in Butler Township, **Adams County**.

To construct and maintain a 30-foot by 40-foot pole-style building for storage of various equipment and

vehicles within the floodplain of an unnamed tributary to the Conewago Creek (WWF). The building will be located on the Biglerville Borough's Wastewater Treatment Facility's property approximately 25 miles south of Biglerville Borough (Biglerville, PA Quadrangle N: 8.05 inches; W: 16.90 inches) in Butler Township, Adams County.

E07-358. New Enterprises Stone & Lime, Co., Inc., P. O. Box 77, New Enterprises, PA 16664 in Taylor Township, **Blair County**, ACOE Baltimore District.

To widen an existing bridge with a 24-foot span and a 5.3 foot underclearance by constructing an extension with a 39.4-foot span and a 5.3-foot underclearance across the channel of Halter Creek (WWF) at a point approximately 1,200 feet downstream of Route 36 (Roaring Spring, PA Quadrangle N: 17.4 inches; W: 3.9 inches) in Taylor Township, Blair County.

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

E08-389. Clyde A. and Jeanne Applegate, P. O. Box, Soper Drive, Burlington, PA 18814. Channel work, in Smithfield Township, **Bradford County**, ACOE Baltimore District (East Troy, PA Quadrangle N: 10.95 inches; W: 2.0 inches).

To construct and maintain approximately 50 feet of creek channel to eliminate an eroding 90 degree stream bank bend. This project is located about 200 feet north of the intersection of Soper Drive with the Berwick Turnpike (SR 4013) in Smithfield Township, Bradford County. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E08-392. Pennsylvania Department of Transportation, Engineering District 3-0, 715 Jordan Avenue, Montoursville, PA 17754. Culvert replacement, in Sheshequin Township, **Bradford County**, ACOE Baltimore District (Towanda, PA Quadrangle N: 19.4 inches; W: 6.7 inches).

To remove the existing 54 inch diameter CIP culvert and to construct and maintain a 60 inch diameter by 40 foot long CMP culvert on SR 1020 approximately 1.2 miles from the intersection of SR 1020 with SR 1022 in Little Wysox Creek in Sheshequin Township, Bradford County. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E14-425. Walker Township Supervisors, 816 Nitany Valley Drive, Bellefonte, PA 16823. Walker Township dry hydrants, in Walker Township, **Centre County**, ACOE Baltimore District (Madisonburg, PA Quadrangle N: 21.9 inches and 16.3 inches; W: 8.3 inches and 14.3 inches).

To construct and maintain two 6-inch PVC dry hydrants, labeled DH 9 and DH 10, in Little Fishing Creek located at: DH 9—the north corner of the intersection of SR 64 and Snyder Road; DH10—240 feet southeast of the intersection of Heckman Drive and Hublersburg Road at the Tice Farm (Madisonburg, PA Quadrangle N: 21.9 inches and 16.3 inches; W: 8.3 inches and 14.3 inches). Hydrant installation and maintenance will be the responsibility of the local township, with assistance from the local fire departments. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E17-373. Pennsylvania Department of Transportation, Engineering District 2-0, P. O. Box 342, Clearfield, PA 16830. SR 4021 Bridge Replacement in

Sandy Township, **Clearfield County**, ACOE Baltimore District (Sabula, PA Quadrangle N: 14.31 inches; W: 6.06 inches).

To remove an existing bridge and construct, operate and maintain a single cell precast concrete box culvert to carry SR 4021 across Mountain Run to improve public highway safety. The single cell box culvert shall be constructed with a minimum span of 14-feet, rise of 5.5-feet, skew of 90-degrees and depressed 1.0-foot. The bridge replacement project is located on SR 1011 approximately 200-feet north of T-407 and SR 4021 intersection.

E18-334. William Dittmar, P. O. Box 308, West Milton, PA 17886. Dittmar Water Co. tract, in Lamar Township, **Clinton County**, ACOE Baltimore District (Beech Creek, PA Quadrangle N: 14.32 inches; W: 1.65 inches).

To construct and maintain a 6-foot diameter by 40-foot long corrugated metal pipe and the associated clean earthen approach fill in an unnamed tributary to Fishing Creek for timber harvesting access located 2 miles southwest of SR 64 from the Bald Eagle Mountain/SR 64 gap. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E18-340. Department of Conservation and Natural Resources, Bureau of Facility Design and Construction, P. O. Box 8451, Harrisburg, PA 17105-8451. Right Branch-Hyner Run Road Rehabilitation, in Chapman Township, **Clinton County**, ACOE Baltimore District (Slate Run, PA Quadrangle N: 6.2 inches; W: 10.1 inches).

To operate and maintain nine roadways cross drains along Spring Run; and modify, operate and maintain three public road crossings to carry Right Branch-Hyner Run across Spring Run. The modification of the public road crossings shall consist of removing the three 36-inch diameter plastic culvert pipes; reinstalling culverts pipes with a minimum depression of 0.5 foot into the stream bed; and installing stream bank scour protection along culvert outlets. All instream activity shall be conducted during stream low flow. Culvert modification work shall be completed in dry work conditions by fluming or damming and pumping stream flow around work areas. Since Spring Run is a wild trout stream, no construction or future repair work shall be conducted in or along Spring Run between October 1 and December 31 without prior written approval of the Fish and Boat Commission. The project is located along the western right-of-way of SR 0044 approximately 1 mile west of Right Branch-Hyner Run Road and SR 0044 intersection. This permit also authorizes the construction, operation, maintenance and removal of temporary diversions and/or cofferdams; upon completion of the stream bank stabilization activities, all temporary structures shall be removed with the stream channel restored to pre-existing geometry, profile and pattern.

E18-344. Clinton County Commissioners, Garden Building, 232 East Main Street, Lock Haven, PA 17745. Clinton County Conservation District dry hydrant project, in Logan, Green, Crawford, Lamar and Porter Townships, **Clinton County**, ACOE Baltimore District.

<i>Hydrant No.</i>	<i>PA Quadrangle</i>	<i>North (inches)</i>	<i>West (inches)</i>
DH-1	Beech Creek	2.9	4.3
DH-2	Millheim	21.6	6.5
DH-3	Mill Hall	1.0	1.6

<i>Hydrant No.</i>	<i>PA Quadrangle</i>	<i>North (inches)</i>	<i>West (inches)</i>
DH-4	Carroll	7.2	13.0
DH-5	Carroll	14.3	7.6
DH-6	Mill Hall	10.4	12.9
DH-7	Mill Hall	15.7	12.9
DH-8	Beech Creek	10.1	2.2

To construct and maintain eight dry hydrants (DH) within the Fishing Creek Watershed for improved rural fire protection (hydrant installation and maintenance will be the responsibility of the local townships, with assistance from the local fire departments): DH-1 is located on the Nittany Water Company property along TR 341 Spring Run Road at the spring in Lamar in Porter Township; DH-2 is located on the Jeff Breon property along Summer Mountain Road at the eastern edge of Tylersville in Logan Township located at the northwestern corner of the bridge over Fishing Creek; DH-3 is located on the Edith Muthler property on Logan Mills Road in Logan Township located on the southwest corner of the bridge with no disturbance planned to the Logan Mills Covered Bridge; DH-4 is located on the Donnell Jefferies property on Winter Road in Greene Township located on the northwest abutment near the bridge over Fishing Creek; DH-5 is located at Shaffer Pond on 4th Gap Road in Crawford Township located along the southern edge of the pond near the township line; DH-6 is located on Keystone Central School District property near the intersection of Duck Run Road and Mackeyville Road in Lamar Township located near the southwest corner of the "Hump Bridge"; DH-7 is located on the Hanson Aggregates property off SR 477 in Lamar Township located on the southwest corner of Hanson's bridge over Long Run; and DH-8 is located on the Cedar Springs Trout Hatchery property along Jacksonville Road in Porter Township located at the southeastern corner of the hatchery access road over Cedar Run. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E41-508. Stephen and Patricia Dershem, 1519 Torbert Lane, Jersey Shore, PA 17740. Small Projects Water Obstruction and Encroachment Joint Permit Application, in Watson Township, **Lycoming County**, ACOE Susquehanna River Basin District (Jersey Shore, PA Quadrangle N: 20.4 inches; W: 11.8 inches).

To remove an existing 1,500 square foot residence and construct and maintain a 2,150 square foot primary residence in the floodway of the Pine Creek, all of which is located 5 miles north of the intersection of SR 0044 and SR 0220 to Torbert Lane, in Watson Township, Lycoming County. This permit was issued under section 105.13(e) "Small Projects."

E41-512. Candace R. Clark, 92 Canal Lane, Linden, PA 17744. Small Projects Water Obstruction and Encroachment Joint Permit Application, in Piatt Township, **Lycoming County**, ACOE Susquehanna River Basin District (Linden, PA Quadrangle N: 13.35 inches; W: 9.28 inches).

To remove an existing at-grade 12-foot x 70-foot mobile home and construct and maintain a 28-foot by 48-foot modular home in the floodway of the West Branch of Susquehanna River, all of which is located 1/2 mile west of the intersection of SR 3007 and School House Road along Canal Lane, in Piatt Township, Lycoming County. This permit was issued under section 105.13(e) "Small Projects."

E59-433. Richmond Township, 536 Valley Road, Mansfield, PA 16933. Culvert construction in Richmond Township, **Tioga County**, ACOE Baltimore District (Mansfield, PA Quadrangle N: 12.8 inches; W: 14.1 inches).

To remove the existing steel bridge and to construct and maintain an 8.4 foot high by 12.8 foot wide by 50 foot long corrugated metal pipe arch culvert in Manns Creek on T-546 approximately 0.6 mile west of the intersection of T-546 with SR 1001. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

E30-205. Greene County Board of Commissioners, 93 East High Street, Waynesburg, PA 15370. Cumberland and Monongahela Townships, **Greene County**, ACOE Pittsburgh District.

To remove the Greene County Bridge No. 12 and to construct and maintain a bridge having a normal clear span of 40.0 feet and an underclearance of 6.7 feet across Little Whiteley Creek (WWF), a temporary cofferdam during construction and approximately 142.5 feet of gabion wall within the assumed floodway of an unnamed tributary to Little Whiteley Creek. The project will impact a de minimis (0.01 acre) amount of wetland. The project is located on T-688 at a point approximately 300 feet south of its intersection with SR 0021 (Masonstown, PA Quadrangle N: 19.8 inches; W: 11.8 inches).

E32-441. Armstrong Township, 977 Parkwood Road, Indiana, PA 15701. Armstrong Township, **Indiana County**, ACOE Pittsburgh District.

To remove the existing structure and to construct and maintain a twin cell box culvert in Curry Run (CWF). Both parallel cells will be depressed 10 inches and the high flow cell will have a 1.5 foot weir at its inlet. The low flow cell will have a normal span of 18.0 feet and an underclearance of 5.14 feet, the high flow cell will have a normal span of 18.0 feet and an underclearance of 4.5 feet. The project is located near the intersection of SR 0422 and Township Road T-410. Station 1 + 94.67 (Elderton, PA Quadrangle N: 4.9 inches; W: 3.1 inches).

E32-442. Pennsylvania Department of Transportation, Engineering District 10-0, P. O. Box 429, Indiana, PA 15701. Armstrong Township, **Indiana County**, ACOE Pittsburgh District.

To widen and maintain an existing multi-steel stringer bridge having three spans at 50.7 feet, 50.0 feet and 50.7 feet and an underclearance of 11.0 feet over Crooked Creek (WWF). Also to construct and maintain a temporary causeway and temporary cofferdams in Crooked Creek (WWF). Station 109+75.30 (Elderton, PA Quadrangle N: 5.4 inches; W: 5.8 inches).

To rehabilitate and maintain an existing reinforced concrete T-beam bridge having a span of 30.0 feet and an underclearance of 9.0 feet over Anthony Run (CWF). Station 120+60.41 (Elderton, PA Quadrangle N: 5.3 inches; W: 5.2 inches).

To rehabilitate and maintain an existing reinforced concrete T-beam bridge having a span of 32.0 feet and an underclearance of 6.0 feet over Curry Run (CWF). Station 138+17.43 (Elderton, PA Quadrangle N: 5.3 inches; W: 4.3 inches).

To remove the existing structure and to construct and maintain a precast concrete box culvert having a normal

span of 18.0 feet and an effective underclearance of 6.0 feet in Cheese Run (CWF). The invert of the box culvert will be depressed 1.0 foot and contain baffles. Also, to construct and maintain a temporary crossing consisting of two 5.5 foot diameter pipes in Cheese Run (CWF). Station 170+13.5 (Elderton, PA Quadrangle N: 4.8 inches; W: 2.9 inches).

E56-315. Department of Conservation and Natural Resources, Bureau of Forestry, Rachel Carson Office Building, P. O. Box 8451, Harrisburg, PA 17105-4892. Jefferson Township, **Somerset County**, ACOE Pittsburgh District.

To remove existing Bridge 4-0006 and to construct and maintain a 22.5-foot long box culvert having a normal clear span of 20 feet and an underclearance of 6 feet in Jones Mill Run (EV). Invert of the structure includes baffle and will be depressed 1 foot. The project includes construction and maintenance of bank stabilization with riprap along the right stream bank for 50 feet downstream of the culvert. The structure is located on Jones Mill Run Road in Forbes State Forest (Seven Springs, PA Quadrangle N: 7.3 inches; W: 2.0 inches).

E63-533. Friendship Community Church, P. O. Box J, Washington, PA 15301. Canton Township, **Washington County**, ACOE Pittsburgh District.

To construct and maintain a 60 foot x 110 foot expansion to an existing church within the floodway of a tributary to Log Pile Run (WWF). The project is located in the northeast corner of the intersection of Prigg Avenue and Weirich Avenue (Washington, PA Quadrangle N: 7.5 inches; W: 5.4 inches).

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

E10-344. Landmark Properties, Inc., 4848 Route 8, Unit 2, Allison Park, PA 15101. Emeryville Drive Lots 1 and 2, in Cranberry Township, **Butler County**, ACOE Pittsburgh District (Mars, PA Quadrangle N: 9.3 inches; W: 14.1 inches).

To fill 0.13 acre of wetland on Emeryville Drive Lots 1 and 2 for construction of a five-story office building and associated parking area along Emeryville Drive approximately 0.25 mile east of Margarite Drive. Also to construct and maintain a 6-inch diameter PVC sanitary sewer pipeline crossing across an unnamed tributary to Brush Creek. Project includes contribution to the Pennsylvania Wetland Replacement fund for replacement of impacted wetland.

E10-359. William F. and Christine E. Klink, 418 Kriess Road, Renfrew, PA 16053. Klink Bridge across tributary to Connoquenessing Creek, in Connoquenessing Township, **Butler County**, ACOE Pittsburgh District (Butler, PA Quadrangle N: 14.4 inches; W: 14.8 inches).

To construct and maintain a single span bridge having a clear span of 16 feet with an underclearance of 3.3 feet across an unnamed tributary to Connoquenessing Creek for access from Reiber Road (T-830) to a new home site on the Klink property. The oak planks shall be placed on four 10-inch by 14-inch steel I-beams placed on concrete abutments. Also, to construct and maintain a 12-foot wide driveway of which approximately 150 foot of the driveway shall be constructed within 50 foot of the top of the bank of the unnamed tributary.

E20-503. Titusville Redevelopment Authority, P. O. Box 425, Titusville, PA 16354-0425. Titusville Opportunity Park, in the City of Titusville, **Crawford County**,

ACOE Pittsburgh District (Titusville North, PA Quadrangle N: 22.1 inches; W: 3.5 inches).

To perform site grading at five lots including impacts to a total of 5.51 acres of wetland for development of Titusville Opportunity Park industrial park project within the 100-year flood plain of Oil Creek on the former Cytemp Specialty Steel property south of SR 27 approximately 0.5 mile east of SR 8. Project includes creation of a total of 5.51 acres of replacement wetlands, restoration of 0.51 acre of impacted wetland and establishment of 43.22 acres of conservation easement within the 100-year flood plain of Oil Creek.

E20-515, Conneaut Lake Borough, North Third Street, Conneaut Lake, PA 16316. Fireman's Beach Shoreline Stabilization, in Sadsbury Township, **Crawford County**, ACOE Pittsburgh District (Conneaut Lake, PA Quadrangle N: 19.3 inches; W: 7.2 inches).

To install and maintain approximately 500 feet of shoreline protection using precast concrete barriers along the western shore of Conneaut Lake at Fireman's Beach east of Lakeview Avenue approximately 400 feet north of Water Street (SR 322).

E24-220, Jones Township, P. O. Box 25, Wilcox, PA 15870. Jones Township Ballfield Park, in Jones Township, **Elk County**, ACOE Pittsburgh District (Wilcox, PA Quadrangle N: 14.4 inches; W: 8.9 inches).

To construct and maintain a public park including a ball field, horseshoe pit, picnic pavilions, concession stand with restrooms, parking areas and other appurtenances within the 100-year flood plain near the confluence of West Branch Clarion River and Wilson Run and impacting a total of 0.15 acre of wetland south of T-631 (Old Kane Road) in the Village of Wilcox. Project includes creation of 0.16 acre of replacement wetland adjacent to existing wetlands onsite within the flood plain.

E24-221, Department of Conservation and Natural Resources, Bureau of Forestry, P. O. Box 8451, Harrisburg, PA 17105-8451. Bridge 09-0006 Replacement, in Jay Township, **Elk County**, ACOE Baltimore District (Huntley, PA Quadrangle N: 21.8 inches; W: 13.15 inches).

To remove the existing structure (Bridge 09-0006) and to construct and maintain a single span prestressed concrete spread box beam bridge having a clear span of 55.17 feet and an underclearance of 12.52 feet on an 85° skew across Laurel Run on Blackwell Road. Project includes replacement of the existing abutments.

E24-223, Pennsylvania Department of Transportation, District 2-0, 1924-30 Daisy Street, P. O. Box 342, Clearfield, PA 16830. SR 0948, Section A01, Segment 0070, Offset 0000 across tributary to Daguscahonda Run, in Fox Township, **Elk County**, ACOE Pittsburgh District (Kersey, PA Quadrangle N: 20.3 inches; W: 15.1 inches).

To remove the existing structure and to construct and maintain a 66-foot long precast reinforced concrete box culvert having a 10-foot wide by 3.8-foot high waterway opening in an unnamed tributary to Daguscahonda Run on SR 0948, Section A01, Segment 0070, Offset 0000.

E24-224, Jones Township, P. O. Box 25, Wilcox, PA 15870. Jones Township Ball Field Park, in Jones Township, **Elk County**, ACOE Pittsburgh District (Wilcox, PA Quadrangle N: 14.4 inches; W: 8.9 inches).

To construct and maintain a public park including a ball field, horseshoe pit, picnic pavilions, concession stand with restrooms, parking areas and other appurtenances

within the 100-year flood plain near the confluence of West Branch Clarion River and Wilson Run and impacting a total of 0.15 acre of wetland south of T-631 (Old Kane Road) in the Village of Wilcox. Project includes creation of 0.16 acre of replacement wetland adjacent to existing wetlands onsite within the flood plain.

E24-225, Steven W. and Coleen B. Kronenwetter, R. R. 1, Box 84K, SR 555, Weedville, PA 15868. Wapiti Woods Driveway Construction, in Benezette Township, **Elk County**, ACOE Pittsburgh District (Weedville, PA Quadrangle N: 5.6 inches; W: 5.8 inches).

To construct and maintain a 12 foot wide driveway of which 350 foot of the driveway shall be constructed within 50 foot of the top of the bank of the Bennett Branch of Sinnemahoning Creek and over a de minimis wetland (0.002 acre) adjacent to the south side of SR 555 approximately 1 mile southwest of the intersection of SR 555 and SR 2004 to develop a rental cabin business on the property.

E25-645, Amity Township Supervisors, 15030 Casler Road, Union City, PA 16438. Lowe Road across Lake Pleasant Outlet, in Amity Township, **Erie County**, ACOE Pittsburgh District (Waterford, PA Quadrangle N: 20.6 inches; W: 2.2 inches.)

To remove the existing bridge superstructure, abutment stems and wingwalls and to construct and maintain three 33-foot long, 7-foot diameter culverts in the Lake Pleasant Outlet on Lowe Road (Township Road T-555) approximately 0.5 mile southwest of the intersection of Lowe Road (Township Road T-555) and Arbuckle Road. The project includes construction of stacked concrete block wingwalls with rip-rap protection and the impact of less than 0.01 acre of wetland.

E25-646, Millcreek Township, 3608 West 26th Street, Erie, PA 16508-2037. Channel cleaning of unnamed tributary to Marshall Run, in Millcreek Township, **Erie County**, ACOE Pittsburgh District (Swanville, PA Quadrangle N: 15.3 inches; W: 4.5 inches).

To excavate debris and sediment to the original stream contours and to maintain the contours of 1,600 feet of an unnamed tributary to Marshall Run starting west of Powell Avenue and extending downstream to the culvert under the existing tracks just east of Caughey Road to reduce flooding of nearby commercial properties.

E25-650, Pennsylvania Department of Transportation, District 1-0, 255 Elm Street, P. O. Box 398, Oil City, PA 16301-1412. SR 4034, Section A70 Erie East Side Access Highway, in City of Erie, **Erie County**, ACOE Pittsburgh District.

To construct and maintain the following in tributaries to Lake Erie as part of the construction of the East Side Access Highway, SR 4034, Section A70 (Erie South, PA Quadrangle N: 22.2 inches; W: 2.4 inches westward to Erie South, PA Quadrangle N: 22.4 inches; W: 5.8 inches): 1) a 320-foot long, 4-foot diameter reinforced concrete pipe extension to an existing stream enclosure in an unnamed tributary to McDaniel's Run; and (2) replacement of a portion of an existing stream enclosure with an approximately 35-foot long, 4.5-foot diameter reinforced concrete pipe and an approximately 35-foot long, 5-foot diameter reinforced concrete pipe in series in Cemetery Run. This project includes placement of fill in 0.58 acre of PFO wetland. Construction of replacement wetlands for this project was previously authorized under Permit E25-626.

E25-651, City of Erie, 626 State Street, Room 400, Erie, PA 16501-1128. Cascade Creek enclosure, in the

City of Erie, **Erie County**, ACOE Pittsburgh District (Erie South, PA Quadrangle N: 20.1 inches; W: 15.2 inches).

To partially remove the existing structure and to install and maintain, a 781 foot-long, 102 inch diameter centrifugally cast fiberglass reinforced polymer mortar stream enclosure in Cascade Creek (WWF; MF). The project is adjacent to the southeast corner of West 12th Street and Veshecco Drive. The project includes removal of the existing accumulated sediment from the existing the 75-foot long concrete open channel at the outlet of the existing structure.

E42-289, Lafayette Township Board of Supervisors, 7534 Route 59, Lewis Run, PA 16738. T-329 across East Branch Tunungwant Creek, in Lafayette Township, **McKean County**, ACOE Pittsburgh District (Lewis Run, PA Quadrangle N: 19.75 inches; W: 2.9 inches).

To remove the existing structure and to construct and maintain a composite P/S concrete spread box beam bridge having a clear span of 65 feet and an underclearance of 6.75 feet on a 70-degree skew across East Branch Tunungwant Creek on T-329 approximately 3 miles northwest of Lewis Run. This project includes placement of fill in a de minimis area of wetland (0.045 acre) with roadway approach widening.

ENVIRONMENTAL ASSESSMENTS

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

D28-002EA. Department of Conservation and Natural Resources, P. O. Box 8451, Harrisburg, PA 17105-8451. Southampton Township, **Franklin County**, ACOE Baltimore District.

To breach and remove the Stony Point Dam across Furnace Run (CWF) for the purpose of restoring the stream to a free flowing condition. The dam is located approximately 2,500 feet south of the intersection of Middle Ridge Road and Linsay Lot Road in Michaux State Forest (Scotland, PA Quadrangle N: 20.7 inches; W: 0.2 inch).

DAM SAFETY

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

D10-113, D10-115 and D10-114. Slippery Rock University, Slippery Rock, PA 16057-1326. Project proposes to remove accumulated silts and sediments from the reservoirs of three jurisdictional dams as follows: Stadium Drive Dam (D10-113) 0.05 acre; Founders Hall Bridge Dam (D10-114) 0.22 acre; Founders Hall Dam (D10-115) 0.21 acre. The dams are located across a tributary to Slippery Rock Creek (CWF) on the Slippery Rock University Campus (Slippery Rock, PA Quadrangle, N: 11.5 inches; W: 5.7 inches). Slippery Rock Township, **Butler County**.

SPECIAL NOTICES

Public Comment Period Correction

Proposed Commercial Building Site in Unity Township, Westmoreland County

E65-796. Colony Development Company, 8954 Hill Drive, North Huntingdon, PA 15642. Unity Township, Westmoreland County, ACOE Pittsburgh District.

The Department of Environmental Protection (Department) held a public hearing on August 21, 2002, at Latrobe Elementary School Auditorium, Latrobe, Westmoreland County. The purpose of the hearing was to receive public comment on a water obstruction and encroachment permit to place and maintain fill in a 0.72 acre of wetlands and approximately 750 linear feet of an intermittent watercourse in the watershed of unnamed tributaries to Ninemile Run (WWF) for the purpose of a commercial site development for Wal-Mart and Lowe's Improvement Warehouse.

The site is located along SR 30, approximately 0.5 mile south of the intersection of Theater Drive (T-898) and SR 30 (Latrobe Quadrangle N: 6.9 inches; W: 1 inch), in Unity Township, Westmoreland County.

In addition to the water obstruction and encroachment permit, the Department also took comments on a notice of intent for coverage under the general NPDES permit for discharges of stormwater associated with construction activities.

At 32 Pa.B. 3557 (July 20, 2002), the Department incorrectly identified October 21, 2002, as the ending date for public comment on this application. The correct deadline for comments is September 22, 2002. Comments should be sent to Tim Dreier, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222.

Public Hearing on Pennsylvania General Energy NPDES Permit Applications

Kingsley and Jenks Townships, Forest County

The Department of Environmental Protection (Department) will conduct a public hearing on October 23, 2002, at 7 p.m. in the Marienville Area Civic Association Building, adjacent to the Jenks Township Building, Marienville, PA. The hearing is in response to comments received on two applications from Pennsylvania General Energy, 208 Liberty Street, Warren, PA 16365 for discharges of stormwater associated with oil and gas developmental construction activities. The issues raised include, but are not limited to, potential impacts on threatened and endangered species, public resources and water quality. The permit applications were published as follows, on the dates indicated.

NPDES Permit PAS102706, Stormwater, Pennsylvania General Energy Corporation, 208 Liberty Street, Warren, PA 16365 has applied to discharge stormwater associated with a construction activity located in Jenks Township, Forest County to Little Salmon Creek (HQ-CWF). (32 Pa.B. 2612 (May 25, 2002))

NPDES Permit PAS102707, Stormwater, Pennsylvania General Energy Corporation, 208 Liberty Street, Warren, PA 16365 has applied to discharge stormwater associated with a construction activity located in Jenks and Kingsley Townships, Forest County to Salmon Creek (HQ-CWF). (32 Pa.B. 3009 (June 22, 2002))

Persons who wish to present testimony at the hearing should submit a written notice of intent, by October 21, 2002, to Robert Gleeson, Oil and Gas Management, Department of Environmental Protection, 230 Chestnut Street, Meadville, PA 16335-3494. The written notice should include the person's name, address, telephone number and a brief statement as to the nature of the testimony to be offered at the hearing. Testimony may be presented in either written or oral form. Testimony should be concise and relevant to the permit issue. Oral testimony will be limited to a maximum of 5 minutes per

speaker. Those presenting written testimony can submit a written copy of the comments and relevant documents at the hearing. Written testimony may also be sent to Robert Gleeson at the previous address either before the hearing or until November 2, 2002.

Following the hearing, the Department will prepare a document including a summary of the written and oral comments submitted at the hearing, the Department's responses to the comments and the reasons for the responses. The Department will make its decision on the applications following completion of this summary.

Interested persons may obtain further information or inspect and copy public forms and related documents at the Department Regional Office, 230 Chestnut Street, Meadville, PA between 8 a.m. and 4 p.m., Monday through Friday. To ensure adequate opportunity for all interested parties, appointments for file reviews should be made by calling (814) 332-6340.

BUREAU OF DEEP MINE SAFETY

Approval of Request for Variance

The Department of Environmental Protection (Department), Bureau of Deep Mine Safety (BDMS) has approved Dunkard Mining Company's request for a variance from the requirements of section 224(b) of the Pennsylvania Bituminous Coal Mine Act (act) at the Dunkard Mine. This notification contains a summary of this request and the basis for the Department's approval. A complete copy of the variance request may be obtained from Allison Gaida, (724) 439-7469 or from the BDMS website: <http://www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm>.

Summary of the Request: Dunkard Mining Company requested a variance from section 224(b) of the act to drill a horizontal borehole to the west of the Rosedale #8 Mine to protect miners against accidentally mining into the abandoned mine. The proposal accords protections to persons and property substantially equal to or greater than the requirements of section 224(b) of the act.

The basis for the Bureau's approval is summarized as follows:

1. The long horizontal borehole method proposed in lieu of the requirements set forth in section 224(b) of the act is a proven technology which has been used successfully in other underground mines in this Commonwealth.

2. The long horizontal borehole method proposed is much less labor intensive and provides much less exposure to lifting and strain type injuries by not having to handle and use hand-held drills and steels. By mining normal depth cuts, the work force will be subjected to less risk associated with equipment place changes, rather than mining the outside entry 8 feet at a time.

3. The long horizontal borehole proposed in lieu of the requirements set forth in section 224(b) of the act will provide a greater coal barrier than required by section 224(b) of the act.

4. The long horizontal boreholes will provide a quicker method to close the borehole in the event of contacting the abandoned mine by closing the valve located at the end of the pipe grouted in the rib and will be more suitable for grouting, if needed.

5. The long horizontal borehole will provide a much larger area of coverage for protecting the workers against accidentally mining into the abandoned mine.

This approval is limited to the alternate method to drill test holes as required in section 224(b) of the act. All other terms and requirements of section 224(b) of the act

shall remain in effect. Continued authorization for operation under the approval is contingent upon compliance with the measures described in Dunkard's approved variance proposal and the following stipulation. Upon completion of the horizontal borehole, and before mining starts, Dunkard Mine is required to provide a print to BDMS showing the vertical and horizontal view of the hole location, data logs and include the hole properly referenced on future Dunkard Mine maps. The roof and bottom shall be sufficiently tagged and the entire borehole plot is to be recorded on a map as the hole is drilled to ensure that the drilling occurs within the coal seam.

Request for Comments for the Proposed Total Maximum Daily Load (TMDL) for the McGourvey Run Watershed

The Department of Environmental Protection (Department) is accepting comments on a proposed TMDL, established in accordance with the requirements of section 303(d) of The Clean Water Act. The Department held a public meeting on August 14, 2002, at the Holiday Inn in Clarion, PA, to discuss and accept comments on the proposed TMDL. The meeting was scheduled to coincide with the monthly meeting of the Mill Creek Coalition, a local group actively involved in watershed restoration. McGourvey Run has been identified as impaired on the 1996 and 1998 Pennsylvania 303(d) list due to depressed pH, high concentrations of metals and other inorganics. The listed segment and miles degraded are shown in the following table.

Stream Code	Stream Name	Miles Degraded
49796	McGourvey Run	2.17

The proposed plan provides calculations of stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

Parameter	Criterion value (mg/l)	Total Recoverable/Dissolved
Aluminum	0.1 of the 96 hour LC 50	Total Recoverable
Iron	0.75	Total Recoverable
	1.5	Dissolved
Manganese	0.3	Total Recoverable
PH	1.00	NA
	6.0—9.0	

The primary pollutant source for the watershed is abandoned mine workings and abandoned gas well. This watershed was sporadically mined for coal in the late 19th to the mid 20th centuries. The effects of this are still present. All of the allocations made in the TMDL are load allocations (LA) which are made to nonpoint sources of pollution.

The TMDL was developed using Monte Carlo Simulation (MCS) to determine long term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected over the past 10 years.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Joseph Tarantino, Knox District Mining Office, P. O. Box 669, Knox, PA 16232, (814) 797-1191, jtarantino@state.pa.us.

The TMDL can be viewed and printed at www.dep.state.pa.us direct link "TMDL" or http://www.dep.state.pa.us/watermanagement_apps/tmdl/

Written comments will be accepted at the previously noted address and must be postmarked by October 20, 2002. The Department will consider all comments in developing the final TMDL which will be submitted to the EPA for approval.

Request for Comments and Notice of Public Meeting for the Proposed TMDL for the Jones Run and Douglas Run Watersheds

The Department is accepting comments on a proposed TMDL, established in accordance with the requirements of section 303(d) of The Clean Water Act. The Department held a public meeting on August 14, 2002, at the Holiday Inn in Clarion, PA, to discuss and accept comments on the proposed TMDL. The meeting was scheduled to coincide with the monthly meeting of the Mill Creek Coalition, a local group actively involved in watershed restoration. Seven stream segments in the Jones Run and Douglas Run watersheds have been identified as impaired on the 1996 and 1998 Pennsylvania 303(d) list due to depressed pH, high concentrations of metals and other inorganics. The listed segments and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
49719	Douglass Run	3.23
49724	UNT to Douglass Run	0.44
49725	UNT to Douglass Run	0.85
49756	UNT to Douglass Run	0.83
49720	Jones Run	2.55
49722	UNT to Jones Run	0.96
49723	UNT to Jones Run	0.51

The proposed plan provides calculations of stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.1 of the 96 hour LC 50	Total Recoverable
	0.75	
Iron	1.5	Total Recoverable
	0.3	Dissolved
Manganese	1.00	Total Recoverable
PH	6.0—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the late 19th to the mid 20th centuries. The effects of this are still present. All of the allocations made in the TMDL are LAs which are made to nonpoint sources of pollution.

The TMDL was developed using MCS to determine long term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a data set based on its statistical makeup. Since there was no

critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected over the past 10 years.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Joseph Tarantino, Knox District Mining Office, P. O. Box 669, Knox, PA 16232, (814) 797-1191, jtarantino@state.pa.us.

The TMDL can be viewed and printed at www.dep.state.pa.us direct link "TMDL" or at http://www.dep.state.pa.us/watermanagement_apps/tmdl/

Written comments will be accepted at the previously noted address and must be postmarked by October 20, 2002. Persons who plan to make a presentation at the public meeting should notify the Department no later than 4 p.m. on September 24, 2002. The Department will consider all comments in developing the final TMDL which will be submitted to the EPA for approval.

Request for Comments and Notice of Public Meeting for the Proposed TMDL for the Babb Creek Watershed

The Department is holding a public meeting on October 1, 2002, at 6 p.m. at the Arnot Sportsmen's Club in Arnot, PA, to discuss and accept comments on a proposed TMDL, established in accordance with the requirements of section 303(d) of The Clean Water Act. Three stream segments in the Babb Creek Watershed have been identified as impaired on the 1996 and 1998 Pennsylvania 303(d) list due to depressed pH and/or high concentrations of metals. The listed segments and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
21681	Babb Creek	0.99
21681	Babb Creek	12.85
21730	Wilson Creek	2.3

The proposed plan provides calculations of stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.1 of the 96 hour LC 50	Total Recoverable
	0.75	
Iron	1.5	Total Recoverable
	0.3	Dissolved
Manganese	1.00	Total Recoverable
PH	6.0—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the late 19th to the mid 20th centuries. The effects of this are still present. All of the allocations made in the TMDL are LAs which are made to nonpoint sources of pollution.

The TMDL was developed using MCS to determine long term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a data set

based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected over the past 10 years.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact John Mital, Hawk Run District Mining Office, P. O. Box 209, 792 Empire Road, Hawk Run, PA 16840-0209, (814) 342-8200, jmital@state.pa.us. Directions to the Arnot Sportsmen's Club meeting place can also be obtained by contacting this address.

The TMDL can be viewed and printed at http://www.dep.state.pa.us/watermanagement_apps/tmdl/

Written comments will be accepted at the previously noted address and must be postmarked by November 6, 2002. Persons who plan to make a presentation at the public meeting should notify the Department no later than 4 p.m. on September 24, 2002. The Department will consider all comments in developing the final TMDL which will be submitted to the EPA for approval.

[Pa.B. Doc. No. 02-1637. Filed for public inspection September 20, 2002, 9:00 a.m.]

Air Quality Technical Advisory Committee Meeting Cancellation; Ad Hoc Committee on NO_x Monitoring Issues Meeting

The Air Quality Technical Advisory Committee (AQTAC) meeting scheduled for September 19, 2002, has been cancelled.

The AQTAC Ad Hoc Committee on NO_x Monitoring Issues will meet on September 19, 2002, at 8:30 a.m. in the Second Floor Training Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

For further information, contact Terry Black at (717) 787-2030.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-1638. Filed for public inspection September 20, 2002, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are on the Department of Environmental Protection's (Department) website (www.dep.state.pa.us) at the Public Participation Center page. The "July 2002 Inventory" heading is the Governor's list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various Department bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2002.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view guidance documents. When this option is not available, persons can order a bound paper copy of the latest inventory or an unbound paper copy of any of the final documents listed on the inventory by calling the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Final Technical Guidance

DEP ID: 253-4500-606. Title: Applicable or Relevant and Appropriate Requirements (ARARs) for Cleanup Response and Remedial Actions in Pennsylvania. Description: This recently updated document contains a list of state standards and requirements for cleanup related activities at waste sites in this Commonwealth. The purpose of this document is to identify, in a general fashion, State standards and requirements that will serve as a guide for the determination of specific cleanup related criteria. Effective Date: August 24, 2002. Contact: Craig Olewiler at (717) 783-2388 or e-mail colewiler@state.pa.us.

Final Technical Guidance—Minor Revision

DEP ID: 273-4130-003. Title: Guidance for Application of Regional Civil Penalty Procedure. Description: This policy establishes uniform criteria for assessing monetary penalties for Clean Air Act violations. The Department adopted this policy in May 1996. Since that time, there have been minor changes made to this policy. These changes included consolidating tables, which resulted in reducing the length of the policy. In addition, some policy language and procedures were updated for clarification purposes. Effective Date: September 21, 2002. Contact: Scott Kepner at (717) 772-2330 or e-mail skepner@state.pa.us.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-1639. Filed for public inspection September 20, 2002, 9:00 a.m.]

DEPARTMENT OF HEALTH

Infant Hearing Screening Advisory Committee Meeting

The Infant Hearing Screening Advisory Committee, established under the Infant Hearing Education, Assessment, Reporting and Referral Act (11 P. S. §§ 876-1—876-9) will hold a public meeting on Friday, September 27, 2002, in Conference Room 812, Department of Health, 7th and Forster Streets, Harrisburg, PA from 1 p.m. to 4 p.m.

For additional information, contact Karl Hoffman, Program Administrator, Hearing Program, Division of Newborn Disease Prevention and Identification, (717) 783-8143.

Persons with a disability who wish to attend the meeting and require auxiliary aid, service or other accommodation to do so, should contact the Newborn Hearing Screening Program at (717) 783-8143. Speech and/or hearing impaired persons can use V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-1640. Filed for public inspection September 20, 2002, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Payments to Nursing Facilities; July 1, 2002 Proposed Rates

This notice announces proposed changes in payment rates for nursing facilities beginning July 1, 2002, and to identify the methodology and justification for these proposed rates. Under 42 U.S.C.A. § 1902(a)(13)(A), as amended by section 4711 of the Balanced Budget Act of 1997 (Pub. L. No. 105-33), a state must use a public process when it proposes to make changes in payment rates or payment methodologies for nursing facility services under its approved Title XIX State Plan.

The Department of Public Welfare (Department) is not proposing to amend its State Plan or to change its regulations, 55 Pa. Code Chapter 1187 (relating to nursing facility services). Rather, the Department is proposing to make changes in its nursing facility payment rates because those rate changes are required by the rate-setting methodology contained in its approved State Plan and regulations.

Rates

The proposed July 1, 2002, rates are available at the local county assistance offices throughout this Commonwealth, on the Office of Medical Assistance Programs' (OMAP) website at www.dpw.state.pa.us/omap or by con-

tacting Tom Jayson, Policy Unit of the Bureau of Long Term Care Programs, (717) 705-3705.

Methodology

The methodology the Department used to set the proposed rates is contained in 55 Pa. Code Chapter 1187, Subchapter G (relating to rate setting) and the Commonwealth's Title XIX State Plan. The criteria used to determine the appropriate adjustments is available on the OMAP website or by contacting Tom Jayson. The database used for rate setting is available on the OMAP website.

Justification

The justification for the proposed rates is that they were set under the rate-setting methodology required by the Commonwealth's regulations and approved State Plan.

The estimated increase in annual aggregate expenditures for Medical Assistance nursing facility services for FY 2002-2003 is \$70.427 million (\$31.918 million in State funds).

Interested persons are invited to submit written comments about the proposed rates to the Department within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Comments should be addressed to Department of Public Welfare, Attention: Suzanne Love, P.O. Box 2675, Harrisburg, PA 17105. Persons with a disability may use the AT&T Relay Services, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-NOT-335. (1) General Fund; (2) Implementing Year 2002-03 is \$31,918,000; (3) 1st Succeeding Year 2003-04 is \$34,820,000; 2nd Succeeding Year 2004-05 is \$34,820,000; 3rd Succeeding Year 2005-06 is \$34,820,000; 4th Succeeding Year 2006-07 is \$34,820,000; 5th Succeeding Year 2007-08 is \$34,820,000; (4) 2001-02 Program—\$761,877,000; 2000-01 Program—\$722,565,000; 1999-00—\$693,625,000; (7) Medical Assistance—Long Term Care; (8) recommends adoption. Funding for these changes is included in the 2002-03 budget.

[Pa.B. Doc. No. 02-1641. Filed for public inspection September 20, 2002, 9:00 a.m.]

2002 Group One Exception Requests; Medical Assistance Long Term Care Participation Review

The Department of Public Welfare (Department), by statement of policy effective December 18, 1996, adopted an interim policy announcing that, as a general matter, it intended to exercise its discretion to refuse to enter into new Medical Assistance (MA) provider agreements and to terminate any provider of MA nursing facility services that sought to increase the number of MA certified nursing facility beds through expansion, unless the Department granted an exception on a case-by-case basis to permit that provider to enroll or expand. A statement of policy that sets forth the guidelines the Department will use when making its case-by-case exception request decisions was published at 28 Pa.B. 138 (January 10, 1998) and is codified in 55 Pa. Code § 1187.21a (relating to nursing facility exception requests—statement of policy).

By this notice, published under 55 Pa. Code § 1187.21a(e)(4), the Department announces the 2002 Group One Exception Requests covering the submission period of January 1, 2002, through June 30, 2002.

Expansion Projects

Number	Facility	Address	County	Beds
JJ02001	Homeland Center	1901 North Fifth Street Harrisburg, PA 17102	Dauphin	2

A copy of the previously listed exception request is available for review by the public during regular business hours. To schedule an appointment to review the request, call (717) 705-3705.

The Department will accept written comments related to the request for a 30-day period following the date of this publication. Written comments may be submitted to Department of Public Welfare, Bureau of LTC Programs, Attention:

Policy Section, P. O. Box 2675, Harrisburg, PA 17105. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-NOT-336. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 02-1642. Filed for public inspection September 20, 2002, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Addendum and Revision of the Listing of Approved Speed-Timing Devices and Appointment of Maintenance and Calibration Stations

The Department of Transportation (Department), Bureau of Motor Vehicles, under the authority of 75 Pa.C.S. § 3368 (relating to speed timing devices), published at 31 Pa.B. 7078 (December 29, 2001), a notice of approved speed-timing devices and maintenance and calibration stations for use until the next comprehensive list is published.

Change of Ownership and Name

As an addendum to the listing of approved official maintenance and calibration stations, the Department hereby gives notice of the change of ownership and name of station number S48:

Reading Mack Distributors Inc., 4226 Pottsville Pike, Reading, Berks County, PA 15063.

The new station name will be:

Mack Enterprises of Reading, 4226 Pottsville Pike, Reading, Berks County, PA 15063.

As a result of the change in ownership, the new station number will be S1.

Comments, suggestions or questions may be directed to Peter Gertz, Manager, Admin/Tech Support Section, Vehicle Inspection Division, Bureau of Motor Vehicles, Third Floor, Riverfront Office Center, 1101 South Front Street, Harrisburg, PA 17104, (717) 783-7016.

Other approved speed-timing devices and appointment of maintenance and calibration stations appear at 31 Pa.B. 7078 and addenda at 32 Pa.B. 669 (February 2, 2002), 32 Pa.B. 1145 (February 23, 2002), 32 Pa.B. 1589 (March 23, 2002), 32 Pa.B. 1778 (April 6, 2002), 32 Pa.B. 2170 (April 27, 2002) and 32 Pa.B. 2828 (June 8, 2002).

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 02-1643. Filed for public inspection September 20, 2002, 9:00 a.m.]

Receipt of Applications for Section 5310 Program

The Department of Transportation, Bureau of Public Transportation, under the authority contained in 49 U.S.C.A. § 5310, gives notice that it will receive applications for the State-administered Section 5310 Program (formerly known as Section 16 Program). Under this program, private nonprofit organizations and designated public bodies may apply for Federal capital assistance to pay up to 80% of the purchase cost of new wheelchair

accessible small transit vehicles and other equipment used to provide needed transportation services for senior citizens and persons with disabilities who cannot be reasonably accommodated by existing transportation providers.

A guidelines and procedures package containing application forms can be obtained by calling the Bureau of Public Transportation at (717) 787-7540. The initial filing deadline for the program is November 1, 2002. Questions, comments or suggestions may be directed to Ben Brosius, Section 5310 Program Manager, P. O. Box 3151, Harrisburg, PA 17105-3151, (717) 787-1211.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 02-1644. Filed for public inspection September 20, 2002, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(d) of the Regulatory Review Act (71 P. S. § 745.5(d)) provides that the designated standing Committees may issue comments within 20 days of the close of the public comment period, and the Independent Regulatory Review Commission (Commission) may issue comments within 10 days of the close of the Committee comment period. The Commission's comments are based upon the criteria contained in section 5.1(h) and (i) of the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
10-165	Department of Health Hearing Aid Sales and Registration 32 Pa.B. 3223 (July 6, 2002)	8/5/02	9/5/02
7B-4	Department of Conservation and Natural Resources State Forest Picnic Areas 32 Pa.B. 2851 (June 8, 2002)	8/7/02	9/6/02

Department of Health Regulation
No. 10-165
Hearing Aid Sales and Registration
September 5, 2002

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which have not been met. The Department of Health (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

1. General.—Clarity.

The terms “prospective hearing aid user,” “purchaser” and “hearing aid user” are used throughout the regulation. To avoid confusion, these terms should be defined in § 25.202.

2. Section 25.202. Definitions.—Clarity; Reasonableness.

The definition of “physician” includes the phrase, “An individual who has a currently registered license to practice medicine or osteopathic medicine in this Commonwealth.” For the purpose of obtaining a medical recommendation under § 25.212, will Commonwealth residents be permitted to seek medical treatment for hearing problems from out-of-State physicians? If so, the definition should be revised to reflect this. If residents will not be permitted to seek treatment from out-of-State physicians under this regulation, the Department should explain why.

3. Section 25.204. Application for and renewal of registration.—Clarity; Reasonableness.

Subsection (d)

The Preamble states that “all registration certificates expire on the same date—April 15 of each year.” Subsection (d) contains the phrase “At least 30 days before the expiration of a registration certificate, . . .” For increased clarity, the Department should replace the language cited above with “By March 16 of each year.”

Subsection (f)

This subsection contains language barring issuance of more than two renewals of a fitter’s temporary registration certificate. It includes the phrase, “except upon petition of an applicant for good and sufficient cause shown.” How is the petition submitted? The Department should insert language that clearly sets forth the process that will be followed to petition for good and sufficient cause.

Subsection (g)

This subsection contains the phrase “the expiration of the registration certificate.” The Preamble states that this expiration occurs on April 15 of each year. For clarity, the Department should replace this phrase with “April 15,” or provide examples of when this would not apply.

4. Section 25.205. Additional registration requirements.—Clarity; Reasonableness.

Subsection (d)(3)

In this subsection, the word “affirmed” is used twice. For clarity, the Department should explain how affirmation is accomplished.

Subsection (d)(3) and (4)

These paragraphs state that an apprentice hearing aid fitter or a sponsor of an apprentice may terminate the mentor/apprentice relationship. In this situation, would either party have to show good cause for termination of the relationship? The Department should explain this in the final-form regulation.

5. Section 25.206. Examinations.—Clarity.

Subsection (b) states, “The date of an examination may be obtained by writing to the Department.” For clarity, the Department should provide the actual address in this section of the final-form regulation or a citation to the applicable address.

Further, is it possible to request the date of an examination by e-mail or telephone? If so, the Department should put these methods in the final-form regulation.

6. Section 25.207. Categories of registrations; fee schedule.—Clarity; Reasonableness.

Subsection (h) is unclear. To improve clarity, the Department should reword subsection (h) to make it more understandable to the reader. For example, the Department could say, “The fee to retake the fitter’s examination for an applicant who has previously failed the examination is \$50.”

7. Section 25.208. Display of registration certificates; offices.—Clarity.

Subsection (d) states, “a registrant shall file notice of a change in the registrant’s place of business.” It is unclear where the registrant is required to send this notice. The Department should explain the process for filing the required notice.

8. Section 25.209. Facilities, procedures and instrumentation.—Clarity.

Subsection (b)(1)

The Department has deleted the following language from this section, “a physician, surgeon, audiologist, or registered fitter or by an individual supervised by any of the aforementioned persons.” In its place, the phrase “an individual authorized by law” had been added. To facilitate compliance and an understanding of who the Department considers “an individual authorized by law,” the Department should restore the previously mentioned language to the final-form regulation or define the phrase.

Subsection (c)(1)

This subsection makes reference to the American National Standards Institute standards for pure tone speech and audiometry as identified by A.N.S.I. S 3.6-1969. The Department has indicated that “1969” should be “1996.” This typographical error should be fixed in the final-form regulation.

9. Section 25.210. Receipt, disclosure agreement and money back guarantee to purchaser—purchaser protection.—Need; Reasonableness.

We have an issue and two questions pertaining to subsection (b).

First, commentators indicate that an initial screening and further testing are necessary to determine if a patient will need a hearing device. However, the regulation requires the entire disclosure form to be completed prior to any services being provided. Given the variety of

hearing aids available, it will be difficult to accurately estimate costs for a hearing aid without first completing an examination.

The Department should restructure this form to require the completion of Part A on the disclosure form with the patient's signature, date and time prior to testing. Once the testing is finished, and it has been determined that a hearing aid is needed, Part B on the disclosure form should be completed.

Second, the "HEARING AID DISCLOSURE AGREEMENT/MONEY BACK GUARANTEE" form in this subsection includes a space for the time that the form was completed. If the entire form must be completed prior to rendering any services, what is the purpose of requiring the time of completion?

Finally, licensees may want to use forms other than those provided by the Department. Has the Department considered also including language, "or on a form approved by the Department," in this subsection?

10. Section 25.211. Medical recommendations; waiver forms.—Clarity.

Subsection (a)

This subsection contains the phrase ". . . is 18 years of age. . . ." However, the Department has indicated that this phrase should be "is at least 18 years of age." (Emphasis added.) This change should be made in the final-form regulation.

Subsection (b)

The phrase, "a legally proper waiver" is used in this subsection. This phrase is unclear. Does this include both the Federal and State waiver forms? The Department should clarify what constitutes a "legally proper waiver" in this subsection.

11. Section 25.213. Consumer review.—Clarity; Reasonableness.

We have two concerns with subsection (b). First, it states that the notice of rescission is effective "when deposited" in the mail. The phrase "when deposited" is unclear. When would a piece of mail be considered officially "deposited," when it is postmarked?

Second, the phrase, "when service is made in another manner which gives the registrant notice of rescission" is included. What other ways are acceptable to give notice of rescission? If there are other ways in which notice of rescission may be given, they should be included in the final-form regulation.

12. Section 25.216. Continuing education requirements.—Clarity.

Subsection (d) states that the continuing education requirements will become effective on April 15, 2003. However, the version printed in the *Pennsylvania Bulletin* uses the date "April 15, 2002." This discrepancy should be corrected in the final-form regulation.

13. Section 25.217. Approval of continuing education programs.—Clarity.

Subsection (a)(1)

This subsection is not needed and should be deleted. Its contents are adequately covered in subsection (a)(2).

Subsection (a)(4)

This subsection contains the phrase "materials shall be well written." How will the Department enforce this standard?

Subsection (a)(5)

This subsection stipulates that a "qualified" instructor shall present a program. Who is a qualified instructor? How does one become qualified? How will it be determined that an instructor is qualified?

This subsection also contains the phrase "suitable setting." Who makes this determination? What will qualify as a suitable setting?

14. Section 25.218. Credit for continuing education.—Clarity; Reasonableness.

Subsection (e)

The Department requires the submission of "materials" prior to the preapproval of the continuing education course. What materials are to be provided to the Department? Also, what is the procedure if the necessary materials are not available until after the course registration? Can a registrant request approval after taking the course? If the Department will consider approving a course after completion, the final-form regulation should include that provision.

Subsections (c) and (g)

These two subsections deal with similar issues and should be combined in the final-form regulation.

**Department of Conservation and Natural Resources
Regulation No. 7B-4**

State Forest Picnic Areas

September 6, 2002

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which have not been met. The Department of Conservation and Natural Resources (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered within years of the close of the public comment period, the regulation will be deemed withdrawn.

1. Written permission of the Department.—Reasonableness; Implementation procedures; Clarity.

Sections 23.11(c)(1) and 23.22 include the phrases "written permission of the Department" or "written authorization of the Department." This regulation also references § 21.62(b) regarding authorization from the District Forester or a designee. The final-form regulation should describe how to apply for "approval" or indicate where this information is available.

2. Section 23.11. Schedule.—Implementation procedures; Clarity.

Subsection (b) states: "A State forest picnic area may be closed by the Department to public use." The final-form regulation should identify how the public will be notified of a closure.

3. Section 23.15. Litter.—Reasonableness; Clarity; Protection of the Commonwealth's natural resources.

This section states that trash accumulated during the use of a picnic area can be placed in trash containers

found in those areas. This revised section does not address litter. It addresses trash and garbage accumulated while in a picnic area. We recommend that the title of this section be changed to more accurately reflect the subject matter addressed.

4. Section 23.16. Fires.—Need; Clarity.

Under subsection (a), “open fires” are permitted in “designated facilities,” but neither term is defined. The Department should either define or provide examples of these terms in the final-form regulation.

Subsection (d) refers to § 21.62(b) that prohibits “open fires” in picnic areas from March 1 through May 25 and from October 1 through December 1 without written authorization from a District Forester. Is this prohibition needed since subsection (a) only allows fires in designated facilities? If the reference is retained, the term “open fires” needs to be used consistently in both §§ 23.16 and 21.62.

5. Section 23.22. Organized Events.—Reasonableness; Implementation procedures; Clarity.

This section requires written authorization from the Department for an “instruction, exhibition, competition, demonstration or other organized or special event” but does not define these events or indicate a minimum number of participants. The section should clearly state what specific activities require a permit. It should also specify the minimum number of people that constitute a group or event.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 02-1645. Filed for public inspection September 20, 2002, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations on the dates indicated. To obtain the date and time of the meeting at which the Commission will consider these regulations, contact the Commission at (717) 783-5417 or visit its website at www.irrc.state.pa.us. To obtain a copy of the regulation, contact the promulgating agency.

Final-Form

Reg. No.	Agency/Title	Received
#11-204	Insurance Department Safeguarding Insurer Securities	09/05/02

Final-Omit

Reg. No.	Agency/Title	Received
#15-421	Department of Revenue Cash 5, Super 6 Lotto and Powerball	09/09/02

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 02-1646. Filed for public inspection September 20, 2002, 9:00 a.m.]

INSURANCE DEPARTMENT

Agency Contract Termination of Adlen-O'Brien Insurance Agency under Act 143; National Grange Mutual Insurance Company; Doc. No. AT02-09-002

A prereview telephone conference initiated by this office is scheduled for October 10, 2002, at 10 a.m. A review shall occur on October 31, 2002, at 10:30 a.m. in the Administrative Hearings Office, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. At the prereview conference, the parties shall be prepared to discuss settlement, stipulations, witnesses and the documents anticipated for use at the hearing, estimated time for the review, special evidentiary or legal issues and other matters relevant to the orderly, efficient and just resolution of this matter. Pending the review in this matter, parties shall exchange proposed exhibits, the names of witnesses and provide an offer of proof with respect to each witness and informally attempt to resolve undisputed facts by stipulation.

Except as established at the prehearing conference, both parties shall appear at the scheduled hearing prepared to offer all relevant testimony or other 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 for photographs into evidence shall bring enough copies for the record and for each opposing party.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before October 17, 2002, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene shall be filed on or before October 29, 2002.

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, should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-1647. Filed for public inspection September 20, 2002, 9:00 a.m.]

Alleged Violation of Insurance Laws; Paul R. Bender; Doc. No. SC02-09-001

Notice is hereby given of the Order to Show Cause issued on September 4, 2002, by the Deputy Insurance Commissioner of this Commonwealth in the previously referenced matter. Violation of the following is alleged: sections 604, 622, 633 and 639 of the Insurance Department Act of 1921 (40 P. S. §§ 234, 252, 273 and 279); and (31 Pa. Code §§ 37.46 and 37.47).

Respondent shall file a written answer to the Order to Show Cause within 30 days of the date of issue. If respondent files a timely answer, a formal administrative hearing shall be held in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); 31

Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure) and other relevant procedural provisions of law.

Answers, motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed in writing with the Hearings Administrator, Insurance Department, Administrative Hearings Office, 901 North 7th Street, Harrisburg, PA 17102.

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, should contact Tracey Pontius, Agency ADA Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-1648. Filed for public inspection September 20, 2002, 9:00 a.m.]

Federal Employees Health Benefits Program

The United States Office of Personnel Management (OPM) has requested the publication of the following notice regarding the Federal Employees Health Benefits (FEHB) Program for the 2004 calendar year.

The FEHB Program is the Nation's largest employer-sponsored health insurance program. Almost 9 million people, including Federal employees, retirees and eligible dependents, are members of the FEHB Program. The OPM is now accepting applications from prospective HMOs to participate in the FEHB Program.

Applicants must submit their applications to OPM by January 31, 2003. Approved applicants will begin participation in the FEHB Program on January 1, 2004. OPM is seeking applications from plans that can process enrollments electronically and that have some form of health plan accreditation from a National accreditation organization.

Application materials for the FEHB Program are available on OPM's website at www.opm.gov/insure/carriers/index.htm or may be obtained by calling (202) 606-0755 or (202) 606-0737.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-1649. Filed for public inspection September 20, 2002, 9:00 a.m.]

Highmark Inc. d/b/a Pennsylvania Blue Shield and d/b/a Highmark Blue Cross Blue Shield; Increases in UCR and PremierBlue Shield Allowances; Filing No. 200220

Highmark Inc. d/b/a Pennsylvania Blue Shield and d/b/a Highmark Blue Cross Blue Shield submitted a request to increase the customary (Level II) UCR allowance and the PremierBlue Shield preferred provider program fee schedule for certain evaluation and management, consultations, anesthesia, inpatient hospital visits, intensive care, preventative visits and select diagnostic and surgical services. Highmark Inc. requests the approval without a corresponding increase in rates for the programs affected by these codes.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's regional office in Harrisburg, PA.

Interested parties are invited to submit written comments, suggestions or objections to Bharat Patel, Actuary, Insurance Department, Accident and Health Bureau, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, within 15 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-1650. Filed for public inspection September 20, 2002, 9:00 a.m.]

Keystone Health Plan West; Rate Filing

On August 30, 2002, Keystone Health Plan West submitted Filing No. 2-RATPROC-02-KHPW (Department ID A63079001) requesting approval to experience rate prospective group clients that have not been enrolled in Keystone and do not have claims experience with Keystone. The proposed effective date is for prospective client's rates issued with a notification date on or after the first day of the calendar month following approval by the Insurance Department (Department).

This filing is available for public inspection during normal working hours at the Department's regional offices in Harrisburg and Pittsburgh, PA.

Interested parties are invited to submit written comments, suggestions or objections to Cherri Sanders-Jones, Actuary, Insurance Department, Bureau of Accident and Health Insurance, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-1651. Filed for public inspection September 20, 2002, 9:00 a.m.]

Medical Care Availability and Reduction of Error Fund's Assessment; Notice 2002-09

The Medical Professional Liability Catastrophe Loss Fund (Fund), under the Medical Care Availability and Reduction of Error Act (40 P. S. §§ 1303.101—1303.5108), has proposed a 43% assessment for use in calendar year 2003 by the Fund.

The proposed assessment indicates the following:

This year's percentage calculation is premised on the Joint Underwriting Association's rates approved as of September 6, 2002, and effective January 1, 2003.

The proposed assessment applies to policies effective on or after January 1, 2003.

Copies of the proposed assessment are available for public inspection during normal working hours at the Insurance Department's regional offices in Harrisburg, Philadelphia, Pittsburgh and Erie, PA.

Interested parties are invited to submit written comments, suggestions or objections to Sarah Lawhorne, Special Assistant to the Insurance Commissioner, P. O.

Box 12030, Harrisburg, PA 17108, e-mail at mcslawhorne@state.pa.us, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-1652. Filed for public inspection September 20, 2002, 9:00 a.m.]

Pennsylvania Compensation Rating Bureau; F-Classification and USL&HW Rating Value Filing

On September 3, 2002, the Insurance Department (Department) received from the Pennsylvania Compensation Rating Bureau (PCRB) proposed revisions to rates and rating values pertaining to F-classification and United States Longshore and Harbor Workers (USL&HW) Compensation Act coverages to be effective February 1, 2003. The filing proposes the following:

An overall average increase in collectible F-classification rates of 10.52%.

An overall average increase in manual rates for F-classifications of 9.75% consistent with the proposed overall average change in collectible rates. The proposed changes in manual rates for individual F-classifications range from increases of 4.5% to 16.5%.

A change in the USL&HW compensation coverage percentage from 78.7% to 79.3%. The filing will be available for review on the PCRB website at www.pcrb.com in the "Filings" section.

Interested parties are invited to submit written comments, suggestions or objections to Ken Creighton, ACAS, Insurance Department, Bureau of Regulation of Rates and Policies, 1311 Strawberry Square, Harrisburg, PA 17120, e-mail at kcreighton@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-1653. Filed for public inspection September 20, 2002, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68), in connection with the termination of the insured's automobile policy. The hearings will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in 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 David and Ingrid Kaplan; file no. 02-210-03549; Travelers Insurance Company; doc. no. PH02-08-036; October 17, 2002, at 10 a.m.

Appeal of Frances R. Taylor; file no. 02-210-03658; Deerbrook Insurance Company; doc. no. PH02-08-038; October 17, 2002, at 11:30 a.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-1654. Filed for public inspection September 20, 2002, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insurer has requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with the company's termination of the insureds' policy. The administrative hearing will be held in the Insurance Department's regional office in Harrisburg, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

Appeal of Millville Mutual Insurance Company; file no. 02-124-04827; Kevin J. and Annette Carrico; doc. no. P02-08-037; October 9, 2002, at 10 a.m.

Each party 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.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-1655. Filed for public inspection September 20, 2002, 9:00 a.m.]

LEGISLATIVE REFERENCE BUREAU

Documents Filed But Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of Bulletin). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

Executive Board

Resolution #CB-02-225, Dated August 27, 2002. This resolution authorizes the collective bargaining agreement between the Commonwealth and the United Food and Commercial Worker—Liquor Store Clerk (M1) Unit, effective August 5, 2002, through June 30, 2003. This agreement encompasses approximately 2,517 employees in the nonsupervisory unit who did not have a labor agreement with the Commonwealth since July 1, 1996.

Resolution #CB-02-238, Dated August 30, 2002. Authorizes the side letter between the Commonwealth and AFSCME concerning a monthly stipend of \$50 to be provided to certain L & I employment security employees for using their home to conduct Commonwealth business.

Governor's Office

Manual M110.1—2003-04 Budget Instructions, Dated August 2002.

Manual M210.3—Index of Issuances—Directives Management System, Amended July 23, 2002.

Management Directive No. 505.30—Prohibition of Sexual Harassment in Commonwealth Work Settings, Revision No. 1, Dated August 2, 2002.

Administrative Circular No. 02-21—Availability—Commonwealth Telephone Directory, Dated July 29, 2002.

Administrative Circular No. 02-22—Revenue Estimates, 2003-04 Fiscal Year, Dated August 5, 2002.

Administrative Circular No. 02-23—2003-04 Budget Instructions, Dated August 15, 2002.

MARY JANE PHELPS,
Acting Director
Pennsylvania Bulletin

[Pa.B. Doc. No. 02-1656. Filed for public inspection September 20, 2002, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board lease will expire:

Bradford County, Wine & Spirits Shoppe #0803, 49 Canton Street, Troy, PA 16947-1417.

Lease Expiration Date: August 31, 2003

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 1,300 net useable square feet of new or existing retail commercial space within 3 miles of the intersection of US Route 6 and SR 14, Troy.

Proposals due: October 11, 2002, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Charles D. Mooney, (717) 657-4228

JOHN E. JONES, III,
Chairperson

[Pa.B. Doc. No. 02-1657. Filed for public inspection September 20, 2002, 9:00 a.m.]

MEDICAL PROFESSIONAL LIABILITY CATASTROPHE LOSS FUND

Medical Care Availability and Reduction of Error Fund's Assessment; Notice 2002-09

The Medical Professional Liability Catastrophe Loss Fund (Fund), under the Medical Care Availability and Reduction of Error Act (40 P. S. §§ 1303.101—1303.5108), has proposed a 43% assessment for use in calendar year 2003 by the Fund.

The proposed assessment indicates the following:

This year's percentage calculation is premised on the Joint Underwriting Association's rates approved as of September 6, 2002, and effective January 1, 2003.

The proposed assessment applies to policies effective on or after January 1, 2003.

Copies of the proposed assessment are available for public inspection during normal working hours at the Insurance Department's regional offices in Harrisburg, Philadelphia, Pittsburgh and Erie, PA.

Interested parties are invited to submit written comments, suggestions or objections to Sarah Lawhorne, Special Assistant to the Insurance Commissioner, P. O.

Box 12030, Harrisburg, PA 17108, e-mail at mcslawhorne@state.pa.us, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-1658. Filed for public inspection September 20, 2002, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Railroad
With Hearing

I-00020091. Pennsylvania Public Utility Commission. Investigation upon the Pennsylvania Public Utility Commission's own motion into matters pertaining to the proper service, accommodation, convenience and safety of the traveling public using the bridge carrying Ridge Road (AAR 472 753 H, T-599) over the tracks of the Wheeling and Lake Erie Railroad Company in Carroll Township, Washington County.

An initial hearing on this matter will be held on Thursday, November 7, 2002, at 10 a.m. in an 11th floor hearing room, Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, PA, when and where all persons in interest may appear and be heard, if they so desire.

JAMES J. MCNULTY
Secretary

[Pa.B. Doc. No. 02-1659. Filed for public inspection September 20, 2002, 9:00 a.m.]

Railroad
With Hearing

A-00109901. South Lebanon Township. Application of South Lebanon Township for the approval of the alteration of the crossing (AAR 591 537 S) where Township Road 705 (Wilhelm Avenue) crosses below grade of the tracks of the Consolidated Rail Corporation in South Lebanon Township, Lebanon County.

An initial hearing on this matter will be held on Wednesday, October 30, 2002, at 10 a.m. in Hearing Room 2, Plaza Level, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA, when and where all persons in interest may appear and be heard, if they so desire.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-1660. Filed for public inspection September 20, 2002, 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 (Commission). Publication of this notice shall be considered as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without hearing in the absence of protests to the application. Protests to the applications published herein are due on or before October 15, 2002, as set forth at 52 Pa. Code § 3.381 (relating to the applications for transportation of property, household goods in use and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

Application of the following for approval to *begin* operating as *common carriers* for transportation of *persons* as described under the application.

A-00119247. Road Scholar Limousine Service, Inc. (600 West Forth Street, Williamsport, Lycoming County, PA 17701), a Pennsylvania corporation—persons in limousine service, between points in the Counties of Centre, Clinton and Lycoming, and from points in said counties, to points in Pennsylvania, and return.

Application of the following for approval of the *additional right* and *privilege* of operating motor vehicles as *common carriers* for transportation of *persons* as described under the application.

A-00116949, F.2. Queue Business Systems, Inc. t/d/ b/a Raystown Transportation Service. (R. D. 1, Box 268, Huntingdon, Huntingdon County, PA 16652), a Pennsylvania corporation—additional right—persons in paratransit service, between points in the Counties of Blair, Fulton, Huntingdon and Mifflin, and from points in said counties, to points in Pennsylvania, and return.

Application of the following for approval of the *beginning* of the exercise of the right and *privilege* of operating motor vehicles as contract carriers for the transportation of *household goods* by transfer as described under each application.

A-00119235. A+ Family Movers, Inc. (5301 Tacony Street, Box 134, Philadelphia, PA 19137), a Pennsylvania corporation—transfer—(1) household goods in use, between points in the Counties of Philadelphia, Delaware, Chester, Montgomery and Bucks, included within a line which connects the municipal boundaries of Chester, West Chester, Paoli, Norristown, Doylestown and Morrisville but not including said places, and from points in said territory to other points in Pennsylvania and vice versa; limited to the operation of six trucks, two tractors and two trailers, the total maximum gross weight of which, with loads, shall not exceed 78,000 pounds; (2) property, excluding household goods in use, between points in Pennsylvania; which is to be a transfer of the rights authorized under the certificate issued at A-00033323, F.2 to Morroney Transportation Company, subject to the same limitations and conditions. *Attorney:* Erik B. Jensen, Suite 1401, 1528 Walnut Street, Philadelphia, PA 19103.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-1661. Filed for public inspection September 20, 2002, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #0271.4, Emergency Lighting, Building #7, Packer Avenue Marine Terminal (PAMT), until 2 p.m. on October 10, 2002. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Avenue, 2nd Fl., Philadelphia, PA 19134, (215) 426-2600 and will be available September 24, 2002. The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractor must comply with all applicable equal opportunity laws and regulations.

A mandatory prebid job site meeting will be held October 3, 2002, at 10 a.m. at PAMT, Columbus Blvd. and Packer Ave., Philadelphia, PA 19148.

JAMES T. MCDERMOTT, Jr.
Executive Director

[Pa.B. Doc. No. 02-1662. Filed for public inspection September 20, 2002, 9:00 a.m.]

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #0275.4, Lighting Renovations, Pier 82 South, until 2 p.m. on October 10, 2002. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Avenue, 2nd Fl., Philadelphia, PA 19134, (215) 426-2600 and will be available September 24, 2002. The cost of the bid docu-

ment is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractor must comply with all applicable equal opportunity laws and regulations.

A mandatory prebid job site meeting will be held October 3, 2002, at 11 a.m. at Pier 82 S., Columbus Blvd. and Wolf St., Philadelphia, PA 19148.

JAMES T. MCDERMOTT, Jr.
Executive Director

[Pa.B. Doc. No. 02-1663. Filed for public inspection September 20, 2002, 9:00 a.m.]

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #0287.1, Installation of a Frame Supported Membrane Structure at Tioga Marine Terminal until 2 p.m. on October 3, 2002. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available September 24, 2002. The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractor must comply with all applicable equal opportunity laws and regulations.

A mandatory prebid job site meeting will be held September 26, 2002, at 10 a.m. at the Guard House at the foot of Tioga Street on Delaware Ave., Philadelphia, PA 19134.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 02-1664. Filed for public inspection September 20, 2002, 9:00 a.m.]