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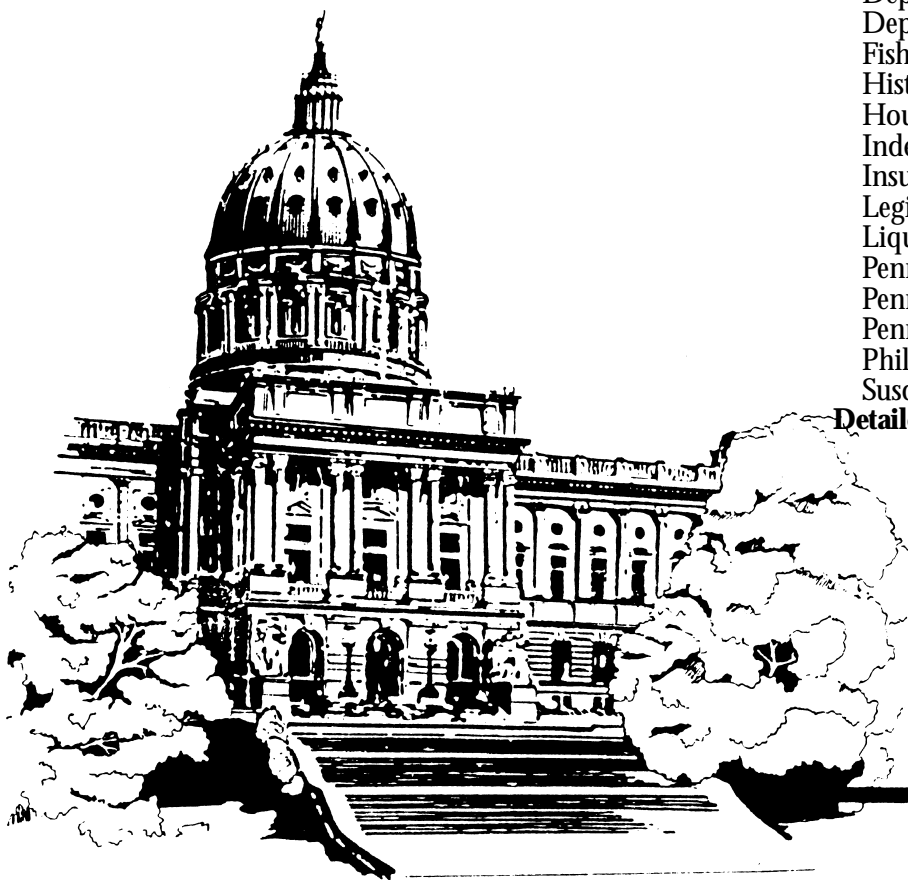
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for January—September 2008

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

No. 407, October 2008

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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION [204 PA. CODE CH. 29]

Promulgation of Financial Regulations Pursuant to 42 Pa.C.S. § 3502(a); No. 323; Judicial Administration; Doc. No. 1

Order

Per Curiam:

And now, this 23rd day of September, 2008 it is Ordered pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to promulgate the attached Financial Regulations. The fees outlined in the Financial Regulations are effective as of January 1, 2009.

To the extent that notice of proposed rule-making may be required by Pa.R.J.A. No. 103, the immediate promulgation of the regulations is hereby found to be in the interests of efficient administration.

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

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION

CHAPTER 29. MISCELLANEOUS PROVISIONS

Subchapter K. COSTS, FINES AND FEES

TITLE 42. JUDICIARY AND JUDICIAL PROCEDURE

PART IV. FINANCIAL MATTERS

CHAPTER 17. GOVERNANCE OF THE SYSTEM

CHAPTER 35. BUDGET AND FINANCE

Subchapter A. General Provisions

The Pennsylvania Supreme Court, pursuant to Art. V, § 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, has authorized the Court Administrator of Pennsylvania to promulgate regulations relating to the accounting methods to be utilized in connection with the collection of fees and costs charged and collected by prothonotaries, and clerks of courts of all courts of common pleas, or by any officials designated to perform the functions thereof, as well as by the minor judiciary, including magisterial district judges, Philadelphia Municipal Court and Philadelphia Traffic Court.

Under authority of said Administrative Order and pursuant to the authority vested in the governing authority under Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), the following regulations are adopted to implement Act 113 of 2001, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended).

42 Pa.C.S. § 1725.1. Costs.

(a) *Civil cases.*—In calendar year 2009, the costs to be charged by magisterial district judges in every civil case, except as otherwise provided in this section, shall be as follows:

- (1) Actions involving \$500 or less \$46.00
- (2) Actions involving more than \$500 but not more than \$2,000 \$61.00
- (3) Actions involving more than \$2,000 but not more than \$4,000 \$76.50
- (4) Actions involving more than \$4,000 but not more than \$8,000 \$114.50
- (5) Landlord-tenant actions involving less than \$2,000 \$69.00
- (6) Landlord-tenant actions involving more than \$2,000 but not more than \$4,000 \$84.00
- (7) Landlord-tenant actions involving more than \$4,000 but not more than \$8,000 \$114.50
- (8) Order of execution \$34.50
- (9) Objection to levy \$15.50
- (10) Reinstatement of complaint \$8.00
- (11) Entering Transcript on Appeal or Certiorari \$4.00

Said costs shall not include, however, the cost of postage and registered mail which shall be borne by the plaintiff.

(a.1) *Custody cases.*—In calendar year 2009, the cost (in addition to the cost provided by general rule) to be charged by the court of common pleas shall be as follows:

- (1) Custody cases, except as provided in section 1725(c)(2)(v) \$7.00

(b) *Criminal cases.*—In calendar year 2009, the costs to be charged by the minor judiciary or by the court of common pleas where appropriate in every criminal case, except as otherwise provided in this section, shall be as follows:

- (1) Summary conviction, except motor vehicle cases \$43.50
- (2) Summary conviction, motor vehicle cases, other than paragraph (3) \$34.50
- (3) Summary conviction, motor vehicle cases, hearing demanded \$41.50
- (4) Misdemeanor \$49.50
- (5) Felony \$57.50

Such costs shall not include, however, the cost of postage and registered mail which shall be paid by the defendant upon conviction.

(c) *Unclassified costs or charges.*—In calendar year 2009, the costs to be charged by the minor judiciary in the following instances not readily classifiable shall be as follows:

- (1) Entering transcript of judgment from another member of the minor judiciary \$8.00
- (2) Marrying each couple, making record thereof, and certificate to the parties \$38.50

(3) Granting emergency relief pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse) \$15.50

(4) Issuing a search warrant (except as provided in subsection (d)) \$15.50

(5) Any other issuance not otherwise provided in this subsection. \$15.50

42 Pa.C.S. § 3571.

In calendar year 2009, Commonwealth portion of fines, etc.

* * * * *

- (2) Amounts payable to the Commonwealth:
 - (i) Summary conviction, except motor vehicle cases..... \$15.30
 - (ii) Summary conviction, motor vehicle cases other than subparagraph (iii)..... \$15.30
 - (iii) Summary conviction, motor vehicle cases, hearing demanded \$15.30
 - (iv) Misdemeanor \$19.80
 - (v) Felony..... \$30.70
 - (vi) Assumpsit or trespass involving:
 - (A) \$500 or less \$19.20
 - (B) More than \$500 but not more than \$2,000 \$30.50
 - (C) More than \$2,000 but not more than \$4,000 \$45.90
 - (D) More than \$4,000 but not more than \$8,000 \$76.35
 - (vii) Landlord-tenant proceeding involving:
 - (A) \$2,000 or less..... \$30.70
 - (B) More than \$2,000 but not more than \$4,000 \$38.15
 - (C) More than \$4,000 but not more than \$8,000 \$53.45
 - (viii) Objection to levy \$7.75
 - (ix) Order of execution \$23.00
 - (x) Issuing a search warrant (except as provided in section 1725.1(d) (relating to costs)) \$10.85
 - (xi) Order of possession \$15.50
 - (xii) Custody cases (except as provided in section 1725(c)(2)(v)) \$5.60

[Pa.B. Doc. No. 08-1790. Filed for public inspection October 3, 2008, 9:00 a.m.]

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

[204 PA. CODE CH. 211]

Promulgation of Consumer Price Index Pursuant to 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4); No. 322; Judicial Administration; Doc. No. 1

Order

Per Curiam:

And now, this 23rd day of September, 2008, it is Ordered pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to obtain and publish in the *Pennsylvania Bulletin* the percentage increase in the Consumer Price Index for calendar year 2007 as required by Act 113 of 2001, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended).

Annex A

TITLE 204. JUDICIAL SYSTEM PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

CHAPTER 211. CONSUMER PRICE INDEX

§ 211.1. Consumer Price Index.

Pursuant to Article V, Section 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, the Supreme Court has authorized the Court Administrator of Pennsylvania to obtain and publish in the *Pennsylvania Bulletin* on or before November 30 the percentage increase in the Consumer Price Index for calendar year 2007 as required by Act 113 of 2001, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended). See, No. 322 Judicial Administration Docket No. 1.

The Court Administrator of Pennsylvania reports that the percentage increase in the Consumer Price Index, All Urban Consumers, U.S. City Average, for calendar year 2007 was 4.1% percent. (See, U.S. Department of Labor, Bureau of Labor Statistics, Series CUUROOOSAO, February 20, 2008.)

[Pa.B. Doc. No. 08-1791. Filed for public inspection October 3, 2008, 9:00 a.m.]

Title 210—APPELLATE PROCEDURE

[210 PA. CODE CH. 19]

Order Amending Pa.R.A.P. 1921; No. 194; Appellate Procedural Rules; Doc. No. 1

Amended Order

Per Curiam:

And Now, this 13th day of August, 2008, upon the recommendation of the Appellate Court Procedural Rules Committee, this recommendation having been submitted without publication in the interest of justice, pursuant to Pa.R.J.A. No. 103(a)(3):

It Is Ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania, that Pennsylvania Rule of Appellate Procedure 1921 is amended in the following form.

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

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 19. PREPARATION AND TRANSMISSION OF RECORD AND RELATED MATTERS

RECORD ON APPEAL FROM LOWER COURT

Rule 1921. Composition of Record on Appeal.

The original papers and exhibits filed in the lower court, **hard copies of legal papers filed with the prothonotary by means of electronic filing**, the transcript of proceedings, if any, and a certified copy of the docket entries prepared by the clerk of the lower court shall constitute the record on appeal in all cases.

Official Note: The rule is intended as a codification of present practice. An appellate court may consider only the facts which have been duly certified in the record on appeal. *Commonwealth v. Young*, 456 Pa. 102, 115, 317 A.2d 258, 264 (1974).

Explanatory Comment—2008

Pa.R.C.P. No. 205.4(a)(1) authorizes a court by local rule to permit or require electronic filing of legal papers with the prothonotary. Therefore, the amendment to Rule 1921 provides that where such electronic filing is utilized, hard copies of legal papers electronically filed shall become part of the record on appeal.

[Pa.B. Doc. No. 08-1792. Filed for public inspection October 3, 2008, 9:00 a.m.]

Title 225—RULES OF EVIDENCE

ARTICLE IV. RELEVANCY AND ITS LIMITS

[225 PA. CODE ART. IV]

Order Amending Pennsylvania Rule 408 and Revision of Comment; No. 451; Supreme Court Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 18th day of September 2008, upon the recommendation of the Committee on Rules of Evidence,

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pa.R.E. 408 and the Comment thereto are hereby revised as follows.

This *Order* shall be processed immediately in accordance with Pa.R.J.A. No. 103(b), and shall be effective October 30, 2008.

Annex A

TITLE 225. RULES OF EVIDENCE

ARTICLE IV. RELEVANCY AND ITS LIMITS

Rule 408. Compromise and Offers to Compromise.

[Evidence of (1) furnishing or offering or promising to furnish, or (2) accepting or offering or

promising to accept, a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of conduct or statements made in compromise negotiations is likewise not admissible. This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations. This rule also does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

Comment

This rule is identical to F.R.E. 408.

The 2000 amendments abolish the common law rule that distinct admissions of fact made during settlement discussions are admissible, see *Rochester Marine Corp. v. Mulach Steel Corp.*, 449 A.2d 1366 (Pa. 1982) (plurality), bringing Pennsylvania in line with F.R.E. 408 and most of the states.

The 2000 amendments are consistent with the Mediation Act of 1996. See 42 Pa.C.S. § 5949 (Confidential mediation communications and documents).

Like the federal rule, Pa.R.E. 408 permits evidence relating to compromises and offers to compromise to be admitted for purposes other than proving liability, such as showing bias or prejudice. See *Heyman v. Hanauer*, 152 A. 910 (Pa. 1930) (if proposal was offer to settle, it could have been used to impeach witness).

Pa.R.E. 408 is consistent with 42 Pa.C.S. § 6141 which provides, in pertinent part, as follows:

§ 6141. Effect of certain settlements

(a) *Personal injuries.*—Settlement with or any payment made to an injured person or to others on behalf of such injured person with the permission of such injured person or to anyone entitled to recover damages on account of injury or death of such person shall not constitute an admission of liability by the person making the payment or on whose behalf the payment was made, unless the parties to such settlement or payment agree to the contrary.

(b) *Damages to property.*—Settlement with or any payment made to a person or on his behalf to others for damages to or destruction of property shall not constitute an admission of liability by the person making the payment or on whose behalf the payment was made, unless the parties to such settlement or payment agree to the contrary.

(c) *Admissibility in evidence.*—Except in an action in which final settlement and release has been pleaded as a complete defense, any settlement or payment referred to in subsections (a) and (b) shall not be admissible in evidence on the trial of any matter.

See *Hatfield v. Continental Imports, Inc.*, 610 A.2d 446 (Pa. 1992) (evidence of “Mary Carter” agreement admissible to show bias or prejudice, and not excluded by § 6141(c)).

Under Pa.R.E. 408, as under F.R.E. 408, evidence of offers to compromise or completed compromises

is admissible when used to prove an effort to obstruct a criminal investigation or prosecution. This is consistent with prior Pennsylvania case law. See *Commonwealth v. Pettinato*, 520 A.2d 437 (Pa. Super. 1987). Pa.R.E. 408 does not permit, however, the use of evidence relating to good faith compromises or offers to compromise when made for the purpose of reaching an agreement such as those sanctioned by Pa.R.Crim.P. 586 (relating to dismissal of criminal charges not committed by force or violence upon payment of restitution) or Pa.R.Crim.P. 546 (relating to dismissal upon satisfaction or agreement). The court may need to conduct, out of the hearing of the jury, a preliminary inquiry into the circumstances surrounding compromises in criminal matters to determine whether to permit such evidence.]

(a) *Prohibited uses.*—Evidence of the following is not admissible on behalf of any party, when offered to prove liability for, invalidity of, or amount of a claim that was disputed as to validity or amount, or to impeach through a prior inconsistent statement or contradiction:

(1) furnishing or offering or promising to furnish—or accepting or offering or promising to accept—a valuable consideration in compromising or attempting to compromise the claim; and

(2) conduct or statements made in compromise negotiations.

(b) *Permitted uses.*—This rule does not require exclusion if the evidence is offered for purposes not prohibited by subdivision (a). Examples of permissible purposes include proving a witness's bias or prejudice; negating a contention of undue delay; and proving an effort to obstruct a criminal investigation or prosecution. This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations.

Comment

This rule differs from F.R.E. 408 as follows:

The federal rule in paragraph (a)(2) permits the use in criminal cases of statements made to government investigators, regulators, or enforcement authority in negotiations in civil cases.

The federal rule does not contain the last sentence of Pa.R.E. 408(b).

This rule does not follow the common law rule that distinct admissions of fact made during settlement discussions are admissible. See *Rochester Machine Corp. v. Mulach Steel Corp.*, 449 A.2d 1366 (Pa. 1982), a plurality decision. Instead, like the federal rule, Pa.R.E. 408 permits evidence relating to compromises and offers to compromise to be admitted for purposes other than proving liability, such as showing bias or prejudice of a witness, but specifically prohibits use of such evidence to impeach a witness through a prior inconsistent statement or contradiction.

Admissibility of conduct and statements in mediations pursuant to the Mediation Act of 1996, 42 Pa.C.S. § 5949, are governed by that statute.

The rule is consistent with the Mediation Act of 1996. See 42 Pa.C.S. § 5949 (Confidential mediation communications and documents).

Pa.R.E. 408 is consistent with 42 Pa.C.S. § 6141 which provides, in pertinent part, as follows:

§ 6141. Effect of certain settlements

(a) *Personal Injuries.* Settlement with or any payment made to an injured person or to others on behalf of such injured person with the permission of such injured person or to anyone entitled to recover damages on account of injury or death of such person shall not constitute an admission of liability by the person making the payment or on whose behalf the payment was made, unless the parties to such settlement or payment agree to the contrary.

(b) *Damages to Property.* Settlement with or any payment made to a person or on his behalf to others for damages to or destruction of property shall not constitute an admission of liability by the person making the payment or on whose behalf the payment was made, unless the parties to such settlement or payment agree to the contrary.

(c) *Admissibility in Evidence.* Except in an action in which final settlement and release has been pleaded as a complete defense, any settlement or payment referred to in subsections (a) and (b) shall not be admissible in evidence on the trial of any matter.

See *Hatfield v. Continental Imports, Inc.*, 610 A.2d 446 (Pa. 1992) (evidence of "Mary Carter" agreement admissible to show bias or prejudice, and not excluded by § 6141(c)).

Under Pa.R.E. 408, as under F.R.E. 408, evidence of offers to compromise or completed compromises is admissible when used to prove an effort to obstruct a criminal investigation or prosecution. This is consistent with prior Pennsylvania case law. See *Commonwealth v. Pettinato*, 520 A.2d 437 (Pa. Super. 1987). Pa.R.E. 408 does not permit, however, the use of evidence relating to good faith compromises or offers to compromise when made for the purpose of reaching an agreement such as those sanctioned by Pa.R.Crim.P. 586 (relating to dismissal of criminal charges not committed by force or violence upon payment of restitution) or Pa.R.Crim.P. 546 (relating to dismissal upon satisfaction or agreement). The court may need to conduct, out of the hearing of the jury, a preliminary inquiry into the circumstances surrounding compromises in criminal matters to determine whether to permit such evidence.

FINAL REPORT

Amendments to Pa.R.E. 408 and Comment

The language of Federal Rule of Evidence 408 was changed substantially. The changes were aimed at clarifying the meaning of the rule, and answering several questions that had arisen in the application of the rule. Prior to the amendment, Pa.R.E. 408 was identical to the federal rule. We recommended that we adopt some, but not all of the changes. First, we recommended the adoption of the changes aimed at clarifying the meaning of the rule. Essentially, this is accomplished by breaking up one long paragraph into several, and placing in the first paragraph some language that was previously in the middle of the paragraph. These changes have no substantive impact.

The second change in the rule is the language at the end of the first paragraph, prohibiting the use of the

prohibited evidence to impeach through a prior inconsistent statement or contradiction. This had been a question in the federal courts. May a witness (usually a party) be impeached with a statement made during compromise negotiations that is arguably inconsistent with the witness's trial testimony? The federal courts had been split on this question. The federal drafters amended the rule, so that it now prohibits the use of statements made in negotiations as inconsistent statements. The drafters believed this was most consistent with the purpose of the rule, which is to encourage parties to engage in frank and open negotiations in order to compromise disputes. There is no authority on this question in Pennsylvania. We think that the federal drafter's approach is better, and, therefore, recommended adoption of this portion of the rule.

The federal rule in paragraph (a)(2) permits the use in criminal cases of statements made to government investigators, regulators, or enforcement authority in negotiations in civil cases. We did not recommend the adoption of this portion of the federal rule, because we believed it will deter parties in civil matters from frank and open negotiations with government regulators, if there is a risk that their statements will then be used in criminal prosecutions.

The last sentence of the proposed rule was deleted from the federal rule, because it was believed to be superfluous. We recommended its retention as a precaution against frivolous argument.

[Pa.B. Doc. No. 08-1793. Filed for public inspection October 3, 2008, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1, 4, 5, AND 9]

Order Approving the Revisions of the Comments to Rules 114, 430, 451, 509, 511, 536, 576, 907 and 908; Criminal Procedural Rules; No. 368; Doc. No. 2

Order

Per Curiam:

And Now, this 18th day of September, 2008, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before approval at 37 Pa.B. 6396 (December 8, 2007), and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 934 No. 3 and 935 No. 1), and a *Final Report* to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the revisions of the *Comments* to Rules of Criminal Procedure 114, 430, 451, 509, 511, 536, 576, 907 and 908 are approved in the following form.

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

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

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

PART A. Business of the Courts

Rule 114. Orders and Court Notices: Filing; Service; and Docket Entries.

* * * * *

Comment

* * * * *

Nothing in this rule is intended to preclude the use of automated or other electronic means for the transmission of the orders or court notices between the judge, court administrator, and clerk of courts, or for time stamping or making docket entries.

Nothing in this rule is intended to preclude a judicial district from utilizing the United States Postal Service's return receipt electronic option, or any similar service that electronically provides a return receipt, when using certified mail, return receipt requested.

Under the post-sentence motion procedures, the clerk of courts must comply with this rule after entering an order denying a post-sentence motion by operation of law. See Rule 720(B)(3)(c).

* * * * *

Official Note: Formerly Rule 9024, adopted October 21, 1983, effective January 1, 1984; amended March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994; renumbered Rule 9025 and Comment revised June 2, 1994, effective September 1, 1994; renumbered Rule 114 and Comment revised March 1, 2000, effective April 1, 2001; amended March 3, 2004, effective July 1, 2004; amended August 24, 2004, effective August 1, 2005; amended July 20, 2006, effective September 1, 2006; **Comment revised September 18, 2008, effective February 1, 2009.**

Committee Explanatory Reports:

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Final Report explaining the September 18, 2008 revision of the Comment concerning the United States Postal Service's return receipt electronic option published with the Court's Order at 38 Pa.B. 5428 (October 4, 2008).

CHAPTER 4. PROCEDURES IN SUMMARY CASES

PART D. ARREST PROCEDURES IN SUMMARY CASES

PART D(1). Arrests With a Warrant

Rule 430. Issuance of Warrant.

* * * * *

Comment

* * * * *

A bench warrant may not be issued under paragraph (B)(1) when a defendant fails to respond to a citation or summons that was served by first class mail. See Rule 451.

Nothing in this rule is intended to preclude a judicial district from utilizing the United States

Postal Service's return receipt electronic option, or any similar service that electronically provides a return receipt, when using certified mail, return receipt requested.

Rule 454 provides that the issuing authority is to direct any defendant who is sentenced to a term of imprisonment to appear for the execution of sentence on a date certain following the expiration of the 30-day stay required by Rule 461. Paragraph **(B)(1)(b)**, formerly paragraph (A)(1)(d), was added in 2003 to make it clear that an issuing authority should issue a warrant for the arrest of any defendant who fails to appear for the execution of sentence.

* * * * *

Official Note: Rule 75 adopted July 12, 1985, effective January 1, 1986; effective date extended to July 1, 1986; amended January 31, 1991, effective July 1, 1991; amended April 18, 1997, effective July 1, 1997; amended October 1, 1997, effective October 1, 1998; amended July 2, 1999, effective August 1, 1999; renumbered Rule 430 and amended March 1, 2000, effective April 1, 2001; amended February 28, 2003, effective July 1, 2003; Comment revised August 7, 2003, effective July 1, 2004; Comment revised April 1, 2005, effective October 1, 2005; amended June 30, 2005, effective August 1, 2006; amended January 26, 2007, effective February 1, 2008; **Comment revised September 18, 2008, effective February 1, 2009.**

Committee Explanatory Reports:

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Final Report explaining the change to the Rule 454 reference in paragraph (B)(1)(b) with the Court's Order at 37 Pa.B. 760 (February 17, 2007).

Final Report explaining the September 18, 2008 revision of the Comment concerning the United States Postal Service's return receipt electronic option published with the Court's Order at 38 Pa.B. 5428 (October 4, 2008).

PART E. General Procedures in Summary CASES

Rule 451. Service.

* * * * *

(B) [(b)] When service of a summons has been made by first class mail and the defendant fails to respond or appear within the time specified by these rules, the issuing authority shall cause service to be made upon the defendant personally or by certified mail, return receipt requested. Thereafter, the case shall proceed as provided in these rules.

Comment

* * * * *

Nothing in this rule is intended to preclude a judicial district from utilizing the United States Postal Service's return receipt electronic option, or any similar service that electronically provides a return receipt, when using certified mail, return receipt requested.

Official Note: Rule 80 adopted July 12, 1985, effective January 1, 1986; effective date extended to July 1, 1986; amended February 1, 1989, effective July 1, 1989; Comment revised June 2, 1994, effective September 1, 1994; renumbered Rule 451 and amended March 1, 2000, effective April 1, 2001; Comment revised March 3, 2004,

effective July 1, 2004; **Comment revised September 18, 2008, effective February 1, 2009.**

Committee Explanatory Reports:

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Final Report explaining the September 18, 2008 revision of the Comment concerning the United States Postal Service's return receipt electronic option published with the Court's Order at 38 Pa.B. 5428 (October 4, 2008).

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART B(1). Complaint Procedures

Rule 509. Use of Summons or Warrant of Arrest in Court Cases.

* * * * *

Comment

* * * * *

Nothing in this rule is intended to preclude a judicial district from utilizing the United States Postal Service's return receipt electronic option, or any similar service that electronically provides a return receipt, when using certified mail, return receipt requested.

Pursuant to Rule 511, a return receipt signed by the defendant or a notation on the transcript that the first class mailing was not returned within 20 days is proof that the defendant received notice of the summons for purposes of paragraph (2)(d). See also Rule 543(D)(1).

* * * * *

Official Note: Original Rule 108 adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 108 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 102 and amended September 18, 1973, effective January 1, 1974; amended December 14, 1979, effective April 1, 1980; Comment revised April 24, 1981, effective July 1, 1981; amended October 22, 1981, effective January 1, 1982; renumbered Rule 109 and amended August 9, 1994, effective January 1, 1995; renumbered Rule 509 and amended March 1, 2000, effective April 1, 2001; Comment revised August 24, 2004, effective August 1, 2005; amended June 30, 2005, effective August 1, 2006; amended May 1, 2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007; **Comment revised September 18, 2008, effective February 1, 2009.**

Committee Explanatory Reports:

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Final Report explaining the September 18, 2008 revision of the Comment concerning the United States Postal Service's return receipt electronic option published with the Court's Order at 38 Pa.B. 5488 (October 4, 2008).

PART B(2). Summons Procedures

Rule 511. Service of Summons; Proof of Service.

* * * * *

Comment

This rule was amended in 2004 to require that the summons be served by both first class mail and certified mail, return receipt requested.

Nothing in this rule is intended to preclude a judicial district from utilizing the United States Postal Service's return receipt electronic option, or any similar service that electronically provides a return receipt, when using certified mail, return receipt requested.

Paragraph (B) sets forth what constitutes proof of service of the summons by mail in a court case for purposes of these rules.

Official Note: Original Rule 111, adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 111 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 112 September 18, 1973, effective January 1, 1974; renumbered Rule 511 March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; amended May 1, 2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007; Comment revised September 18, 2008, effective February 1, 2009.

Committee Explanatory Reports:

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Final Report explaining the September 18, 2008 revision of the Comment concerning the United States Postal Service's return receipt electronic option published with the Court's Order at 38 Pa.B. 5428 (October 4, 2008).

PART C(2). General Procedures in all Bail Cases

Rule 536. Procedures Upon Violation of Conditions: Revocation of Release and Forfeiture; Bail Pieces; Exoneration of Surety.

(A) SANCTIONS

(1) [Revocation of Release] Revocation of Release

* * * * *

(2) [Forfeiture] Forfeiture

* * * * *

Comment

* * * * *

Paragraph (A)(1)(b) was amended and former paragraph (A)(1)(d) was deleted in 2005 to make it clear that a warrant for the arrest of the defendant for failure to comply with a condition of bail is a bench warrant. For the procedures when a paragraph (A)(1)(b) bench warrant is executed, see Rule 150 (Bench Warrants). For the procedures for issuing a bench warrant when a defendant fails to appear for a preliminary hearing, see paragraph (D) of Rule 543 (Disposition of Case at Preliminary Hearing).

Nothing in this rule is intended to preclude a judicial district from utilizing the United States Postal Service's return receipt electronic option, or any similar service that electronically provides a return receipt, when using certified mail, return receipt requested.

* * * * *

Official Note: Former Rule 4016 adopted July 23, 1973, effective 60 days hence, replacing prior Rule 4012; Comment revised January 28, 1983, effective July 1, 1983; rescinded September 13, 1995, effective January 1, 1996, and replaced by Rule 4016. Present Rule 4016 adopted September 13, 1995, effective January 1, 1996.

The January 1, 1996 effective dates extended to April 1, 1996; the April 1, 1996 effective dates extended to July 1, 1996; renumbered Rule 536 and Comment revised March 1, 2000, effective April 1, 2001; amended March [2] 3, 2004, effective July 1, 2004; Comment revised August 24, 2004, effective August 1, 2005; amended December 30, 2005, effective August 1, 2006; Comment revised May 1, 2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007; Comment revised September 18, 2008, effective February 1, 2009.

Committee Explanatory Reports:

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Final Report explaining the September 18, 2008 revision of the Comment concerning the United States Postal Service's return receipt electronic option published with the Court's Order at 38 Pa.B. 5428 (October 4, 2008).

PART F(1). Motion Procedures

Rule 576. Filing and Service by Parties.

* * * * *

Comment

* * * * *

See Commonwealth v. Jones, 549 Pa. 58, 700 A.2d 423 ([Pa.] 1997); and Commonwealth v. Little, 716 A.2d 1287 (Pa. Super. 1998) concerning the timeliness of filings by prisoners proceeding pro se (the "prisoner mailbox rule").

* * * * *

A facsimile number or an electronic address set forth on letterhead is not sufficient to authorize service by facsimile transmission or other electronic means under paragraph (B)(2)(f). The authorization for service by facsimile transmission or other electronic means under this rule is document specific and only valid for an individual document. Counsel will have to renew the authorization for each document.

Nothing in this rule is intended to preclude a judicial district from utilizing the United States Postal Service's return receipt electronic option, or any similar service that electronically provides a return receipt, when using certified mail, return receipt requested.

* * * * *

Official Note: Former Rule 9022 adopted October 21, 1983, effective January 1, 1984; amended March 22, 1993, effective January 1, 1994; amended July 9, 1996, effective September 1, 1996; renumbered Rule 576 and amended March 1, 2000, effective April 1, 2001. Former Rule 9023 adopted October 21, 1983, effective January 1, 1984; amended June 2, 1994, effective September 1, 1994; renumbered Rule 577 and amended March 1, 2000, effective April 1, 2001; rescinded March [2] 3, 2004, effective July 1, 2004. Rules 576 and 577 combined and amended March 3, 2004, effective July 1, 2004. Comment revised June 4, 2004, effective November 1, 2004; Comment revised September 18, 2008, effective February 1, 2009.

Committee Explanatory Reports:

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Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

Final Report explaining the March 3, 2004 changes amending and combining Rule 576 with former Rule 577 published with the Court's Order at 34 Pa.B. 1561 (March 20, 2004).

Final Report explaining the September 18, 2008 revision of the Comment concerning the United States Postal Service's return receipt electronic option published with the Court's Order at 38 Pa.B. 5428 (October 4, 2008).

CHAPTER 9. POST-CONVICTION COLLATERAL PROCEEDINGS

Rule 907. Disposition Without Hearing.

* * * * *
Comment
* * * * *

Second or subsequent petitions will not be entertained unless a strong prima facie showing is offered to demonstrate that a miscarriage of justice may have occurred. See *Commonwealth v. Szuchon*, 534 Pa. 483, 486, 633 A.2d 1098, 1099 ([Pa.] 1993) (citing *Commonwealth v. Lawson*, 519 Pa. 504, 549 A.2d 107 ([Pa.] 1988)). This standard is met if the petitioner can demonstrate either: (1) that the proceedings resulting in the petitioner's conviction were so unfair that a miscarriage of justice occurred which no civilized society can tolerate; or (2) that the petitioner is innocent of the crimes charged. See *Commonwealth v. Szuchon*, 534 Pa. 483, 487, 633 A.2d 1098, 1100 ([Pa.] 1993).

* * * * *

Nothing in this rule is intended to preclude a judicial district from utilizing the United States Postal Service's return receipt electronic option, or any similar service that electronically provides a return receipt, when using certified mail, return receipt requested.

Official Note: Previous Rule 1507 adopted January 24, 1968, effective August 1, 1968; rescinded December 11, 1981, effective June 27, 1982; rescission vacated June 4, 1982; amended January 28, 1983, effective July 1, 1983; rescinded February 1, 1989, effective July 1, 1989, and not replaced. Present Rule 1507 adopted February 1, 1989, effective July 1, 1989; amended August 11, 1997, effective immediately; renumbered Rule 907 and amended March 1, 2000, effective April 1, 2001; **Comment revised September 18, 2008, effective February 1, 2009.**

Committee Explanatory Reports:

Final Report explaining the August 11, 1997 amendments published with the Court's Order at 27 Pa.B. 4305 (August 23, 1997).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

Final Report explaining the September 18, 2008 revision of the Comment concerning the United States Postal Service's return receipt electronic option published with the Court's Order at 38 Pa.B. 5428 (October 4, 2008).

Rule 908. Hearing.

* * * * *

Comment

* * * * *

Nothing in this rule is intended to preclude a judicial district from utilizing the United States Postal Service's return receipt electronic option, or any similar service that electronically provides a return receipt, when using certified mail, return receipt requested.

Official Note: Rule 1508 adopted February 1, 1989, effective July 1, 1989; amended August 11, 1997, effective immediately; renumbered Rule 908 and amended March 1, 2000, effective April 1, 2001; **Comment revised September 18, 2008, effective February 1, 2009.**

Committee Explanatory Reports:

Final Report explaining the August 11, 1997 amendments published with the Court's Order at 27 Pa.B. 4305 (August 23, 1997).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

Final Report explaining the September 18, 2008 revision of the Comment concerning the United States Postal Service's return receipt electronic option published with the Court's Order at 38 Pa.B. 5428 (October 4, 2008).

FINAL REPORT¹

Revision of the Comments to Pa.R.Crim.P. 114, 430, 451, 509, 511, 536, 576, 907 and 908

ELECTRONIC RETURN RECEIPTS

On September 18, 2008, effective February 1, 2009, upon the recommendation of the Criminal Procedural Rules Committee, the Court approved the revision of the *Comments to Rules of Criminal Procedure 114, 430, 451, 509, 511, 536, 576, 907, and 908*. The revisions make it clear that judicial districts may utilize the United States Postal Service's return receipt electronic option, or any similar service that electronically provides a return receipt, when using certified mail, return receipt requested.

The Committee has received a number of inquiries from clerks of courts and district court administrators asking whether, when the Criminal Rules require that service of a document be by certified mail return, receipt requested, the United States Postal Service's electronic return receipt service satisfies these rules' requirements. The correspondents explained that, when a user elects to use the United States Postal Service's electronic return receipt service, the post office will notify the sender by email that the document has been delivered. The notice provides the date and time of delivery, the city, state, and zip code where the delivery was made, and the name of the individual who signed the return card. If the sender subsequently would require a copy of the actual return card, the "green card," the post office will provide the card for an additional cost. The correspondents emphasized that the benefit of this electronic option is that it significantly reduces the costs of sending certified mail and provides an earlier return receipt.

During its discussions about the electronic return receipt service, the Committee acknowledged that the purpose of the certified mail requirements in the rules is to ensure service, see, e.g., Rules 114(B)(3)(a)(v), 536(A)(2)(b), 576(B)(2)(e), 907(4), and 908(E), and to provide

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

proof of service, see, e.g., Rules 430(B)(1)(a), 451(B), 509 *Comment*, and 511(A) and (B). The Committee agreed that the Postal Service's electronic return receipt service, as explained above, satisfies these rules' service and notice requirements. In addition, the Committee noted the definitions of "copy"² and "signature"³ in Rule 103 accommodate the electronic return of the certified mail return receipt.

Although the rules do not prohibit the use of this new technology, because the rules are silent, the Committee continues to receive inquiries about this issue. Accordingly, the members recommended to the Court that the rules should specifically recognize the Postal Service's return receipt electronic option. To accomplish this, the *Comments* to the rules requiring certified mail return receipt requested have been revised by the addition of a new provision making it clear that nothing in the rules is intended to preclude a judicial district from utilizing the United States Postal Service's return receipt electronic option, or any similar service that electronically provides a return receipt,⁴ when using certified mail, return receipt requested.

[Pa.B. Doc. No. 08-1794. Filed for public inspection October 3, 2008, 9:00 a.m.]

[234 PA. CODE CHS. 5 AND 8]

Order Amending Rules 590, 803 and 804; Criminal Procedural Rules; No. 369; Doc. No. 2

Order

Per Curiam:

And Now, this 18th day of September, 2008, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. No. 103(a)(3) in the interests of justice and efficient administration because the changes merely conform the rules to the law, and a *Final Report* to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the amendments to Rules of Criminal Procedure 590, 803, and 804 are adopted in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective November 1, 2008.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART G. Plea Procedures

Rule 590. Pleas and Plea Agreements.

²"COPY is an exact duplicate of an original document, including any required signatures, produced through mechanical or electronic means, and includes, but is not limited to: carbon copies; copies reproduced by using a photocopy machine, by transmission using facsimile equipment, or by scanning into and printing out of a computer."

³"SIGNATURE, when used in reference to documents generated by the minor judiciary or court of common pleas, includes a handwritten signature, a copy of a handwritten signature, a computer generated signature, or a signature created, transmitted, received, or stored by electronic means, by the signer or by someone with the signer's authorization, unless otherwise provided in these rules."

⁴For example, United Parcel Service provides a comparable service for electronic return receipts.

* * * * *

(C) MURDER CASES.

In cases in which the imposition of a sentence of death is not authorized, when a defendant enters a plea of guilty or nolo contendere to a charge of murder generally, **the degree of guilt shall be determined by a jury unless the attorney for the Commonwealth elects to have the judge, before whom the plea was entered, [shall] alone determine the degree of guilt.**

Comment

The purpose of paragraph (A)(2) is to codify the requirement that the judge, on the record, ascertain from the defendant that the guilty plea or plea of nolo contendere is voluntarily and understandingly tendered. On the mandatory nature of this practice, see *Commonwealth v. Ingram*, 455 Pa. 198, 316 A.2d 77 ([Pa.] 1974); *Commonwealth v. Campbell*, 451 Pa. 198, 304 A.2d 121 ([Pa.] 1973); *Commonwealth v. Jackson*, 450 Pa. 417, 299 A.2d 209 ([Pa.] 1973).

* * * * *

(7) Does the defendant understand that the Commonwealth has a right to have a jury decide the degree of guilt if the defendant pleads guilty to murder generally?

The Court in *Commonwealth v. Willis*, 471 Pa. 50, 369 A.2d 1189 (1977), and *Commonwealth v. Dilbeck*, 466 Pa. 543, 353 A.2d 824 (1976), mandated that, during a guilty plea colloquy, judges must elicit the information set forth in paragraphs (1) through (6) above. In 2008, the Court added paragraph (7) to the list of areas of inquiry.

[Inquiry into the above six areas is mandatory during a guilty plea colloquy under *Commonwealth v. Willis*, 369 A.2d 1189 (Pa. 1977), and *Commonwealth v. Dilbeck*, 353 A.2d 824 (Pa. 1976).]

Many, though not all, of the areas to be covered by such questions are set forth in a footnote to the Court's opinion in *Commonwealth v. Martin*, 445 Pa. 49, 54-55, 282 A.2d 241, 244-245 ([Pa.] 1971), in which the colloquy conducted by the trial judge is cited with approval. See also *Commonwealth v. Minor*, 467 Pa. 230, 356 A.2d 346 ([Pa.] 1976), and *Commonwealth v. Ingram*, 455 Pa. 198, 316 A.2d 77 ([Pa.] 1974). As to the requirement that the judge ascertain that there is a factual basis for the plea, see *Commonwealth v. Maddox*, 450 Pa. 406, 300 A.2d 503 ([Pa.] 1973) and *Commonwealth v. Jackson*, 450 Pa. 417, 299 A.2d 209 ([Pa.] 1973).

* * * * *

The "terms" of the plea agreement, referred to in paragraph (B)(1), frequently involve the attorney for the Commonwealth—in exchange for the defendant's plea of guilty or nolo contendere, and perhaps for the defendant's promise to cooperate with law enforcement officials—promising concessions such as a reduction of a charge to a less serious offense, the dropping of one or more additional charges, a recommendation of a lenient sentence, or a combination of these. In any event, paragraph (B) is intended to insure that all terms of the agreement are openly acknowledged for the judge's assessment. See, e.g., *Commonwealth v. Wilkins*, 442 Pa. 542, 277 A.2d 341 ([Pa.] 1971).

* * * * *

When a guilty plea, or plea of nolo contendere, includes a plea agreement, the 1995 amendment to paragraph (B)(2) requires that the judge conduct a separate inquiry on the record to determine that the defendant understands and accepts the terms of the plea agreement. See *Commonwealth v. Porreca*, 528 Pa. 46, 595 A.2d 23 ([Pa.] 1991).

Former paragraph (B)(3) was deleted in 1995 for two reasons. The first sentence merely reiterated an earlier provision in the rule. See paragraph (A)(3). The second sentence concerning the withdrawal of a guilty plea was deleted to eliminate the confusion being generated when that provision was read in conjunction with Rule 591. As provided in Rule 591, it is a matter of judicial discretion and case law whether to permit or direct a guilty plea or plea of nolo contendere to be withdrawn. See also *Commonwealth v. Porreca*, 528 Pa. 46, 595 A.2d 23 ([Pa.] 1991) (the terms of a plea agreement may determine a defendant's right to withdraw a guilty plea).

For the procedures governing the withdrawal of a plea of guilty or nolo contendere, see Rule 591.

Paragraph (C) reflects a change in Pennsylvania practice, [which] that formerly required the judge to convene a panel of three judges to determine the degree of guilt in murder cases in which the imposition of a sentence of death was not statutorily authorized. **The 2008 amendment to paragraph (C) and the Comment recognizes the Commonwealth's right to have a jury determine the degree of guilt following a plea of guilty to murder generally. See Article I, § 6 of the Pennsylvania Constitution that provides that "the Commonwealth shall have the same right to trial by jury as does the accused." See also *Commonwealth v. White*, 589 Pa. 642, 910 A.2d 648 (2006).**

Official Note: Rule 319(a) adopted June 30, 1964, effective January 1, 1965; amended November 18, 1968, effective February 3, 1969; paragraph (b) adopted and title of rule amended October 3, 1972, effective 30 days hence; specific areas of inquiry in Comment deleted in 1972 amendment, reinstated in revised form March 28, 1973, effective immediately; amended June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; paragraph (c) added and Comment revised May 22, 1978, effective July 1, 1978; Comment revised November 9, 1984, effective January 2, 1985; amended December 22, 1995, effective July 1, 1996; amended July 15, 1999, effective January 1, 2000; renumbered Rule 590 and Comment revised March 1, 2000, effective April 1, 2001; **amended September 18, 2008, effective November 1, 2008.**

Committee Explanatory Reports:

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Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

Final Report explaining the September 18, 2008 amendments to paragraph (C) concerning juries determining degree of guilt published with the Court's Order at 38 Pa.B. 5431 (October 4, 2008).

CHAPTER 8. SPECIAL RULES FOR CASES IN WHICH DEATH SENTENCE IS AUTHORIZED

Rule 803. Guilty Plea Procedure.

(A) When a defendant charged with murder enters a plea of guilty to a charge of murder generally, **the degree**

of guilt shall be determined by a jury unless the attorney for the Commonwealth elects to have the judge, before whom the plea is entered, [shall] alone determine the degree of guilt.

(B) If the crime is determined to be murder of the first degree the sentencing proceeding shall be conducted as provided by law.

Comment

For the procedure for the entry of guilty pleas, see Rule 590. For the sentencing procedure if the crime is determined to be murder of the first degree, see Sentencing Code, 42 Pa.C.S. § 9711(b).

The 2008 amendment to paragraph (A) recognizes the Commonwealth's right to have a jury determine the degree of guilt following a plea of guilty to murder generally. See Article I, § 6 of the Pennsylvania Constitution that provides that "the Commonwealth shall have the same right to trial by jury as does the accused." See also *Commonwealth v. White*, 589 Pa. 642, 910 A.2d 648 (2006).

Official Note: Original Rule 352 adopted September 22, 1976, effective November 1, 1976; amended May 26, 1977, effective July 1, 1977; rescinded April 2, 1978, effective immediately. Former Rule 352 adopted July 1, 1985, effective August 1, 1985; renumbered Rule 353 February 1, 1989, effective July 1, 1989; renumbered Rule 802 and amended March 1, 2000, effective April 1, 2001; renumbered Rule 803 June 4, 2004, effective November 1, 2004; **amended September 18, 2008, effective November 1, 2008.**

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the September 18, 2008 amendments to paragraph (A) concerning juries determining degree of guilt published with the Court's Order at 38 Pa.B. 5431 (October 4, 2008).

Rule 804. Procedure When Jury Trial is Waived.

(A) **[When a defendant charged with murder waives a jury trial,] In all cases in which the defendant is charged with murder, the defendant and the attorney for the Commonwealth may waive a jury trial with approval by a judge of the court in which the case is pending. In these cases, the trial judge shall alone hear the evidence, determine all questions of law and fact, and render a verdict [which] that shall have the same force and effect as a verdict of a jury.**

* * * * *

Official Note: Original Rule 353 adopted September 22, 1976, effective March 1, 1977, effective date extended to April 1, 1977; amended May 26, 1977, effective July 1, 1977; rescinded April 2, 1978, effective immediately. Former Rule 353 adopted July 1, 1985, effective August 1, 1985, renumbered Rule 354 February 1, 1989, effective July 1, 1989; renumbered Rule 803 and amended March 1, 2000, effective April 1, 2001; renumbered Rule 804 June 4, 2004, effective November 1, 2004; **amended September 18, 2008, effective November 1, 2008.**

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1477 (March 18, 2000).

Final Report explaining the September 18, 2008 amendments to paragraph (A) concerning waiver of a jury trial published with the Court's Order at 38 Pa.B. 5431 (October 4, 2008).

FINAL REPORT¹

Amendments to Pa.Rs.Crim.P. 590, 803 and 804

COMMONWEALTH'S RIGHT TO HAVE JURY DETERMINE DEGREE OF GUILT

On September 18, 2008, effective November 1, 2008, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rules of Criminal Procedure 590 and 803 to conform to the rules with the Court's holding in *Commonwealth v. Miriam White*, 589 Pa. 642, 910 A.2d 648 (2006). The amendments make it clear in these rules that the Commonwealth has a right to have a jury determine the degree of guilt when the defendant pleads guilty to murder generally. The Court also amended Rule 804 to conform it to the jury waiver provisions in Rule 620.

1. Pa.Rs.Crim.P. 590 and 803

The Committee undertook a review of the guilty plea rules following the Court's decision in *Commonwealth v. Miriam White, supra.*, in which the Court held, *inter alia*, that the Commonwealth has a right to request that a jury determine the degree of guilt in cases in which the defendant pleads guilty to murder generally. In reaching this decision, Justice Eakin, writing for the majority, noted:

Waiving one's right, however, does not constitute waiver of another's corresponding right; White cannot vitiate the Commonwealth's right by waiving her own. Accordingly, we conclude the Commonwealth retains its right to a jury under Article I, § 6 of the Pennsylvania Constitution, Pa. Const. art. I, § 6 ("in criminal cases the Commonwealth shall have the same right to trial by jury as does the accused."); . . . and it may request one at the degree of guilt hearing. *Id.* at 662.

Paragraph (C) of Rule 590 (Pleas and Plea Agreements) and paragraph (A) of Rule 803 (Guilty Plea Procedure) provide in cases in which the defendant pleads guilty to murder generally, "the judge before whom the plea is entered shall alone determine the degree of guilt." In view of *White*, this provision in the rules, without some further elaboration, is no longer procedurally accurate. Accordingly, Rule 590(C) and Rule 803(A) are amended to recognize the 1998 amendment to Article I, § 6 of the Pennsylvania Constitution and alert the bench and bar to the holding in *White*.

The Committee, in considering how to address the matter in the rules, observed that the right to a jury trial, granted by the Pennsylvania Constitution to both the defendant and the Commonwealth, is the default position. That is, both the defendant and the Commonwealth start with the right to a jury trial. Absent an affirmative waiver of the right to a jury trial by both parties, the case will proceed before a jury. The Committee also noted, as stated in *White, supra.* at 662, when a defendant enters a guilty plea to murder generally, the defendant is waiving his or her right to have a jury determine the degree of guilt. In view of this analysis, the amendments to Rule 590(C) and Rule 803(A) make it clear when a defendant pleads guilty to murder generally, the jury will determine

the degree of guilt unless the Commonwealth elects to have the judge before whom the plea was entered make the determination.

During the Committee's discussions about the proposed rule changes, several members opined that in order to make an informed decision whether to plead guilty to murder generally, the defendant must understand that the Commonwealth has a right to have a jury determine the degree of guilt in these circumstances. The Committee reasoned this information should be elicited as part of the guilty plea colloquy. To accomplish this, the areas of inquiry listed in the Rule 590 *Comment* have been revised to include a provision that the judge inquire into whether the defendant understands that the Commonwealth has a right to have a jury decide the degree of guilt when the defendant pleads guilty to murder generally.

In addition, the *Comments* to Rules 590 and 803 have been revised by the addition of references to Article 1 § 6 of the Pennsylvania Constitution and to *Commonwealth v. White, supra.*

2. Pa.R.Crim.P. 804

Although not the subject of *White*, Rule 804 (Procedure When Jury Trial is Waived) also has been amended. Rule 804 provides, *inter alia*, that "When a defendant charged with murder waives a jury trial, the trial judge shall alone hear the evidence." The Committee, during its discussions of Rules 590 and 803 and the Commonwealth's right to a jury trial, noted that Rule 804 had not been amended at the same time that Rule 620 (Waiver of Jury Trial) was amended to reflect the 1998 amendment to Article I, § 6 of the Pennsylvania Constitution. In view of this, it makes sense at this time to amend Rule 804 to bring the rule into conformity with the waiver of jury trial provisions in Rule 620. Accordingly, paragraph (A) of Rule 804 is amended to provide that both the defendant and the attorney for the Commonwealth may waive a jury trial with the approval of the judge when the defendant is charged with murder.

[Pa.B. Doc. No. 08-1795. Filed for public inspection October 3, 2008, 9:00 a.m.]

Title 25—LOCAL COURT RULES

BUCKS COUNTY

Bucks County Orphans' Court Mediation Program; Administrative Order No. 53

Order of Court

The Court recognizes that the use of mediation may offer litigants a faster and less expensive alternative to litigation. Accordingly, in the interests of judicial economy and of those litigants who may benefit from the availability of mediation as a means of dispute resolution, the following program, which shall be known as the "Bucks County Orphans' Court Mediation Program" is hereby adopted:

1. Upon adoption of this program, any litigant who files an action in either the Orphans' Court or the Register of Wills of Bucks County that does not, under law, require an adjudication, will receive from the Clerk of the Orphans' Court or the Register of Wills, a media-

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

tion notice outlining the availability of mediation as an alternative to litigation. The Mediation Notice shall be in the form of a brochure which explains the Orphans' Court Mediation process and procedure.

2. If the filing party has an interest in mediation, then he or she shall provide a copy of the brochure upon all other parties to determine if the parties wish to mediate some or all of the disputed issues.

3. The parties electing mediation shall pay an initial mediation fee directly to the mediator to cover administrative costs and the fee for a two-hour mediation.

4. If mediation resolves the dispute, the parties shall terminate the legal proceedings and they may also file an Agreed Order with the Orphan's Court. If the matter has been assigned to an Orphan's Court Judge, the Judge may, in his discretion, require the parties and/or the mediator to provide the Court with such information as to the status of the mediation as the Judge may deem appropriate.

5. If the mediation does not resolve the dispute, any party may continue with litigation.

By the Court

DAVID W. HECKLER,
President Judge

[Pa.B. Doc. No. 08-1796. Filed for public inspection October 3, 2008, 9:00 a.m.]

BUCKS COUNTY

Transcript Fees in Criminal Matters; Criminal Division; MD 1894-2008; No. 54

Order of Court

And Now, this 1st day of July, 2008, Bucks County Administrative Order No. 54 is hereby promulgated as follows:

All transcripts ordered in criminal matters, including appeals, by attorneys privately retained shall be provided at the customary private transcription rate for such transcripts.

This order shall be effective thirty days after publication in the *Pennsylvania Bulletin*.

By the Court

DAVID W. HECKLER,
President Judge

[Pa.B. Doc. No. 08-1797. Filed for public inspection October 3, 2008, 9:00 a.m.]

COLUMBIA AND MONTGOMERY COUNTIES

Amendments and Adoption of Local Rule of Criminal Procedure 117; No. 2008-AD-9

Order of Court

And Now, this 24th day of September, 2008, Local Rule 117 is hereby amended and adopted as follows:

The Court Administrator is directed to:

1. File seven (7) certified copies of this Order and Rule with the Administrative Office of Pennsylvania Courts.

2. File two (2) certified copies and one (1) diskette of this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one (1) certified copy with the Pennsylvania Criminal Rules Committee.

4. Keep continuously available for public inspection copies of the Order and Rule in the Prothonotary and Clerk of Courts Office.

By the Court

SCOTT W. NAUS,
President Judge

1. Normal Business Hours:

(a) Magisterial District Judge Offices shall be open for regular business Monday through Friday, excluding County Holidays, during such hours as established by the President Judge, and as may be modified with the approval of the President Judge to meet the needs of the public and the Court.

(b) When during regular business hours the Magisterial District Judge who has jurisdiction over a particular matter is unavailable, authority to act is transferred to other Magisterial District Judges in the 26th Judicial District pursuant to a Special Assignment schedule approved by the President Judge and amended from time to time. This schedule shall govern the appropriate jurisdiction for specific actions, unless the individual Magisterial District Judges specifically transfer that jurisdiction among themselves due to their own unavailability based on work schedule or other related convenience, in which case the Court approves that transferred Magisterial District Judge for authority over a particular action.

2. On Call Magisterial District Judge:

(a) An on-call Magisterial District Judge shall be available twenty-four hours a day, every day of the calendar year to provide continuous coverage for the issuance of warrants, the holding of preliminary arraignments, the setting and accepting of bail, and the issuance of emergency orders under the Protection from Abuse Act.

(b) An on-call Magisterial District Judge shall be on-call during non-business hours on a rotating basis, pursuant to an annual schedule prepared by the District Court Administrator.

3. Accepting Bail:

(a) Between the hours of 4:30 p.m. and 8:00 a.m., Monday through Friday, and on weekends and County Legal Holidays, the Warden of the County Prison, or his designee, shall be authorized to accept bail pursuant to and subject to the limitations of the Pennsylvania Rules of Criminal Procedure. The Warden's authority is limited to accepting the bail deposit, delivering the bail and bond to the proper Issuing Authority (Magisterial District Judge) or the County Clerk of Courts, whichever has jurisdiction, and, under the Pennsylvania Rules of Criminal Procedure 525, releasing the defendant upon execution of the bail bond.

4. Search Warrants and Arrest Warrants, and Protections from Abuse Petitions:

(a) An on-call Magisterial District Judge shall be available without unreasonable delay for the issuance of search warrants pursuant to Rule 203, arrest warrants pursuant to rule 513, and Emergency Protection from Abuse Orders

5. Preliminary Arraignments:

(a) For Arrests occurring between the hours of 8:00 a.m. and 4:30 p.m., the Defendant shall be taken to the Magisterial District Judge having jurisdiction.

(b) For arrests occurring after 4:30 p.m. but before 11:00 p.m., the on-call Magisterial District Judge shall be available without unreasonable delay at his/her office, or at the discretion of the Magisterial District Judge, by video conferencing from the Columbia County Prison or Montour County Prison.

(c) For arrests occurring after 11:00 p.m. but before 8:00 a.m., the arresting agency, including the state police, municipal police, sheriff or constable, is authorized to detain the prisoner at the Columbia County Prison or Montour County Correctional Facility until arraignment. For Defendants so detained, the on-call Magisterial District Judge shall appear in person or by video conferencing at the Columbia County Prison or Montour County Prison at 9:00 a.m. to preside at the Preliminary Arraignment.

(d) The arresting agency detaining the Defendant shall provide to the Magisterial District Judge the original and copies of the Criminal Complaint with Probable Cause Affidavit attached, a copy of the Defendant's criminal record, and any recommendation regarding bail for the Defendant, by depositing the documents at the Columbia County Prison or Montour County Prison for use by the Magisterial District Judge.

(e) The Columbia County Prison and Montour Prison are directed to identify a detention area for prisoners so detained.

(f) The Columbia County Prison or Montour County Prison is directed to make available to the Magisterial District Judge appropriate space for video conferencing availability between the hours of 9:00 a.m. and 10:00 a.m. to perform the Preliminary Arraignment.

(g) Upon completion of the Preliminary Arraignment, the detention authorized by this rule shall terminate and the person detained shall be processed in accordance with the Order of the Magisterial District Judge at the Preliminary Arraignment.

6. Bench Warrants in Court Cases:

(a) Upon receiving notice from the Magisterial District Court that a bench warrant has been executed or that the Defendant has surrendered, the Court administrator shall schedule a hearing as soon as possible but not later than seventy-two (72) hours after the Defendant has been lodged in the Columbia County Prison or Montour County Prison.

7. Summary Offense Arrest Warrants and Bench Warrants:

(a) Any individual executing an arrest warrant or a bench warrant in a summary offense shall proceed in accordance with Rules 430 and 431 except as set forth hereafter.

(b) In the event the warrant is executed between the hours of 8:00 a.m. and 4:30 p.m., the Defendant shall be taken to the Magisterial District Judge having jurisdiction.

(c) For summary warrants executed after 4:30 p.m., the individual executing the arrest warrant shall: (1) accept a signed guilty plea and the full amount of the fines and costs; (2) accept a signed not guilty plea and the full amount of collateral; or (3) allow the defendant to voluntarily appear before the Magisterial District Judge by 9:00 a.m. the next business day, or a bench warrant shall be issued.

(d) For summary bench warrants executed after 4:30 p.m., but before 8:00 a.m., the individual executing the arrest warrant is authorized to detain the prisoner at the Columbia County Prison or Montour County Prison until 9:00 a.m., the following morning. For Defendants so detained, the on-call Magisterial District Judge shall appear in person or by video conferencing at the Columbia County Prison or Montour County Prison at 9:00 a.m. to preside at the bench warrant hearing.

[Pa.B. Doc. No. 08-1798. Filed for public inspection October 3, 2008, 9:00 a.m.]

RULES AND REGULATIONS

Title 31—INSURANCE

INSURANCE DEPARTMENT

[31 PA. CODE CH. 133]

Preparation and Filing of Forms for Approval (Fire and Casualty)

The Insurance Department (Department) rescinds Chapter 133 (relating to preparation and filing of forms for approval (fire and casualty)) as set forth in Annex A.

This rescission is made under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 422 and 412) and section 354 of The Insurance Company Law of 1921 (40 P. S. § 477b).

Comments and Response

Notice of proposed rulemaking was published at 37 Pa.B. 1229 (March 17, 2007) with a 30-day comment period. During the 30-day comment period, no comments were received. During its regulatory review, the Independent Regulatory Review Commission (IRRC) did not submit comments to the Department.

Affected Parties

The rescission of Chapter 133 affects property and casualty insurers, the State Workmen's Insurance Fund and title insurers.

Fiscal Impact

State Government

There will be no increase in cost to the Department due to the rescission of Chapter 133.

General Public

There will be no fiscal impact to the public.

Political Subdivisions

The rulemaking will not impose additional costs on political subdivisions.

Private Sector

The rulemaking will not impose additional costs of insurance companies doing the business of property and casualty insurance in this Commonwealth.

Paperwork

The adoption of the rulemaking will not impose additional paperwork on the Department or the insurance industry.

Effectiveness/Sunset Date

This rulemaking becomes effective upon publication in the *Pennsylvania Bulletin*. No sunset date has been assigned.

Contact Person

Any questions regarding this final-form rulemaking, should be directed to Peter J. Salvatore, Regulatory Coordinator, Office of Special Projects, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429. In addition, questions may be e-mailed to psalvatore@state.pa.us or faxed to (717) 705-3873.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of the

proposed rulemaking, on March 2, 2007, to IRRC and to the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee (Committees). In addition to the submitted final-form regulation, the Commission has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the agency in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of that material is available to the public upon request.

In preparing these final-form regulations, the Department considered all comments received from IRRC, the Committees and the public. These final-form regulations were deemed approved by the House and Senate Committees on September 6, 2008. In accordance with section 5(g) of the Regulatory Review Act, the final-form regulations were deemed approved by IRRC, effective September 6, 2008.

Findings

The Commissioner finds that:

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

(2) The adoption of this rulemaking in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

Order

The Commissioner, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 31 Pa. Code, are amended by deleting §§ 133.1—133.12 to read as set forth in Annex A.

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

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

(d) The regulations rescinded by this order shall take effect upon final publication in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 4961 (September 6, 2008).)

Fiscal Note: Fiscal Note 11-234 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 31. INSURANCE

PART VIII. MISCELLANEOUS PROVISIONS

CHAPTER 133. [Reserved]

§§ 133.1—133.12. (Reserved).

[Pa.B. Doc. No. 08-1799. Filed for public inspection October 3, 2008, 9:00 a.m.]

Title 55—PUBLIC WELFARE

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CHS. 20, 1181, 2380, 2390, 3130, 3140, 3270, 3280, 3290, 3680, 3700, 6400 AND 6500]

Licensure and Approval Appeal Procedure

Statutory Authority

The Department of Public Welfare (Department), by this order, adopts the regulations set forth in Annex A under the authority of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922 and 1001—1087).

Notice of proposed rulemaking was published at 36 Pa.B. 3539 (July 8, 2006).

Purpose of Regulation

The purpose of this final-form rulemaking is to rescind the uncodified regulation at 7 Pa.B. 3266 (November 5, 1977) titled Chapter 9003 (relating to licensure/approval appeal procedure) and to replace it with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) (GRAPP) for all facilities and agencies certified by the Department.

The final-form rulemaking is needed to update and simplify the certification appeal process in the Department. The uncodified regulation at 7 Pa.B. 3266 is unnecessary and duplicative of the GRAPP. GRAPP is appropriate for certification appeals. The Department has already begun a chapter-by-chapter replacement of the regulation at 7 Pa.B. 3266 with GRAPP in §§ 2600.12 and 3800.12 (relating to appeals). With regard to the GRAPP 10-day time frame for which to appeal the actions of the staff, however, the Department, after careful consideration, has agreed to continue the 30-day appeal period as noted in Chapter 9003. This 30-day appeal period, however, will not be applied to Chapters 2600 and 3800 (relating to personal care home licensing; and child residential and day treatment facilities). Since those two chapters were not proposed to be amended at 36 Pa.B. 3539, amending those chapters at this time is outside the scope of this rulemaking. The Department amended § 20.82 (relating to written request for appeal) to provide that appeals under Chapters 2600 and 3800 are excluded from the 30-day appeal period exception.

Affected Individuals and Organizations

Agencies and facilities receiving certification under Chapter 20 are: adult training facilities certified under Chapter 2380; vocational facilities certified under Chapter 2390; county children and youth social service programs certified under Chapter 3130 and Chapter 3140; child day care centers certified under Chapter 3270; group child day care homes certified under Chapter 3280; family day care homes certified under Chapter 3290; private children and youth social service agencies certified under Chapter 3680; foster family care agencies certified under Chapter 3700; psychiatric outpatient clinics under Chapter 5200; partial hospitalization under Chapter 5210; private psychiatric hospitals under Chapter 5300; community residential rehabilitation services for the mentally ill under Chapter 5310; requirements for long-term structured residence licensure under Chapter 5320; community homes for individuals with mental retardation certified under Chapter 6400; family living homes certified under

Chapter 6500 and intermediate care facilities for the mentally retarded under Chapter 6600.

Although not all of the previous chapters are being amended in this final-form rulemaking, the Department finds that the previous facilities are within the scope of Chapter 20 (relating to licensure or approval of facilities and agencies) since they are certified under Articles IX and X of the code. See § 20.2(a) (relating to applicability). The Department is amending those chapters which specifically refer to either Chapter 9003 or Chapter 30 (which originally had been reserved for the codification of Chapter 9003). In addition, the appeal procedures for Chapters 5200, 5210, 5300, 5310, 5320 and 6600 will also be subject to GRAPP under § 20.82, which is being amended in this final-form rulemaking.

Accomplishments and Benefits

GRAPP is the officially codified and recognized practice and procedure for administrative agencies within this Commonwealth. There are currently unequal and differing appeal procedures within the types of facilities certified by the Department. This final-form rulemaking provides consistency in the appeal process across all Department-certified human service programs. Currently, attorneys for appellants providing multiple types of human services would have to be versed in both the uncodified regulation at 7 Pa.B. 3266 and GRAPP to represent their clients' best interest.

The existence of a special certification appeal regulation imposes an unnecessary burden on appellants' counsel because its applicability is limited to some, but not all of the Department's certification appeals. Since most attorneys experienced in administrative law are familiar with GRAPP, but not the uncodified regulation at 7 Pa.B. 3266, considerations of efficiency and fairness to appellants imply that the consistency achieved by repeal of the regulation at 7 Pa.B. 3266 is in the public interest.

Fiscal Impact

The final-form rulemaking saves provider agencies and county agencies attorney's fees, since their attorneys will not have to familiarize themselves with the uncodified regulation at 7 Pa.B. 3266 and, instead, will be able to rely upon the GRAPP.

Upon adoption, the Department will no longer have to individually copy and mail out the regulation at 7 Pa.B. 3266 to providers, thereby, increasing efficiency through a decrease in printing and mailing costs because GRAPP is codified and generally available.

There will be no fiscal impact on the general public anticipated as a result of the adoption of this rulemaking.

Paperwork Requirements

There will be a reduction in paperwork by eliminating the printing and mailing of the uncodified regulation at 7 Pa.B. 3266.

Discussion of Comments and Major Changes

Following is a summary of the major comments received within the public comment period following publication of the proposed rulemaking and the Department's response to those comments. Comments were received from five commentators during the public comment period and the Independent Regulatory Review Committee (IRRC). Comments received were from two county children and youth agencies, one from a provider advocacy group and two comments were from the Pennsylvania Children and Youth Administrators, Inc. A summary of major changes from proposed rulemaking is also included.

General—Applicability

IRRC questioned whether the Department has considered codifying Chapter 9003.

Response

The Department has not considered codifying Chapter 9003 since it is archaic, and the Department finds there is no need for a specialized set of administrative appeal regulations. GRAPP is a sufficient, existing and generally utilized set of rules for administrative appeals. See 1 Pa. Code Part II. Since the publishing of the uncodified regulation at 7 Pa.B. 3266 in 1977, it has been rare for either the Bureau of Hearing and Appeals (BHA) or the parties to certification appeals to reference the uncodified regulation. Instead, the current practice is to default to GRAPP.

General—Appeal Process

Two of the commentators and IRRC noted that GRAPP contains many procedures that may not be related to licensure or approval appeals. Pennsylvania Association of Resources for People with Mental Retardation (PAR) specifically commented that the uncodified regulation at 7 Pa.B. 3266 was developed for “the specific purpose of establishing a procedure for entities . . . to appeal Departmental decisions which affect the status of that Certificate of Compliance.” Continuing to employ the procedures under the uncodified regulation will continue to promote clarity, consistency and uniformity in resolving licensure issues and deciding those appeals.

PAR further commented that GRAPP’s provisions are general in nature and apply to many different types of proceedings. Therefore, the adoption of GRAPP would serve to confuse the appeals procedures, rather than clarify the procedures.

PAR also commented that Medical Assistance (MA) providers and their counsel must familiarize themselves with specific MA provider appeal regulations. If MA providers must use specific appeal procedures, providers and counsel should continue to use the specific uncodified regulations, Chapter 9003, for certification appeals.

Response

Since the publishing of it in 1977, it has been rare for either the BHA or the parties to certification appeals to reference the uncodified regulation. Instead, the current practice is to default to GRAPP in most cases. Since the current practice is to default to GRAPP, there is not a consistency and uniformity issue in regards to the resolution of licensure issues.

Using GRAPP updates and simplifies the certification appeal process in the Department since it is a sufficient, existing and generally utilized set of rules for administrative appeals.

Finally, GRAPP has applicable procedures for certification appeals. Although GRAPP may contain some provisions that might rarely, if ever, apply to these types of appeals, other general rules of practice and procedure also contain rarely utilized provisions. Even the uncodified regulation has unintelligible and unclear provisions. See §§ 9003.13.1(C)(3) and 9003.13.3 (relating to decision of the hearing officer; and optional review by the Secretary).

General—Certification

The Department of Health requested that the Department remove all references to the word “certification” in the regulation since the certification of health care facilities is a specific term defined in Federal law and regulation. The Department of Health is the survey agency and is responsible for making certification decisions and recommendations.

Response

The term “certification” is not specific to the Department of Health or the Federal government. Further, the term “certificate of compliance” has been used by the Department since the publishing of the uncodified regulation at 7 Pa.B. 3266. Chapter 20 (relating to licensure or approval of facilities and agencies) also uses the term “certificate of compliance.” Chapter 20 has been in effect since August 19, 1985. See 15 Pa.B. 2648 (July 20, 1985). Finally, neither the annex of the proposed rulemaking at 36 Pa.B. 3539 nor the annex of this final-form rulemaking contain the term “certification;” therefore, the recommended deletion of the term “certification” is outside the scope of this rulemaking.

General—Time frame for appeal to be heard

Two commentators urged the Department to prescribe a 60-day time frame for an appeal to be heard by BHA and a 30-day time frame for an adjudication to be issued by the Bureau. One commentator questioned how the responsiveness to appeals compare for the agencies already under GRAPP and the agencies not covered under GRAPP.

Response

The question of whether there should be any time frames for BHA to hold a hearing and issue an adjudication is outside the scope of this rulemaking. Therefore, the Department has not prescribed any time frames for BHA’s hearing of an appeal or issuing an adjudication. Further, with rare exception, a facility is allowed to continue to operate pending the outcome of its administrative appeal. However, there may be times when special circumstances warrant a more rapid adjudication by BHA. The parties are free to seek expedited adjudication in those cases.

§ 35.20 (relating to appeals from action of the staff)

The commentators noted the 10-day appeal period allotted under the GRAPP is simply too short a time frame for weighing the ramifications of an action taken by the Department and determining whether to appeal. IRRC recommended that the Department consider preserving the 30-day appeal period currently allowed under Chapter 9003.

Response

After careful consideration, the Department has agreed to continue the 30-day appeal period as noted in Chapter 9003.

1 Pa. Code § 35.20 (relating to appeals from action of the staff)

PAR and IRRC noted that the GRAPP appears to bypass BHA, as it provides that appeals of staff action be taken directly to the agency head. They questioned whether it was the Department’s intent that these appeals be taken directly to the Secretary.

Response

By utilizing GRAPP, the Department does not intend to bypass BHA under 1 Pa. Code § 35.20. Although 1

Pa. Code § 35.20 provides that an action may be appealed to the agency head, the Department will internally forward these appeals to BHA, as the designee of the agency head.

§ 3140.17 (relating to review of county plans and budgets)

One commentator expressed concern that the proposed changes do not address a primary need of counties for clarification of how and when county children and youth services agencies should appeal adverse decisions on needs-based plan and budget by the Department.

Response

The reference to Chapter 30 in § 3140.17 is being deleted since the uncodified regulation never applied to appeals under Chapter 3140 (relating to planning and financial reimbursement requirements for county and children and youth social service programs). Chapter 3140 applies to the development and submission of social services plans and budget estimates and the reimbursement of expenses incurred by the county for children and youth social services. See 55 Pa. Code § 3140.1 (relating to applicability). The uncodified regulation, however, provided the licensure/approval appeal procedure for facilities certified by the Department. Therefore, this final-form rulemaking does not change the appeal procedures under Chapter 3140. As specifically set forth in § 3140.17(e), counties may appeal under 2 Pa.C.S. §§ 501—508 and 701—704 and Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

Regulatory Review Act

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), on July 21, 2008, the Department submitted a copy of this final-form rulemaking to IRRC and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In compliance with the Regulatory Review Act, the Department also provided the Committees and IRRC with copies of all public comments received, as well as other documentation.

In preparing the final-form rulemaking, the Department reviewed and considered comments from the Committees, IRRC and the public.

In accordance with section 5.1(j.1) and (j.2) of the Regulatory Review Act, this final-form rulemaking was deemed approved by the Committees on August 11, 2008. IRRC met on August 21, 2008, and approved the final-form rulemaking.

In addition to submitting the final-form rulemaking, the Department has provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

Findings

The Department finds that:

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

(2) The adoption of these final-form regulations in the manner provided by this order is necessary and appropriate for the administration and enforcement of 2 Pa.C.S. §§ 501—508 and 701—704 and Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922 and 1001—1087).

Order

The Department acting under 2 Pa.C.S. §§ 501—508 and 701—704 and Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922 and 1001—1087) orders that:

(a) The regulations of the Department, 55 Pa. Code Chapters 20, 1181, 2380, 2390, 3130, 3140, 3270, 3280, 3290, 3680, 3700, 6400 and 6500, are amended by amending §§ 20.2, 20.82, 1181.561, Appendix N, 2380.12, 2390.12, 3130.82, 3140.17, 3270.12, 3280.12, 3290.13, 3680.14, 3700.72, 6400.12 and 6500.13 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

(d) This order shall take effect November 3, 2008.

ESTELLE B. RICHMAN,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 4961 (September 6, 2008).)

Fiscal Note: Fiscal Note 14-504 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 55. PUBLIC WELFARE

PART I. DEPARTMENT OF PUBLIC WELFARE

Subpart C. LICENSING/APPROVAL

CHAPTER 20. LICENSURE OR APPROVAL OF FACILITIES AND AGENCIES

GENERAL PROVISIONS

§ 20.2. Applicability.

(a) This chapter applies to facilities and agencies subject to licensure or approval under Articles IX and X of the Public Welfare Code (62 P. S. §§ 901—922 and 1001—1080).

(b) This chapter does not apply to family day care homes that are registered under the authority of Article X of the Public Welfare Code, except for appeals as provided in § 20.82 (relating to written request for appeal).

(c) This chapter applies in addition to applicable program licensure or approval of regulations.

APPEALS

§ 20.82. Written request for appeal.

(a) The legal entity may appeal a Departmental decision specified in § 20.81 (relating to decisions that may be appealed) under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Except for facilities licensed or approved under Chapters 2600 and 3800 (relating to personal care home licensing; and child residential and day treatment facilities), the legal entity may appeal by filing a petition within 30 days after service of notice of the action.

(c) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

**PART III. MEDICAL ASSISTANCE MANUAL
CHAPTER 1181. NURSING FACILITY CARE
Subchapter D. NURSING HOME
REFORM—STATEMENT OF POLICY**

APPEALS OF ADVERSE DETERMINATIONS

§ 1181.561. Process to appeal adverse determinations in the preadmission screening program.

(a) Section 1396r(e)(7)(F) of the Social Security Act (42 U.S.C.A. § 1396r(e)(7)(F)) provides: "Each State, as a condition of approval (of its State Plan), effective January 1, 1989, must have in effect an appeals process for individuals adversely affected by determinations under (42 U.S.C.A. §§ 1396r(e)(7)(A) and 1396r(e)(7)(B) (relating to the pre-admission screening program and to the annual resident review program))."

(b) An applicant—including a legal or personal representative acting on behalf of the applicant—for admission to a nursing facility participating as a provider in the MA Program has the right to appeal from an adverse determination made as part of the preadmission screening program established under OBRA-87. The Department currently has regulations in effect which provide for appeals in Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

(c) Under Chapter 275, an applicant for admission to a nursing facility who is seeking or is already eligible for MA benefits has the right to appeal to the Department's Office of Hearings and Appeals with respect to a decision affecting the applicant's rights to receive Program benefits. Chapter 275 will be applied to appeals of adverse determinations in the OBRA-87 preadmission screening process where the appeals are filed by or on behalf of individuals who are seeking or receiving MA.

(d) The OBRA-87 preadmission screening process can also adversely affect an applicant for admission who is not seeking or receiving MA. Appeals by or on behalf of those individuals shall still be filed with the Office of Hearings and Appeals. These appeals will be heard under the authority established in 1 Pa. Code Part II (relating to general rules of administrative practice and procedure).

APPENDIX N. RIGHT TO APPEAL AND FAIR HEARING

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PART II. STATE APPEALS PROCESS FOR TRANSFERS AND DISCHARGES

All residents (including any legal or personal representative acting on behalf of the resident) of nursing facilities (other than intermediate care facilities for the mentally retarded) which are enrolled as providers in the MA Program shall have the right to appeal from any decision to transfer or discharge that resident. The Department currently has regulations which provide for such appeals.

Under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings), residents who are eligible for MA benefits have the right to appeal to the Department's Office of Hearings and Appeals with respect to any decision affecting their rights to receive Program benefits. These regulations will be applied to appeals of decisions with respect to transfers and discharges.

The OBRA-87 requirements, however, also affect persons who are not eligible for MA benefits. The Department currently has regulations which provide for appeals by such persons at 1 Pa. Code Part II (relating to general rules of administrative practice and procedure). Such appeals must still be filed with the Department's Office of Hearings and Appeals.

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PART IV. ADULT SERVICES MANUAL

Subpart D. NONRESIDENTIAL AGENCIES/FACILITIES/SERVICES

**CHAPTER 2380. ADULT TRAINING FACILITIES
GENERAL REQUIREMENTS**

§ 2380.12. Appeals.

(a) Appeals related to the Department's approval or licensure shall be made in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's approval or licensure shall be made by filing a petition within 30 days after service of notice of the action.

(c) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

**CHAPTER 2390. VOCATIONAL FACILITIES
GENERAL REQUIREMENTS**

§ 2390.12. Appeals.

(a) Appeals related to the Department's approval or licensure shall be made under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's approval or licensure shall be made by filing a petition within 30 days after service of notice of the action.

(c) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

**PART V. CHILDREN, YOUTH AND FAMILIES
MANUAL**

**Subpart C. ADMINISTRATION AND FISCAL
MANAGEMENT**

**ARTICLE II. COUNTY-ADMINISTERED SERVICES
CHAPTER 3130. ADMINISTRATION OF COUNTY
CHILDREN AND YOUTH SOCIAL SERVICE
PROGRAMS**

**REQUIREMENTS FOR FOSTER CARE PROGRAMS
AND CHILD CARE FACILITIES OPERATED BY A
COUNTY AGENCY**

§ 3130.82. Appeals.

(a) The county agency has the right to appeal the Department's decisions related to licensure or approval under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's approval or licensure shall be made by filing a petition within 30 days after service of notice of the action.

(c) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

CHAPTER 3140. PLANNING AND FINANCIAL REIMBURSEMENT REQUIREMENTS FOR COUNTY CHILDREN AND YOUTH SOCIAL SERVICE PROGRAMS

**Subchapter A. PRELIMINARY PROVISIONS
PLAN REQUIREMENTS**

§ 3140.17. Review of county plans and budgets.

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(e) The county may appeal the Department's determination reached in accordance with subsection (c) under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

Subpart D. NONRESIDENTIAL AGENCIES, FACILITIES AND SERVICES

ARTICLE I. LICENSING/APPROVAL

**CHAPTER 3270. CHILD DAY CARE CENTERS
GENERAL REQUIREMENTS**

§ 3270.12. Appeals.

(a) Appeals related to the Department's approval or licensure decisions shall be made under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's approval or licensure shall be made by filing a petition within 30 days after service of notice of the action.

(c) An operator may appeal a Departmental decision relating to the status of a certificate of compliance of a facility owned or operated by the legal entity.

(d) The Department will include information relative to appeal procedures when notifying operators of one or more of the following decisions:

- (1) The denial of a certificate of compliance.
- (2) The nonrenewal of a certificate of compliance.
- (3) The revocation of a certificate of compliance.
- (4) The issuance of a provisional certificate of compliance.
- (5) The establishment of a period for which a provisional certificate of compliance is issued.
- (6) The reduction of the maximum facility capacity.
- (7) The denial of an increase in facility capacity.
- (8) The limiting or precluding admission of persons into the facility.

(e) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

**CHAPTER 3280. GROUP CHILD DAY CARE HOMES
GENERAL REQUIREMENTS**

§ 3280.12. Appeals.

(a) Appeals related to the Department's approval or licensure decisions shall be made under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative

Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's approval or licensure shall be made by filing a petition within 30 days after service of notice of the action.

(c) An operator may appeal a Departmental decision relating to the status of a certificate of compliance of a facility owned or operated by the legal entity.

(d) The Department will include information relative to appeal procedures when notifying operators of one or more of the following decisions:

- (1) The denial of a certificate of compliance.
- (2) The nonrenewal of a certificate of compliance.
- (3) The revocation of a certificate of compliance.
- (4) The issuance of a provisional certificate of compliance.
- (5) The establishment of a period for which a provisional certificate of compliance is issued.
- (6) The reduction of the maximum facility capacity.
- (7) The denial of an increase in facility capacity.
- (8) The limiting or precluding admission of persons into the facility.

(e) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

**CHAPTER 3290. FAMILY CHILD DAY CARE HOMES
GENERAL REQUIREMENTS**

§ 3290.13. Appeals.

(a) Appeals related to the Department's registration decisions shall be made under 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's approval or licensure shall be made by filing a petition within 30 days after service of notice of the action.

(c) A facility's operator may appeal a Departmental decision relating to the status of the facility's certificate of registration.

(d) The Department will include information relative to appeal procedures when notifying operators of one or more of the following decisions:

- (1) Denial of a certificate of registration.
- (2) Failure to renew a certificate of registration.
- (3) Revocation of a certificate of registration.
- (4) Limiting or precluding admission of persons into the facility.

(e) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

Subpart E. RESIDENTIAL AGENCIES, FACILITIES AND SERVICES

ARTICLE I. LICENSING/APPROVAL

CHAPTER 3680. ADMINISTRATION OF PRIVATE CHILDREN AND YOUTH SOCIAL SERVICES AGENCY

GENERAL RESPONSIBILITIES OF THE LEGAL ENTITY

§ 3680.14. Appeals.

(a) The legal entity has the right to appeal the Department's decisions related to licensure or approval under 2

Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's approval or licensure shall be made by filing a petition within 30 days after service of notice of the action.

(c) The legal entity shall begin the appeal process by filing a written appeal with the Director, Office of Hearings and Appeals, Department of Public Welfare, Post Office Box 2675, Harrisburg, Pennsylvania 17105.

(d) The appeal must be postmarked no later than 30 calendar days following the date of notice regarding the agency's licensure or approval status.

(e) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

**CHAPTER 3700. FOSTER FAMILY CARE AGENCY
REQUIREMENTS FOR FFCA APPROVAL OF
FOSTER FAMILIES**

§ 3700.72. Foster family approval appeals.

(a) The FFCA shall give written notice to each applicant of its decision to approve, disapprove or provisionally approve the foster family. The written note shall inform parents that they may appeal the FFCA's decision to disapprove or provisionally approve the foster family.

(b) Foster parents who wish to appeal an FFCA decision to disapprove or provisionally approve the foster family shall submit to the FFCA a written appeal. The appeals are subject to 2 Pa.C.S. §§ 501—508 and 701—704 (relating to Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(c) Appeals related to the Department's approval shall be made by filing a petition within 30 days after service of notice of the action.

(d) Upon receipt of the foster parent appeal, the FFCA shall date stamp the appeal. The FFCA shall review the appeal and determine if steps can be taken to resolve the appeal without a hearing. If, after considering the appeal, the FFCA is unable to resolve issues of disagreement, the appeal shall be sent to the Office of Hearings and Appeals, Post Office Box 2675, Harrisburg, Pennsylvania 17105 within 15 calendar days of the date stamp.

(e) Subsection (c) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

PART VIII. MENTAL RETARDATION MANUAL

**Subpart E. RESIDENTIAL
AGENCIES/FACILITIES/SERVICES**

ARTICLE I. LICENSING/APPROVAL

**CHAPTER 6400. COMMUNITY HOMES FOR
INDIVIDUALS WITH MENTAL RETARDATION**

GENERAL REQUIREMENTS

§ 6400.12. Appeals.

(a) Appeals related to the Department's licensure shall be made in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's licensure shall be made by filing a petition within 30 days after service of notice of the action.

(c) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

CHAPTER 6500. FAMILY LIVING HOMES

GENERAL REQUIREMENTS

§ 6500.13. Appeals.

(a) Appeals related to the Department's licensure or waiver decisions shall be made in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(b) Appeals related to the Department's licensure or waiver decisions shall be made by filing a petition within 30 days after service of notice of the action.

(c) Subsection (b) supersedes the appeal period of 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

[Pa.B. Doc. No. 08-1800. Filed for public inspection October 3, 2008, 9:00 a.m.]

PROPOSED RULEMAKING

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 403a, 491a, 493a, 494a, 495a,
497a, 499a AND 511a]

Rules of Practice and Procedures

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. § 1205 (relating to license or permit application hearing process; public input hearings), proposes to amend Chapters 403a, 491a, 493a, 494a, 495a, 497a, 499a and 511a to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

The proposed rulemaking makes a number of revisions to the Board's practice and procedure regulations to: improve their clarity; conform to current practice; and simplify some of the existing requirements.

Explanation of Amendments to Chapters 403a, 491a, 493a, 494a, 495a, 497a, 499a and 511a

Throughout this proposed rulemaking, the phrase "report or recommendation" has been replaced with "report or report and recommendation." This reflects what the presiding officer actually does.

The Board has also eliminated the definition of the term "hearing officer" and various provisions and references to the term. The existing provisions in Chapter 491a (relating to general rules of practice) include hearing officers and presiding officers, but in practice, the Board only uses presiding officers. Therefore, the provisions related to hearing officers are not needed.

In § 491a.3 (relating to Office of the Clerk), the address for the Office of the Clerk has been updated to reflect its current location.

In § 491a.7(c) (relating to presiding officers), "issues of law" has been added to "a fact in issue" as a matter that the presiding officer will not discuss with one party without giving notice and an opportunity to participate to the other parties.

In §§ 491a.8 and 493a.9 (relating to hearings generally; and prehearing and other conferences), language has been added to allow the use of video conferencing. This will make it easier for parties to participate in prehearing conferences and hearings.

Subsection 491a.8(j), which makes hearing transcripts available for public inspection, has been expanded to include language stating that if the Board receives a request for a hearing transcript that has not been prepared, the Board will prepare the transcript and make it available for public inspection within 30 days.

Section 493a.2 (relating to complaints) has been rewritten to improve its organization, eliminate duplicative provisions and move provisions related to answers to § 493.5 (relating to answers to complaints, petitions, motions and other filings requiring a response).

In § 493a.4 (relating to petitions generally), duplicative provisions have been deleted.

Section 493a.5 (relating to answers) has been amended to delete duplicative provisions and add provisions pertaining to answers that previously were in § 493a.2.

In §§ 493a.5, 493a.10, 493a.13 and 494a.6, deadlines have been shifted from date of service to date of filing. This will make it easier for the Board to determine if answers have been filed in a timely manner.

A new § 493a.10a (relating to motions to protect confidential information) has been added to Chapter 493a. What is considered to be confidential information under the act has been a controversial issue. Accordingly, the Board is proposing this new section to establish a process that can be used in proceedings to address this issue.

In § 494a.8 (relating to rehearing or reconsideration), a new subsection (b) has been added to clarify that filing a petition for rehearing or reconsideration does not toll the 30-day appeal period.

In § 495a.1 (relating to form of documentary filings generally), subsection (d) has been amended to allow parties to indicate a fax number or email address where papers may be served instead of a mailing address. This is being done to make it easier and faster to serve documents.

Section 495a.6 (relating to number of copies) has been revised to only require that the original copy of documents be filed with the Board. Because the Board is using an electronic internal filing system, multiple copies of documents are no longer needed.

In § 497a.1 (relating to date of filing), new provisions have been added that allow documents to be submitted via electronic transmission. However, documents will not be deemed to be officially filed until the Board receives any required filing fees.

In § 499a.4 (relating to notice of appearance or withdrawal), subsection (c) has been deleted. The Board has never required and can not foresee a need to require a practitioner to file a power of attorney authorizing the practitioner to represent their client.

In § 499a.6 (relating to contemptuous conduct), subsection (a) has been amended to include contemptuous conduct before a presiding officer, as well as the Board, as a basis for exclusion from a hearing.

Affected Parties

These amendments will affect entities and individuals who are involved in Board proceedings.

Fiscal Impact

Commonwealth

Because most of the revisions in this rulemaking reflect current Board practice or reflect relatively minor changes, there will be no significant costs or savings to the Board or other State agencies as a result of these revisions. The Board will experience some savings from being allowed to file and serve some documents electronically.

Political Subdivisions

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

Private Sector

Entities and individuals who are involved in Board proceedings will experience some slight savings from being required to submit fewer copies of documents and

being able to file and serve documents electronically. Individuals who participate in videoconferencing for hearings should also experience savings from reduced travel.

General Public

This proposed rulemaking will have no fiscal impact on the general public.

Paperwork Requirements

This proposed rulemaking reduces the number of copies of documents that must be filed with the Board and allows electronic service to replace mailing of documents to provide service.

Effective Date

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

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking, within 30 days after the date of publication in the *Pennsylvania Bulletin* to Mickey Kane, Acting Secretary, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-93.

Contact Person

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 24, 2008, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee. A copy of this material is available to the public upon request.

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

MARY DIGIACOMO COLINS,
Chairperson

Fiscal Note: 125-93. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

CHAPTER 403a. BOARD OPERATIONS AND ORGANIZATION

§ 403a.7. Temporary emergency orders.

* * * * *

(k) Once a temporary emergency order has been issued under this section, unless it has been subsequently

dissolved by the Executive Director, the temporary emergency order will be presented to the Board at its next meeting or within 10 business days, whichever is longer, at which time the Board may do one of the following:

* * * * *

(2) Refer the matter to the Office of Hearings and Appeals under § 491a.8 (relating to hearings generally) and direct that a hearing be conducted by a [**hearing**] **presiding** officer and a report submitted to the Board.

(1) In all hearings relating to the disposition of a temporary emergency order, whether the hearing is conducted by the Board or by a [**hearing**] **presiding** officer, the following procedure will occur:

* * * * *

(2) The Office of Enforcement Counsel will present evidence to the Board or the [**hearing**] **presiding** officer in support of the temporary emergency order.

* * * * *

Subpart H. PRACTICE AND PROCEDURE

CHAPTER 491a. GENERAL RULES OF PRACTICE

§ 491a.2. Definitions.

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

* * * * *

Exception—A formal objection to a report or **report and** recommendation of a presiding officer.

* * * * *

[*Hearing officer*—An employee of the Board designated to conduct a hearing relating to a matter within the jurisdiction of the Board.]

* * * * *

§ 491a.3. Office of the Clerk.

* * * * *

(b) Filings and requests for practice and procedure information should be directed to:

Office of the Clerk
Pennsylvania Gaming Control Board
[**P. O. Box 69060**
Harrisburg, PA 17106-9060]
One Penn Center
2601 North 3rd Street, Suite 502
Harrisburg, PA 17110

* * * * *

§ 491a.6. [**Hearing officers**] (Reserved).

[(a) A hearing officer may be a presiding officer. Hearing officers shall be attorneys in good standing with the Supreme Court of Pennsylvania and shall be responsible for the timely disposition of assigned matters. Hearing officers are employed by the Board and may be discharged only for misconduct or good cause shown.

(b) Duties of the hearing officers may include:

(1) Conducting full and complete hearings, partial and bifurcated hearings.

(2) Taking testimony of witnesses.

(3) Presiding over or causing depositions to be taken.

(4) Submitting reports or recommendations to the Board.

(5) Other matters as the Board may direct.

(c) A hearing officer may withdraw when the hearing officer deems himself disqualified or a hearing officer may be withdrawn by the Board for good cause found after timely affidavits alleging personal bias or other disqualification have been filed and the matter has been heard by the Board or another presiding officer to whom the Board has delegated the matter for investigation and report.

(d) This section supersedes 1 Pa. Code § 35.186 (relating to disqualification of a presiding officer).]

§ 491a.7. Presiding officers.

* * * * *

(b) The Board and presiding officers shall have the power and authority to:

* * * * *

(9) Submit proposed reports or reports and recommendations in accordance with this subpart.

* * * * *

(c) Except as authorized by law and by this subpart, a presiding officer may not, in a proceeding, consult with a [person or] party on a fact in issue or issue of law unless notice and opportunity for parties to participate has been given.

* * * * *

§ 491a.8. Hearings generally.

* * * * *

(e) Hearings will be conducted in Harrisburg, Pennsylvania or by video conference, unless otherwise directed by the Board or presiding officer.

* * * * *

(j) Hearing transcripts will be available for public inspection. If the Board receives a request for a transcript of a hearing for which a transcript has not been prepared, the Board will prepare a transcript and make it available for inspection within 30 days.

* * * * *

§ 491a.9. Prehearing and other conferences.

* * * * *

(b) When the Board or presiding officer directs that a prehearing conference be held, all parties shall appear at the time and place designated. Notice of the time and place of the conference will be given to all parties. At the discretion of the Board or presiding officer, the conferences may be conducted telephonically or by video conference.

* * * * *

CHAPTER 493a. PLEADINGS

* * * * *

§ 493a.2. Complaints.

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

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

* * * * *

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

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

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

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

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

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

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

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

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

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

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

§ 493a.4. Petitions generally.

* * * * *

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

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

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

§ 493a.5. Answers to complaints, petitions, motions and other filings requiring a response.

(a) Answers to complaints, petitions, motions and other filings requiring a response shall be filed with the Clerk and served on all other parties within 20 days after the date of [service] filing of [a] the complaint, petition, motion or other pleading, unless a different time is prescribed by the Board or presiding officer.

(b) [The procedures in 1 Pa. Code §§ 35.35—35.40 apply.] Failure to file a timely answer to a complaint or petition will constitute an admission of all matters and facts contained in the filing and may result in the waiver of the right to a hearing.

(c) Answers may contain the following:

- (1) Admissions of the matter complained of and the alleged facts, in whole or in part.
- (2) New matter or explanation by way of defense.
- (3) Legal objections.
- (4) Affirmative defenses.
- (5) A request for a hearing.

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

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

* * * * *

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

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

* * * * *

§ 493a.10a. Motions to protect confidential information.

(a) A party or individual may seek to protect confidential information under § 407a.3 (relating to

confidential information) in pleadings and other papers by filing a Motion to Protect Confidential Information.

(b) A Motion to Protect Confidential Information must:

(1) Set forth the specific reasons why the information should be deemed to be confidential information and, therefore, protected.

(2) Label as confidential documents or portions of documents in the filing that the party or individual is seeking to protect.

(c) Upon the filing of the Motion to Protect Confidential Information, the Director of Hearings and Appeals will review the motion and accompanying documents and may, upon determining that a substantial basis exists, issue an interim order to protect the documents from disclosure until the Board considers the matter in accordance with 65 Pa.C.S. §§ 701—716 (relating to open meetings).

§ 493a.12. Intervention.

* * * * *

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

* * * * *

CHAPTER 494a. HEARING PROCEDURE

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

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

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

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

* * * * *

(d) The report or report and recommendation will be in writing, provided to all parties, and will be part of the public record, except for matters and materials designated as confidential by the Board. Service will be in accordance with § 491a.5(d) (relating to service by the Board).

* * * * *

§ 494a.5. Review.

* * * * *

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

§ 494a.6. Reopening of record.

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

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

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

* * * * *

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

* * * * *

§ 494a.7. Exceptions.

(a) A party may file exceptions to the report or **report and** recommendation of the presiding officer within 15 days of the date of the report or **report and** recommendation, unless the time is extended upon good cause shown.

* * * * *

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

* * * * *

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

* * * * *

§ 494a.8. Rehearing or reconsideration.

* * * * *

(b) **Filing a petition for rehearing or reconsideration does not toll or stay the 30-day appeal period.**

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

[(c)] (d) * * *

[(d)] (e) * * *

[(e)] (f) * * *

[(f)] (g) * * *

CHAPTER 495a. DOCUMENTARY FILINGS

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

* * * * *

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

* * * * *

§ 495a.6. Number of copies.

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

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

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

CHAPTER 497a. TIME

§ 497a.1. Date of filing.

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

* * * * *

(4) On the date that the pleading or other document is received by electronic transmission in the Office of the Clerk.

* * * * *

(c) **[Except as otherwise permitted by the Board, a document transmitted by facsimile or electronically to the Board will not be accepted for filing within the meaning of this section.] Pleadings or other documents that require a filing fee will not be deemed filed until the Board receives the required fee.**

* * * * *

CHAPTER 499a. REPRESENTATION BEFORE THE BOARD

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

* * * * *

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

(d)] * * *

[(e)] (d) * * *

* * * * *

[(f)] (e) * * *

[(g)] (f) * * *

§ 499a.6. Contemptuous conduct.

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

* * * * *

Subpart J. EXCLUSION OF PERSONS

CHAPTER 511a. PERSONS REQUIRED TO BE EXCLUDED

§ 511a.6. Demand for hearing on the placement of a person on the exclusion list.

* * * * *

(c) If a hearing is demanded by the excluded person, a hearing will be scheduled as provided in § 491a.8 (relating to hearings generally). At the hearing, the Bureau will have the affirmative obligation to demonstrate that the excluded person satisfies the criteria for exclusion in 4 Pa.C.S. § 1514 (relating to regulation requiring exclusion of certain persons) or § 511a.3 (relating to criteria for exclusion). Unless the matter is heard directly by the Board, the presiding officer will prepare a report and recommendation as provided in § 494a.4 (relating to report or report and recommendation of the presiding officer) for consideration by the Board.

§ 511a.9. Petition to remove name from the exclusion list.

* * * * *

(b) The petition must be signed by the excluded person, contain supporting affidavits, and state the specific grounds believed by the petitioner to constitute good cause for removal from the exclusion list. Upon receipt of the petition, the Bureau may file an answer in accordance with § 493a.5 (relating to answers to complaints, petitions, motions and other filings requiring a response).

* * * * *

[Pa.B. Doc. No. 08-1801. Filed for public inspection October 3, 2008, 9:00 a.m.]

SUSQUEHANNA RIVER BASIN COMMISSION

[25 PA. CODE CH. 806]

Review and Approval of Projects

Summary: This document contains proposed rules that would amend the project review regulations of the Susquehanna River Basin Commission (Commission) by

requiring review and approval of any natural gas well development project targeting the Marcellus, Utica or other shale formations and involving the withdrawal or consumptive use of waters of the Susquehanna River Basin, adding a provision providing for a specific approval by rule process for consumptive water use associated with such projects and modifying the definition of project. In addition, two editorial changes are made to the existing approval by rule provision related to the consumptive use of water withdrawn from public water supply systems to make that provision consistent with the new approval by rule provision for natural gas well development projects.

Dates: Public hearings will be held on October 21 and October 22, 2008, beginning at 7 p.m. regarding this proposed rulemaking action. The locations of the hearings are listed in the "Addresses" section of this notice. The deadline for submission of written comments on the proposed rulemaking is October 31, 2008.

Addresses: The October 21, 2008, public hearing will be held at Lycoming College, Academic Center, Lecture Hall Room D001, Mulberry Street, Williamsport, PA 17701; the October 22, 2008, public hearing will be held at Binghamton University, State University of New York, Lecture Hall Complex, Lecture Hall 1, Route 434 (Vestal Parkway East), Binghamton, NY 13903. Written comments may be submitted by mail to Richard A. Cairo, Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391 or by e-mail to rcairo@srbc.net.

For Further Information Contact: Richard A. Cairo, General Counsel, (717) 238-0423; Fax: (717) 238-2436; e-mail: rcairo@srbc.net. Also, for further information on the proposed rulemaking, visit the Commission's web site at www.srbc.net.

Supplementary Information:

Background and Purpose of Amendments:

As a result of advances in hydraulic fracturing, and higher natural gas prices, natural gas well development activity in the Susquehanna River Basin has increased dramatically in the past year, resulting in a large number of project applications being filed with the Commission seeking approval for the withdrawal and consumptive use of water for that activity. The Commission is hereby proposing a rulemaking action to handle the large and immediate influx of project applications, and to avoid adverse, cumulative adverse or interstate effects to the water resources of the basin.

The proposed rule modifies the definition of "project" for purposes of natural gas well development, requires review and approval of any natural gas well development project involving the withdrawal or consumptive use of water, and adds a specific approval by rule process associated with the consumptive use of water by such projects. The Commission's current approval by rule process is available for use only if the sole source of water is a public water supply system. Under the contemplated rule change, the approval by rule process would allow for the consumptive use of wastewater, acid mine water and other sources of water for natural gas well development projects. The proposal would not change the current process used to review groundwater or surface water withdrawals.

In addition, two editorial changes are made to the existing approval by rule provision relating to the consumptive use of water withdrawn from public water

supply systems to make that provision consistent with the new approval by rule provision for natural gas well development projects.

List of Subjects in 18 CFR Parts 806: Administrative practice and procedure, Water resources.

For the reasons set forth in the preamble, the Commission proposes to amend 18 CFR Part 806 as follows:

PART 806—REVIEW AND APPROVAL OF PROJECTS

Subpart A—General Provisions

1. The authority citation for Part 806 continues to read as follows:

Authority: Secs. 3.4, 3.5(5), 3.8, 3.10 and 15.2, Pub. L. No. 91-575, 84 Stat. 1509 et seq.

2. In § 806.3, revise the definition of “project” to read as follows:

§ 806.3 Definitions.

* * * * *

Project. Any work, service, activity, or facility undertaken, which is separately planned, financed or identified by the Commission, or any separate facility undertaken or to be undertaken by the Commission or otherwise within a specified area, for the conservation, utilization, control, development, or management of water resources, which can be established and utilized independently, or as an addition to an existing facility, and can be considered as a separate entity for purposes of evaluation. For purposes of natural gas well development activity, the project shall be considered to be the drilling pad upon which one or more exploratory or production wells are undertaken, and all water-related appurtenant facilities and activities related thereto.

* * * * *

3. In § 806.4, amend paragraph (a) to add paragraph (a)(8) to read as follows:

§ 806.4 Projects requiring review and approval.

(a) Except for activities relating to site evaluation or those authorized under § 806.34, no person shall undertake any of the following projects without prior review and approval by the Commission. The project sponsor shall submit an application in accordance with subpart B and shall be subject to the applicable standards in subpart C.

* * * * *

(8) Any natural gas well development project in the basin targeting the Marcellus, Utica or other shale formations for exploration or production of natural gas involving a withdrawal or consumptive use of waters of the basin, regardless of the quantity of such withdrawal or consumptive use. The project sponsor shall submit the appropriate applications in accordance with subpart B and the project shall be subject to the applicable standards set forth in subpart C.

4. In § 806.22, revise paragraph (e)(1), and insert a new paragraph (f) to read as follows:

§ 806.22 Standards for consumptive uses of water.

* * * * *

(e) * * *

(1) Except with respect to projects involving natural gas well development subject to the provision of paragraph (f) of this section, any project whose sole source of water for consumptive use is a public water supply

withdrawal, may be approved under this paragraph (e) in accordance with the following, unless the Commission determines that the project cannot be adequately regulated under this approval by rule:

(1) * * *

(ii) Within 10 days after submittal of an NOI under (i), the project sponsor shall submit to the Commission proof of publication in a newspaper of general circulation in the location of the project, a notice of intent to operate under this approval by rule, which contains a sufficient description of the project, its purposes and its location. This notice shall also contain the address, electronic mail address and telephone number of the Commission.

* * * * *

(f) Approval by rule for consumptive use related to natural gas well development.

(1) Any project involving the development of natural gas wells subject to review and approval under §§ 806.4, 806.5, or 806.6 of this part shall be subject to review and approval under this paragraph (f) regardless of the source or sources of water being used consumptively.

(i) *Notification of Intent:* No fewer than 60 days prior to undertaking a project or increasing a previously approved quantity of consumptive use, the project sponsor shall:

(A) Submit a Notice of Intent (NOI) on forms prescribed by the Commission, and the appropriate application fee, along with any required attachments.

(B) Send a copy of the NOI to the appropriate agencies of the member state, and to each municipality and county in which the project is located.

(ii) Within 10 days after submittal of an NOI under (i), the project sponsor shall submit to the Commission proof of publication in a newspaper of general circulation in the location of the project, a notice of intent to operate under this approval by rule, which contains a sufficient description of the project, its purposes and location and the sources, quantities and peak day use of water to be used consumptively by the project. This notice shall also contain the address, electronic mail address and telephone number of the Commission.

(2) The project sponsor shall comply with metering, daily use monitoring and quarterly reporting as specified in § 806.30, or as otherwise required by the approval by rule. Daily use monitoring shall include amounts delivered or withdrawn per source, per day, and amounts used per gas well, per day, for well drilling, hydrofracture stimulation, hydrostatic testing, and dust control. The foregoing shall apply to all water and fluids, including additives, flowback and brines, utilized by the project.

(3) The standard conditions set forth in § 806.21 above shall apply to projects approved by rule, as well as any special conditions incorporated into such approvals.

(4) The project sponsor shall comply with mitigation in accordance with § 806.22(b)(2) or (b)(3).

(5) Any produced flowback fluids or brines utilized by the project sponsor for hydrofracture stimulation undertaken at the project shall be separately accounted for, but shall not be included in the daily consumptive use amount calculated for the project, or be subject to the mitigation requirements of § 806.22(b).

(6) The project sponsor shall obtain all necessary permits or approvals required for the project from other Federal, State or local government agencies having juris-

diction over the project. The Commission reserves the right to modify, suspend or revoke any approval under this paragraph (f) if the project sponsor fails to obtain or maintain such approvals.

(7) The project sponsor shall demonstrate to the satisfaction of the Commission that all flowback and produced fluids, including brines, have been treated and disposed of in accordance with applicable State and Federal law.

(8) The Commission will grant or deny approval to operate under this approval by rule and will notify the project sponsor of such determination, including the sources and quantity of consumptive use approved.

(9) Approval by rule shall be effective upon written notification from the Commission to the project sponsor, shall expire 5 years from the date of such notification, and rescind any previous consumptive use approvals to the extent applicable to the project.

(10) Water withdrawals approved by the Commission pursuant to § 806.4(a)(2) after the date of issuance of the approval by rule may be utilized as a source for the consumptive use authorized for the project provided such withdrawal source is approved for such use and is registered with the Commission at least 10 days prior thereto on a form and in a manner as prescribed by the Commission.

(11) Approvals issued under this paragraph (f) shall not be transferable under § 806.6.

Dated: September 16, 2008.

PAUL O. SWARTZ,
Executive Director

Fiscal Note: 72-6. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION PART IV. SUSQUEHANNA RIVER BASIN COMMISSION

CHAPTER 806. REVIEW AND APPROVAL OF PROJECTS

§ 806.1. Incorporation by reference.

The regulations and procedures for review of projects as set forth in 18 CFR Part 806 [(2007)] (2008) (relating to review and approval of projects) are incorporated by reference and made part of this title.

[Pa.B. Doc. No. 08-1802. Filed for public inspection October 3, 2008, 9:00 a.m.]

STATEMENTS OF POLICY

Title 12—COMMERCE, TRADE AND LOCAL GOVERNMENT

HOUSING FINANCE AGENCY [12 PA. CODE CH. 31]

Home Energy Efficiency Loan Program (R & R Energy); Program Guidelines

The Pennsylvania Housing Finance Agency (Agency) publishes the guidelines for the Home Energy Efficiency Loan Program under Chapter 6 (section 607) of the "Alternative Energy Investment Act," Act 1, Special Session No. 1 (2007-2008).

Program Summary

The Keystone Renovate & Repair Loan Program (Program) was created by the Agency in 2006 to fill a gap in the home repair lending market and to help prevent homeowners from becoming victims of predatory lending practices. Many Pennsylvania homeowners are not eligible for assistance programs designed to help homeowners repair their homes. They therefore turn to the conventional loan market for financing, which is generally provided in the form of a home equity loan. These types of loans often have variable rates; require considerable equity in the home; may provide more financing than the homeowner needs; and provide little or no guidance regarding what repairs should be made, how to select a contractor, what to include in a contract, how to determine if the work was done satisfactorily, how long the work should take, and the like.

The Program has been made possible through a State appropriation in 2008. It will operate as a subset of the regular Program by providing mortgage loans with affordable terms to eligible borrowers for eligible uses as set forth in the enabling legislation and in the Agency's guidelines which may be updated from time to time. R&R Energy loans will be provided for the specific purpose of making homes more energy efficient, rather than for general home repair or improvement purposes. (Note that the standard Program does allow for energy efficient repairs/improvements in addition to general repairs/improvements.)

R&R Energy loans are funded and serviced by the Agency but will be originated for eligible borrowers by Agency-approved Local Program Administrators (LPA). Eligible LPAs include, but are not limited to, the following:

- County housing authorities
- Housing redevelopment authorities
- Community action agencies
- Community development corporations
- Housing Development Corporations
- Municipalities
- Lenders
- Other nonprofit organizations with related housing experience

LPAs are approved by the Agency to participate in the Program through an open application process. The Invitation to Participate, which includes the application, is available to all interested eligible parties on the Agency's web site www.phfa.org. The application may also be obtained by contacting the Agency at (717) 780-3871 or (800) 822-1174, or in writing to PHFA, Homeownership Programs Division, 211 North Front Street, P. O. Box 8029, Harrisburg, PA 17105-8029.

The Program will be processed through qualified LPAs in the Agency Program. The Program generally entails the following steps as established by the Agency: prescreening of the borrower's eligibility; loan application and underwriting; work scope and procurement of bids for the work to be performed under the Program; loan closing; construction work monitoring and completion; and close-out and submission of the complete final package to the Agency. Upon being selected for participation in the Program, the LPA will execute a Participation Agreement with the Agency.

A current list of LPAs through which borrowers may seek applications for the Program will be available on the Agency's web site www.phfa.org or by contacting the Agency at (717) 780-3871 or (800) 822-1174.

Effective Date

The provisions of Act 1, Special Session No. 1 (2007-2008) were effective on July 9, 2008, and the Agency was directed to publish guidelines for the Program within 90 days of the effective date. These guidelines shall take effect upon publication.

BRIAN A. HUDSON,
Executive Director

(Editor's Note: Title 12 of the Pa. Code is amended by adding a statement of policy in §§ 31.301—31.309 to read as set forth in Annex A.)

Fiscal Note: 39-NOT-11. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT

Subpart D. HOUSING FINANCE AGENCY

CHAPTER 31. HOUSING FINANCE AGENCY

Subchapter C. POLICY STATEMENT ON HOME ENERGY EFFICIENCY LOAN PROGRAM (R & R Energy)

| | |
|---------|---------------------------------|
| Sec. | |
| 31.301. | Definitions. |
| 31.302. | Eligible loan uses. |
| 31.303. | Loan terms and conditions. |
| 31.304. | Borrower eligibility. |
| 31.305. | Borrower application process. |
| 31.306. | Contractor eligibility. |
| 31.307. | Contractor application process. |
| 31.308. | Contractor approval. |
| 31.309. | Other program requirements. |

§ 31.301. Definitions.

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

Act—The Alternative Energy Investment Act, Act 1, Special Session No. 1 (2007-2008).

Agency—The Pennsylvania Housing Finance Agency.

Approved contractor—A contractor approved by the Agency to participate in the R & R Energy Program.

Borrower—A homeowner or homebuyer who obtains or is seeking to obtain financing under the R & R Energy Program.

Contractor—A person who owns or operates an energy efficiency service-related or home improvement contracting business or who undertakes, offers to undertake or agrees to perform any work under the R & R Energy Program.

LPA—Local program administrator—

(i) A local housing organization, municipality or lender who originates loans on behalf of the Agency under this Program and also acts as the construction manager.

(ii) The term includes but is not limited to, the following:

- (A) County housing authorities (HA).
- (B) Housing and redevelopment authorities (HRA and RDA).
- (C) Community action agencies (CAA).
- (D) Community development corporations (CDC).
- (E) Housing development corporations (HDC).
- (F) Municipalities.
- (G) Lenders.
- (H) Other nonprofit organizations with related housing experience.

R & R Energy Program—The Keystone Renovate Repair Program.

§ 31.302. Eligible loan uses.

The proceeds of the R&R Energy loan are to be used only to finance the purchase and installation of any of the following:

- (1) Air sealing, insulation and duct work.
- (2) Energy efficient windows and doors.
- (3) Repair or replacement of energy efficient heating or cooling systems such as the purchase of furnaces, boilers, ceiling fans, central air conditioners or hot water heaters with the Energy Star® label, programmable thermostats, geothermal heating systems, and the like.
- (4) Roofing repair, replacement or improvements.

§ 31.303. Loan terms and conditions.

- (a) Loans must be fully amortized over a period of up to 10 years.
- (b) The maximum loan amount is \$10,000. The minimum loan amount is \$1,000.
- (c) The interest rate is set by the Agency and will be updated and published on the Agency's web site (www.phfa.org).
- (d) The mortgage for the R&R Energy loan is recorded as a lien against the property.
- (e) All property owners shall sign the mortgage.
- (f) Each note shall be executed by the homeowners responsible for the debt.
- (g) In accordance with the provisions of the note, loans must be paid in full upon the sale or transfer of any borrower's interest in the property, but not earlier than 6 months from loan closing.
- (h) Loans may not be assumed by third parties.

(i) There are no penalties in the event of an early payoff.

(j) Borrowers will be charged a satisfaction recording fee, when they pay off their R & R Energy loan.

(k) The mortgage and note shall be executed on the forms provided or approved by the Agency.

§ 31.304. Borrower eligibility.

(a) The borrower must reside in the subject home as a primary, principal residence or have the intent to if purchasing the subject property.

(b) The total combined household adjusted gross income, as determined by the most current Federal tax returns of all adult household members, may not exceed 150% of the greater of the current Statewide or area median income as established by the United States Department of Housing and Urban Development (HUD) for the county in which the home is located. (Information regarding HUD income limits applicable to the R&R Energy Program is available at the Agency's web site at www.phfa.org.) An adult is defined as any person 18 years of age or older who resides in the home as a principal residence and who is not a full-time (12 credits or more) undergraduate student.

(c) Borrowers shall also meet general mortgage underwriting guidelines as established by the Agency with regard to their credit and employment history, debt to income ratio, assets, and the like.

(d) Borrowers may need to pay for or finance certain costs and fees in connection with obtaining an R & R Energy Loan. These will be disclosed in accordance with State and Federal requirements.

§ 31.305. Borrower application process.

(a) An individual may submit an application to the Agency or to an LPA acting on the Agency's behalf on the form required by the Agency which includes:

- (1) The borrower's name and address
- (2) The identity of the approved contractor who will complete the energy efficiency project.
- (3) A description of the energy efficiency project and estimate of cost.
- (4) The amount of the loan sought.
- (5) A statement authorizing the Agency to conduct a credit history check.
- (6) Other information required by the Agency.

(b) The Agency or its LPA will review the application to determine if the following requirements are met:

- (1) The project is eligible for financing under this program.
- (2) The borrower is eligible to receive a loan under this program.
- (3) The value of the proposed collateral and the financial resources of the borrower are sufficient to repay the loan.
- (4) The statement of the estimated cost of the project is accurate and reasonable.
- (5) The borrower complied with all other criteria as established by the Agency.
- (6) The work will be performed by an approved contractor.

(c) Once the application is deemed complete, the Agency or its LPA may approve it. The Agency will have complete discretion in determining whether a proposed energy efficiency project is eligible for a loan.

§ 31.306. Contractor eligibility.

A contractor who undertakes, offers to undertake or agrees to perform any work under the R & R Energy Program shall be approved by the Agency and listed on the R & R Energy Program Approved Contractor List posted on the Agency's web site. Contractors may apply for approval through the Agency directly or through an approved LPA, who will then forward the information to the Agency for inclusion in the Approved Contractor Listing.

§ 31.307. Contractor application process.

A contractor may apply to become an approved contractor by filing an application with the Agency using the required form, which includes or demonstrates the following information:

(1) For an individual contractor, the name, home address and telephone number, driver's license identification number or that of an identification card issued by the Department of Transportation, as well as the individual's business name, address and phone number and all prior business names and addresses of home improvement businesses.

(2) For a contractor consisting of a business partnership, the name, home address and telephone number, and driver's license identification number of each partner as well as the partnership name, address and telephone number.

(3) For a contractor consisting of a corporation, limited liability company or limited partnership, the name, home address and telephone number, and driver's license identification number of each officer, director or individual holding greater than a 5% stake in the business, as well as the entity's business name, address and telephone number.

(4) For an out-of-State corporation, limited liability company or limited partnership, the name and address of the entity's resident agent or registered office provider within this Commonwealth and any registration number or license number issued to the entity by its home state or political subdivision of the other state, if applicable.

(5) For a joint venture applicant, the name, address and telephone number of the joint venture, as well as the name, address and telephone number of each party to the joint venture. If the parties include business entities, the information required from the entities shall also be provided.

(6) A complete description of the nature of the contracting business of the contractor, including a statement defining the service area of the business, any specialized work the contractor is qualified for and years of operation.

(7) A statement whether any of the following apply:

(i) The individuals applying, even if doing so as part of a business entity application, have ever been convicted of a criminal offense related to a home improvement transaction, fraud, theft, a crime of deception or a crime involving fraudulent business practices.

(ii) The applicant has ever filed a petition in bankruptcy or, within the last 10 years, received a final civil judgment entered against the applicant or businesses in which the applicant held an interest that was related to a home improvement transaction.

(iii) The contractor's certificate or the certificate of a business with which the person applying held an interest has ever been revoked or suspended under an order issued by a court of competent jurisdiction in this Commonwealth or any other state or political subdivision thereof and, if so, the current status of the certificate.

(iv) The contractor is not current in all applicable Federal, State and local tax filings.

(8) Whether within the last 10 years the contractor has been suspended or debarred from participating in any Federal, State or local program through which public funding or other assistance is provided to consumers for home improvements.

(9) Proof of liability insurance covering personal injury and covering property damage in amounts and with carriers acceptable to the Agency.

§ 31.308. Contractor approval.

Upon being satisfied that all requirements have been met, the Agency may approve the contractor's application. The Agency will not approve a contractor's application if any of the following conditions exist:

(1) The individuals applying, even if doing so as part of a business entity, have been convicted of a criminal offense related to a home improvement transaction, fraud, theft, a crime of deception or a crime involving fraudulent business practices.

(2) The contractor has been suspended or debarred from participating in any Federal, State or local program through which public funding or other assistance is provided to consumers for home improvements.

§ 31.309. Other program requirements.

Additional processing and application requirements will be applicable to this Program and the Agency reserves the right to provide additional guidance to borrowers, contractors and Program LPAs on its web site from time to time. The Agency may also implement additional program criteria such as the allowance of pre- and postconstruction/installation energy audits to quantify energy savings as a result of the energy efficiency contracting work performed through the Program.

[Pa.B. Doc. No. 08-1803. Filed for public inspection October 3, 2008, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending September 23, 2008.

Under section 503.E of the Department of Banking Code (71 P. S. § 733-503.E), any person wishing to comment on the following applications, with the exception of branch applications and any application filed prior to August 7, 2008, may file their comments in writing with the Department of Banking, Corporate Applications Division, 17 North Second Street, Suite 1300, Harrisburg, PA 17101-2290. Comments must be received no later than 30 days from the date notice of the application is published in the *Pennsylvania Bulletin*. The nonconfidential portions of the applications are on file at the Department and are available for public inspection during regular business hours. Photocopies of the nonconfidential portions of the applications may be requested consistent with the Department's Right-to-Know Law Records Request policy.

BANKING INSTITUTIONS

Consolidations, Mergers and Absorptions

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|--|-----------------|---------------|
| 6-5-2008 | Susquehanna Bank PA, Lititz, Susquehanna Bank DV, Bryn Mawr, and Susquehanna Bank, Hagerstown, MD Surviving Institution: Susquehanna Bank PA, Lititz | Lititz | Amended |
| | Application amended to include the related merger of EB Corp., Wilmington, DE (a nonbank subsidiary of Susquehanna Bank DV, Bryn Mawr) with and into Susquehanna Bank DV, Bryn Mawr. | | |

Branch Applications

De Novo Branches

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|---|---|---------------|
| 9-2-2008 | Penn Liberty Bank Wayne Delaware County | 1 West Lancaster Avenue Paoli Chester County | Opened |
| 8-10-2008 | Penn Liberty Bank Wayne Delaware County | 543 North Lewis Road Limerick Montgomery County | Opened |
| 9-18-2008 | Luzerne Bank Luzerne Luzerne County | Routes 118 and 415 Dallas Luzerne County | Approved |
| 9-19-2008 | Northwest Savings Bank Warren Warren County | 1127 Zion Road Bellefonte Centre County | Filed |

Branch Discontinuances

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|---|--|---------------|
| 9-12-2008 | VIST Bank Wyomissing Berks County | 100 Gibraltar Road Horsham Montgomery County | Closed |

Articles of Amendment

| <i>Date</i> | <i>Name of Bank</i> | <i>Purpose</i> | <i>Action</i> |
|-------------|--|--|---------------|
| 9-17-2008 | First Columbia Bank & Trust Co. Bloomsburg Columbia County | Amendment to Article II of the Articles of Incorporation changes the principal place of business of the institution | Filed |

From: 11 West Main Street
Bloomsburg, PA 17815

| <i>Date</i> | <i>Name of Bank</i> | <i>Purpose</i> | <i>Action</i> |
|-------------|--|---|------------------------------|
| 9-22-2008 | North Penn Bank Scranton Lackawanna County | <i>To:</i> 232 East Street Bloomsburg, PA 17815 Columbia County Amendment to Article VII of the Articles of Incorporation changes the authorized number of directors <i>From:</i> not fewer than seven nor more than 20 <i>To:</i> not fewer than five nor more than 20. | Approved and Effective |

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

The Department's web site at www.banking.state.pa.us includes public notices for more recently filed applications.

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 08-1804. Filed for public inspection October 3, 2008, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Snowmobile and ATV Advisory Committee Meeting

The Snowmobile and ATV Advisory Committee of the Department of Conservation and Natural Resources (Department) meeting is scheduled for Thursday, October 16, 2008, at 9 a.m. in Room 105, Rachel Carson State Office Building, Harrisburg, PA.

Questions concerning this meeting or agenda items can be directed to John Quigley at (717) 787-9632.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact John Quigley at (717) 787-9632 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

MICHAEL DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 08-1805. Filed for public inspection October 3, 2008, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

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

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

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

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

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

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

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

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

I. NPDES Renewal Applications

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

| <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> |
|-----------------------------|---|--|--------------------------------------|-----------------------------|
| PA0247162 (IW) | PA American Water—West Shore Regional Water System 825 Wesley Drive Mechanicsburg, PA 17055-4475 | York County Fairview Township | 7-E UNT Yellow Breeches | Y |
| PA0080039 (SEW) | Carroll Valley Sewer and Water Authority 5685 Fairfield Road Carroll Valley, PA 17320 | Adams County Carroll Valley Borough | 13-D Tom's Creek | 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> |
|-----------------------------|---|--|--------------------------------------|-----------------------------|
| PA0113298 SP | Elkland Borough Authority 105 Parkhurst Street Elkland, PA 16920 | Tioga County Elkland Borough | Cowanesque River 4A | Y |
| PA0032824 Sewerage | Department of Transportation Bureau of Design P. O. Box 3060 Harrisburg, PA 17105-3060 | Mifflin Township Columbia County | UNT Nescopeck Creek 5D | Y |
| PA0111937 Sewerage | Patriot Treatment Plant, Inc. 6009 Columbia Boulevard Bloomsburg, PA 17815 | South Centre Township Columbia County | Campbells Run 5D | Y |

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|-----------------------------|---|--|--------------------------------------|-----------------------------|
| PA0021733 | Borough of Watsontown 4th and Main Streets Watsontown, PA 17777 | Northumberland County Watsontown Borough | West Branch Susquehanna River | Y |

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|-----------------------------|---|--------------------------------------|--------------------------------------|-----------------------------|
| PA0221520 | Highland Township Municipal Authority James City Sewage Treatment Plant P. O. Box 143 James City, PA 16734 | Highland Township Elk County | UNT to Wolf Run 16-F | Y |

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

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

PA0055263, Sewage, **Executive Center Condominium Association c/o B.C. Property Management, Inc.**, 350 South Main Street, Suite 211, Doylestown, PA 18901. This facility is located in Plumstead Township, **Bucks County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge treated sewage from a facility located at 5045 Swamp Road, Fountainville, PA, to a UNT to North Branch Neshaminy Creek.

The receiving stream, UNT 02849 to North Branch Neshaminy Creek, is in the State Water Plan Watershed 2F and is classified for: WWF. The nearest downstream public water supply intake for North Penn and North Wales Water Authorities is located on the North Branch Neshaminy Creek.

The proposed effluent limits for Outfall 001 are based on a design flow of 1,000-gpd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | |
|-------------------------|---|--------------------------|----------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | | | |
| (5-1 to 10-31) | 10 | | 20 |
| (11-1 to 4-30) | 20 | | 40 |
| Total Suspended Solids | 10 | | 20 |
| Ammonia as N | | | |
| (5-1 to 10-31) | 3.0 | | 6.0 |
| (5-1 to 10-31) | 9.0 | | 18 |
| Total Phosphorus as P | Monitor and Report | | |
| Dissolved Oxygen | A minimum of 2.0 at all times | | |
| Fecal Coliform | 200 #/100 ml as a Geometric Mean | | |
| pH (Standard Units) | Within limits of 6.0 to 9.0 Standard Units at all times | | |
| Total Residual Chlorine | 1.2 | | 2.5 |

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

1. Abandon STP.
2. Remedial Measures if Public Nuisance.
3. No Stormwater.
4. Necessary Property Rights.
5. Dry Stream Discharge.
6. Change in Ownership.
7. Minimize Chlorine Usage.
8. Proper Sludge Disposal.
9. Laboratory Certification.

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

Application No. PAS 213506, Industrial Waste, SIC Code 3272, **Eldorado Stone, LLC**, 9156 Molly Pitcher Highway, Greencastle, PA 17225. This facility is located in Antrim Township, **Franklin County**.

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

The receiving stream, Muddy Run, is in Watershed 13-C, and classified for HQ-CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Hagerstown, MD located on the Potomac River. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 are:

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | |
|------------------------|------------------------------|--|
| | <i>Instantaneous Maximum</i> | |
| CBOD ₅ | Monitor and Report | |
| COD | Monitor and Report | |
| Oil and Grease | Monitor and Report | |
| pH | Monitor and Report | |
| Total Iron | Monitor and Report | |
| Total Suspended Solids | Monitor and Report | |

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

- This facility may conduct an annual inspection in lieu of sampling.

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

The EPA waiver is in effect.

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

PA0111902, Industrial Waste, SIC 2023—Dry, Condensed and Evaporated Dairy Products, **Dietrich's Milk Products, LLC**, P. O. Box 102, Middlebury Center, PA 16935-0102. This proposed facility is located in Middlebury Township, **Tioga County**.

Description of Proposed Activity: The proposed action is for the renewal of an NPDES permit authorizing the discharge of treated sewage, industrial wastewater and stormwater.

The receiving stream, Catlin Hollow, is in the State Water Plan Watershed 04A and is classified for: TSF. The nearest downstream public water supply intake is the PA/NY Border and is 20 river miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.036 mgd.

| <i>Parameter</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|------------------|---|----------------------|-----------------------------|----------------------|-----------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum mg/l</i> |
| pH | Within the range of 6.0 to 9.0 at all times | | | | |
| BOD ₅ | | | 20 | 40 | 50 |
| Temperature | The discharge shall not increase the temperature of the receiving stream by more than 2° F in any 1 hour period | | | | |

The proposed effluent limits for Outfall 002 are based on a design flow of 0.115 mgd.

| <i>Parameter</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|-------------------------|---|----------------------|--|----------------------|-----------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum mg/l</i> |
| pH | Within the range of 6.0 to 9.0 at all times | | | | |
| BOD ₅ | | | | | |
| (5-1 to 10-31) | 62.6 | 125 | 50 | 100 | 125 |
| (11-1 to 4-30) | 83 | 191 | 94 | 216 | 235 |
| TSS | 125 | 275 | 110 | 220 | 275 |
| NH ₃ -N | | | | | |
| (5-1 to 10-31) | 6.9 | 13.8 | 5.5 | 11 | 13 |
| (11-1 to 4-30) | 16.3 | 32.5 | 13 | 26 | 32 |
| Fecal Coliforms | | | | | |
| (5-1 to 9-30) | | | 200 colonies/100 ml Geometric Mean and not greater than 1,000 colonies/100 ml in more than 10% of the samples tested | | |
| (10-1 to 4-30) | | | 2,000 colonies/100 ml Geometric Mean | | |
| Total Phosphorus | 12.5 | 25 | 10 | 20 | 25 |
| Total Residual Chlorine | | | 1.0 | | 3.3 |

The EPA waiver is in effect.

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

PA0002941-A1, Industrial Waste, SIC 4911, **Allegheny Energy Supply Company, LLC**, 800 Cabin Hill Drive, Greensburg, PA 15601. This application is for amendment of an NPDES permit to discharge treated process water, stormwater, leachate, untreated cooling water and stormwater from Hatfield's Ferry Power Station in Monongahela Township, **Greene County**.

The following effluent limitations are proposed for discharge to the receiving waters, of Monongahela River (Outfalls 006, 007, 014, 015, 021 and 022), UNT Little Whiteley Creek (Outfalls 016 and 017), and a UNT Monongahela River (Outfalls 018—020) all classified as a WWF with existing and/or potential uses for aquatic life, water supply and

recreation. The first existing/proposed downstream potable water supply is Carmichael Municipal Water Authority, located in Carmichael, PA, 3.5 miles below the discharge point.

Internal Outfall 206: new discharge, proposed flow of 1.21 mgd.

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | Instantaneous Maximum |
|----------------|--|---------------|----------------------|--------------------|-----------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | |
| Flow | Monitor and Report | | | | |
| TSS | | | 30 | 100 | |
| Oil and Grease | | | 15 | 20 | |
| Cadmium | | | | Monitor and Report | |
| Mercury | | | | Monitor and Report | |
| Selenium | | | | Monitor and Report | |
| Thallium | | | | Monitor and Report | |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

Internal Outfall 306: new discharge, design flow of 0.475 mgd.

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | Instantaneous Maximum |
|-----------------|--|---------------|----------------------|--------------------|-----------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | |
| Flow (mgd) | Monitor and Report | | | | |
| TSS | | | 30 | 100 | |
| Oil and Grease | | | 15 | 20 | |
| Aluminum | | | | Monitor and Report | |
| Arsenic | | | | Monitor and Report | |
| Beryllium | | | 0.005 | 0.01 | |
| Boron | | | | Monitor and Report | |
| Cadmium | | | | Monitor and Report | |
| Chromium III | | | | Monitor and Report | |
| Chlorides | | | | Monitor and Report | |
| Copper | | | 0.1 | 0.2 | |
| Iron, total | | | | Monitor and Report | |
| Iron, dissolved | | | | Monitor and Report | |
| Lead | | | 0.1 | 0.2 | |
| Manganese | | | | Monitor and Report | |
| Mercury | | | 0.005 | 0.01 | |
| Nickel | | | | Monitor and Report | |
| Selenium | | | 2.0 | 4.0 | |
| Silver | | | 0.05 | 0.1 | |
| Thallium | | | | Monitor and Report | |
| Zinc | | | | Monitor and Report | |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

Outfall 006: existing discharge, interim limits, existing flow of 3.21 mgd.

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | Instantaneous Maximum |
|----------------|--|---------------|----------------------|--------------------|-----------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | |
| Flow (mgd) | Monitor and Report | | | | |
| TSS | | | 30 | 100 | |
| Oil and Grease | | | 15 | 20 | 30 |
| Cadmium | | | | Monitor and Report | |
| Mercury | | | | Monitor and Report | |
| Selenium | | | | Monitor and Report | |
| Thallium | | | | Monitor and Report | |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

Outfall 006: existing discharge, final limits, proposed flow 1.68 mgd.

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | Instantaneous Maximum |
|------------|--------------------|---------------|----------------------|---------------|-----------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | |
| Flow (mgd) | Monitor and Report | | | | |
| TSS | | | 30 | 100 | |

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | |
|----------------|--|---------------|----------------------|---------------|-----------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | Instantaneous Maximum |
| Oil and Grease | | | 15 | 20 | 30 |
| Cadmium | | | 0.01 | 0.02 | |
| Mercury | | | 0.002 | 0.004 | |
| Selenium | | | 0.2 | 0.4 | |
| Thallium | | | 0.066 | 0.132 | |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

Outfall 007: existing discharge, interim limits, average flow of 0.1266 mgd and maximum daily flow of 0.576 mgd.

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | |
|------------|--|---------------|----------------------|---------------|-----------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | Instantaneous Maximum |
| Flow (mgd) | Monitor and Report | | | | |
| TSS | | | 30 | 100 | |
| Aluminum | | | 0.6 | 1.2 | |
| Iron | | | 1.8 | 3.6 | |
| Thallium | | | 0.0021 | 0.0042 | |
| Manganese | | | 1.2 | 2.4 | |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

Outfall 007: existing discharge, Final limits, average flow of 0.1266 mgd and maximum daily flow of 0.576 mgd.

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | |
|------------|--|---------------|----------------------|---------------|-----------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | Instantaneous Maximum |
| Flow (mgd) | Monitor and Report | | | | |
| TSS | | | 30 | 100 | |
| Aluminum | | | 0.6 | 1.2 | |
| Iron | | | 1.8 | 3.6 | |
| Thallium | | | 0.0021 | 0.0042 | |
| Manganese | | | 1.2 | 2.4 | |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

Internal Outfall 114: new discharge, average flow of 0.164 mgd and maximum daily flow of 0.379 mgd.

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | |
|------------|--|---------------|----------------------|---------------|-----------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | Instantaneous Maximum |
| Flow (mgd) | Monitor and Report | | | | |
| TSS | | | 30 | 60 | |
| Iron | | | Monitor and Report | | |
| Aluminum | | | Monitor and Report | | |
| Manganese | | | Monitor and Report | | |
| Boron | | | Monitor and Report | | |
| Selenium | | | Monitor and Report | | |
| Thallium | | | Monitor and Report | | |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

Internal Outfall 214: new discharge, flow of 0.001 mgd.

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | |
|------------|--|---------------|----------------------|---------------|-----------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | Instantaneous Maximum |
| Flow (mgd) | Monitor and Report | | | | |
| TSS | | | Monitor and Report | | |
| Iron | | | Monitor and Report | | |
| Aluminum | | | Monitor and Report | | |
| Manganese | | | Monitor and Report | | |
| Boron | | | Monitor and Report | | |
| Selenium | | | Monitor and Report | | |
| Thallium | | | Monitor and Report | | |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

Internal Outfall 314: new discharge, varied flow.

| <i>Parameter</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|------------------|--|----------------------|-----------------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow (mgd) | Monitor and Report | | | | |
| TSS | | | 30 | 60 | |
| Oil and Grease | | | Monitor and Report | | |
| Iron | | | Monitor and Report | | |
| Aluminum | | | Monitor and Report | | |
| Manganese | | | Monitor and Report | | |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

Internal Outfall 414: new discharge, varied flow.

| <i>Parameter</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|------------------|--|----------------------|-----------------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow (mgd) | Monitor and Report | | | | |
| TSS | | | 30 | 60 | |
| Oil and Grease | | | Monitor and Report | | |
| Iron | | | Monitor and Report | | |
| Aluminum | | | Monitor and Report | | |
| Manganese | | | Monitor and Report | | |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

Outfall 014: new discharge, average flow of 0.164 mgd and maximum daily flow of 27.82 mgd.

| <i>Parameter</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|------------------|--|----------------------|-----------------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow (mgd) | Monitor and Report | | | | |
| TSS | | | 30 | 60 | |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

Outfall 015: new discharge, varied flow.

| <i>Parameter</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|------------------|--|----------------------|-----------------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow (mgd) | Monitor and Report | | | | |
| TSS | | | 30 | 60 | |
| Iron | | | Monitor and Report | | |
| Aluminum | | | Monitor and Report | | |
| Manganese | | | Monitor and Report | | |
| Boron | | | Monitor and Report | | |
| Selenium | | | Monitor and Report | | |
| Thallium | | | Monitor and Report | | |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

Outfalls 016—020: varied flow.

| <i>Parameter</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|--|------------------------|----------------------|-----------------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| These discharges shall consist solely of uncontaminated stormwater runoff. | | | | | |

Outfall 021: new discharge, varied flow.

| <i>Parameter</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|------------------|--|----------------------|-----------------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow (mgd) | Monitor and Report | | | | |
| TSS | | | 30 | 60 | |
| Oil and Grease | | | Monitor and Report | | |
| Iron | | | Monitor and Report | | |
| Aluminum | | | Monitor and Report | | |
| Manganese | | | Monitor and Report | | |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

Outfall 022: new discharge, varied flow.

| Parameter | Mass (lb/day) | | Concentration (mg/l) | | |
|----------------|--|---------------|----------------------|---------------|-----------------------|
| | Average Monthly | Maximum Daily | Average Monthly | Maximum Daily | Instantaneous Maximum |
| Flow (mgd) | Monitor and Report | | | | |
| TSS | | | 30 | 60 | |
| Oil and Grease | | | Monitor and Report | | |
| Iron | | | Monitor and Report | | |
| Aluminum | | | Monitor and Report | | |
| Manganese | | | Monitor and Report | | |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

Internal Outfall 106 has been deleted from the permit.

The EPA waiver is not in effect.

PA0253693, Sewage, **East Conemaugh Borough**, 355 First Street, East Conemaugh Borough, PA 15909. This application is for issuance of an NPDES permit to discharge combined sewage from a combined sewer outfall in East Conemaugh Borough, **Cambria County**.

The Railroad Street outfall serves as a combined sewer overflow which may discharge to a UNT of the Little Conemaugh River receiving water. Discharges from this outfall are necessitated by stormwater entering the sewer system and exceeding the hydraulic capacity of the sewers and/or the treatment plant and are permitted to discharge only for such reason. At this time, there are no specific numeric effluent limitations on the outfall's discharges. Each discharge shall be monitored for cause, frequency, duration and quantity of flow.

Other Conditions: In accordance with a Consent Order and Agreement entered into by East Conemaugh Borough and the Department of Environmental Protection (Department), East Conemaugh Borough has notified the Department that its plan for the long-term management of its combined sewer overflow discharges is to construct a new sanitary-only collector sewer system, exclude all wet weather flow related inflow sources from the new collector sewer system and property lateral sewer system and cease all wet weather related sanitary sewage discharges upon completion of the sewer separation proposal. The existing sewer collection system will be converted to a strictly stormwater-only conveyance system. A task identification and implementation schedule and post-construction compliance monitoring requirement is included in the permit with LTCP completion required within 3 years following permit effective date.

The EPA waiver is in effect.

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

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

WQM Permit No. 0184401, Amendment 08-1, Sewerage, **White Run Regional Municipal Authority**, 2001 Baltimore Pike, Gettysburg, PA 17325-7015. This proposed facility is located in Mount Joy and Straban Townships, **Adams County**.

Description of Proposed Action/Activity: Construction/Operation of a new wastewater pumping station and about 3,200 feet of 8-inch gravity sewer from the existing pressure wash system and 1,200 feet of 4-inch force main to tie back into Authority's low-pressure sewers, the Northwest Sewer Improvement Project.

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

WQM Permit No. 1099406, Sewerage, Amendment No. 1, **Western Butler County Authority**, P. O. Box 427, 607 Market Street, Zelenople, PA 16063. This proposed facility is located in Zelenople Borough, **Butler County**.

Description of Proposed Action/Activity: The Aeration Tank Conversion Project will include the demolition and removal of the existing turbine and sparge ring aerator from each of the three aeration tanks; and, the installation of a new fine bubble membrane disk diffuser system in each aeration tank.

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

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

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

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

| NPDES Permit No. | Applicant Name & Address | County | Municipality | Receiving Water/Use |
|------------------|---|---------|-----------------------------|--|
| PAI01 1508060 | Herbert and Helen Mosteller P. O. Box 69 Brandamore, PA 19316 | Chester | West Brandywine Township | West Branch Brandywine Creek HQ-TSF-MF |

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

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

| NPDES Permit No. | Applicant Name & Address | County | Municipality | Receiving Water/Use |
|------------------|---|--------|------------------------------------|------------------------------|
| PAI041408010 | Mr. and Mrs. Conrad Weiser Weiser Subdivision P. O. Box 130 Julian, PA 16844 | Centre | Huston Township Patton Township | UNT to Buffalo Run HQ-CWF |

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

Jefferson County Conservation District: 1514 Route 28, Brookville, PA 15825, (814) 849-7463.

| NPDES Permit No. | Applicant Name & Address | County | Municipality | Receiving Water/Use |
|------------------|---|-----------|---------------------|--|
| PAI063308003 | Brookside Assisted Living Steve A. Mazzaferro 49 Brookside Lane Brookville, PA 15825 | Jefferson | Pine Creek Township | UNT North Fork Redbank Redbank Creek HQ-CWF |

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

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

STATE CONSERVATION COMMISSION

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

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

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

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

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

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

NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET—APPLICATIONS

| Agricultural Operation Name and Address | County | Total Acres | Animal Equivalent Units | Animal Types | Special Protection Waters (HQ or EV or NA) | Renewal/New |
|--|--------|---|-------------------------|------------------------|--|-------------|
| Pat Shea 3304 Mountain Road Hamburg, PA 19526 | Berks | 160.4 19.5 Nutrient Management Acres | 1,406 | Layers/ Beef/Cattle | N/A | Renewal |
| Shadewood Farms Hershey Ag 123 Acker Road Newport, PA 17074 | Perry | 149 | 967.5 | Swine | None | Renewal |

| <i>Agricultural Operation Name and Address</i> | <i>County</i> | <i>Total Acres</i> | <i>Animal Equivalent Units</i> | <i>Animal Types</i> | <i>Special Protection Waters (HQ or EV or NA)</i> | <i>Renewal/New</i> |
|---|---------------|--------------------|--------------------------------|---------------------|---|--------------------|
| Lesher's Poultry 1153 Swamp Fox Road Chambersburg, PA 17202 | Franklin | 2,024.4 | 1,044.4 | Poultry | N/A | Renewal |

PUBLIC WATER SUPPLY (PWS) PERMIT

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

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

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

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

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

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Application No. 0908508, Public Water Supply.
Applicant **Richlandtown Borough**
Borough Richlandtown
County **Bucks**
Responsible Official John Wassmer
Richlandtown Borough
125 South Main Street
P. O. Box 455
Richlandtown, PA 18955

Type of Facility PWS
Consulting Engineer Castle Valley Consultant, Inc.
10 Beulah Road
New Britain, PA 18901
Application Received Date September 2, 2008
Description of Action Installation of arsenic removal systems at the existing Well Nos. 1 and 3.

Application No. 0908509, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**
Borough Bristol
County **Bucks**
Responsible Official Marc A. Lucca
762 West Lancaster Avenue
Bryn Mawr, PA 19010

Type of Facility PWS
Consulting Engineer CET Engineering Services
1240 North Mountain Road
Harrisburg, PA 17112

Application Received Date June 17, 2008
Description of Action Additions to the existing sedimentation residuals handling facility.

Application No. 0908507, Public Water Supply.

Applicant **Buckingham Township**
Township Buckingham
County **Bucks**
Responsible Official Gramham Orton
P. O. Box 413
Buckingham, PA 18912

Type of Facility PWS
Consulting Engineer Castle Valley Consultants, Inc.
10 Beulah Road
New Britain, PA 18901

Application Received Date August 18, 2008
Description of Action Well No. F-9 with filtration and disinfection.

Application No. 2308504, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**
Township Middletown Township
County **Delaware**
Responsible Official David Hughes
762 West Lancaster Avenue
Bryn Mawr, PA 19010-3489

Type of Facility PWS
 Consulting Engineer CET Engineering Services
 1240 North Mountain Road
 Harrisburg, PA 17112-1788

Application Received Date August 29, 2008
 Description of Action Upgrade filters 1—8 at the
 Ridley Creek Water
 Treatment Plant.

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

Permit No. 4871-A9, Public Water Supply.

Applicant **Municipal Authority of the
 Borough of Derry**
 620 Chestnut Street
 Derry, PA 15627

Township or Borough Derry Borough
 Responsible Official Richard Thomas
 Manager
 Municipal Authority of the
 Borough of Derry
 620 Chestnut Street
 Derry, PA 15627

Type of Facility Water treatment plant
 Consulting Engineer Gibson-Thomas Engineering
 Co., Inc.
 1004 Ligonier Street
 P. O. Box 853
 Latrobe, PA 15650

Application Received Date August 14, 2008
 Description of Action Replacement of the existing
 single pump at the Mowry
 Way pump station with a new
 three pump below grade pump
 station.

MINOR AMENDMENT

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

Application No. 0208514MA, Minor Amendment.

Applicant **Hampton Township
 Municipal Authority**
 P. O. Box 66
 3101 McCully Road
 Allison Park, PA 15101

Township or Borough West Deer Township
 Responsible Official Samuel Scarfone
 General Manager
 Hampton Township Municipal
 Authority
 P. O. Box 66
 3101 McCully Road
 Allison Park, PA 15101

Type of Facility Water treatment plant
 Nichols and Slagle
 Engineering, Inc.
 333 Rouser Road
 Airport Office Park
 Building 4
 Suite 600
 Moon Township, PA 15108

Application Received Date September 10, 2008
 Description of Action Construction of approximately
 30,000 LF of water main in
 West Deer Township.

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

Application No. 2493501-MA5, Minor Amendment.

Applicant **Jay Township Water
 Authority**

Township or Borough Jay Township
 Elk County

Responsible Official Nadine Pirazzi
 Chairperson
 Jay Township Water Authority
 49 Kennedy Street
 Byrnedale, PA 15827

Type of Facility Public Water System
 Application Received Date September 9, 2008
 Description of Action Painting interior and exterior
 of Byrnedale water storage
 tank.

Application No. 8303W-MA7, Minor Amendment.

Applicant **Sharpsville Borough**

Township or Borough Sharpsville Borough
 Mercer County

Responsible Official Michael G. Wilson
 Borough Manager
 Sharpsville Borough
 1 South Walnut Street
 Sharpsville, PA 16150-1258

Type of Facility Public Water System
 Application Received Date September 16, 2008
 Description of Action Interconnection with Aqua PA
 Shenango Valley Division.

**LAND RECYCLING AND
 ENVIRONMENTAL REMEDIATION**

UNDER ACT 2, 1995

PREAMBLE 1

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

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

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

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

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

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

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

Bealer Property, Upper Pottsgrove Township, **Montgomery County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 on behalf of Robert and Hanna Bealer, 1930 Coventryville Road, Pottstown, PA 19465 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by the release of lead. The site is presently vacant and is proposed for residential development. A summary of the Notice of Intent to Remediate was reported to have been published in *The Mercury* on August 27, 2008.

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

Former Mobil York Terminal/Goodling Bulk Plant, North York Borough, **York County**. Groundwater & Environmental Services, Inc., 440 Creamery Way, Suite 500, Exton, PA 19341, on behalf of ExxonMobil Oil Corporation, Room CCM 09E, 1545 Route 22 East, Annandale, NJ 08801 and Rotz Development, LLC, 907 Roosevelt Avenue, York, PA 17404, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with petroleum hydrocarbons. The site, which will be remediated to a combination of Statewide Health and Site-Specific Standards, will continue to be used as an office and mental health facility.

Former SKF USA Inc. Facility, City of Altoona, **Blair County**. Environmental Standards, 1140 Valley Forge Road, Valley Forge, PA 19482 on behalf of C. William McGlocklin, SKF USA, Inc., 1111 Adams Avenue, Norristown, PA 19403 and Maurice Lawruk, Sr., 800 Logan Boulevard, LP, P. O. Box 2566, Altoona, PA 16603, submitted a Notice of Intent to Remediate separate phase liquid (lubricating oil) on groundwater released during historic manufacturing processes. The site will be remediated to the Statewide Health Standard and will continue to be used for commercial use.

York Northwest Triangle, City of York, **York County**. ARM Group, Inc., P. O. Box 797, Hershey, PA 17033-0797, on behalf of City of York Redevelopment Authority, 49 East Market Street, York, PA 17401, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with heavy metals and petroleum. The site, which will be developed for residential, commercial and light industrial uses, will be remediated to a combination of the Statewide Health and Site-Specific Standards.

Betty Miller Residence, Millersburg Borough, **Dauphin County**. Chambers Environmental Group, Inc., 629 East Rolling Ridge Drive, Bellefonte, PA 16823, on behalf of Betty Miller, 279 Center Street, Millersburg, PA 17061, submitted a Notice of Intent to Remediate site soils contaminated with No. 2 fuel oil. This residential site will be remediated to a Statewide Health Standard.

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

Freemont Contract Carriers I-80 MM 212 Accident, Turbot Township, **Northumberland County**. Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17837 on behalf of Freemont Contract Carriers, Inc., 865 Bud Boulevard, Freemont, NE 68025 has submitted a Notice of Intent to Remediate soil contaminated with diesel fuel. The applicant proposes to remediate the site to meet the Statewide Health Standard. The site will remain an interstate highway.

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

GAF Materials Corp., City of Erie, **Erie County**. O'Brien & Gere, 512 East Township Line Road, Two Valley Square, Suite 120, Blue Bell, PA 19422 on behalf of GAF Materials Corporation, 1361 Alps Road, Wayne, NJ 07470 has submitted a Notice of Intent to Remediate. GAF Materials Corporation operated an approximate 11.7 acre site for the manufacture of asphalt roofing shingles. The primary regulated substances identified in soil are anthracene, benzo[a]anthracene, benzo[a]pyrene, benzo[b]fluoranthene, benzo[g,h,i]perylene, carbazole, chrysene, 4-methylphenol (p-cresol), naphthalene, 1,3,5-trimethylbenzene and benzene. The primary regulated substances identified in groundwater are benzo[a]anthracene, benzo[a]pyrene, benzo[g,h,i]perylene, 2,4-dichlorophenol, hexachlorobenzene, 4-methylphenol (p-cresol), naphthalene and benzene. Future use of the site is anticipated to be for nonresidential use.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

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

Permit Application No. 101432. Norristown Transfer Station, 310 Washington Street, Norristown, PA 19404, Norristown Borough, **Montgomery County.** This minor permit modification application is for developing a single stream recycling transfer point and an E-Depot at the facility. The application was received by the Southeast Regional Office on September 19, 2008.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

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

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

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

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

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121–143, the Federal Clean Air Act (act) and regulations adopted under the act.

PLAN APPROVALS

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

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

61-185F: Heath Oil Co. (SR 8, Barkeyville, PA 16038) for combustion of No. 5 fuel oil, in the heaters for Source 105 in Barkeyville Borough, **Venango County.** This is a State-only facility.

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

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Sachin Shankar, New Source Review Chief, (484) 250-5920.

46-0151: PPL Interstate Energy Co. (214 Shoemaker Road, Pottstown, PA 19464) for reactivation of a direct fire Residual Fuel Heater to raise the temperature of heavy oil in a pipeline to maintain it in a fluid state as it is transferred from the pumping station in Salford Township, **Montgomery County.** As a result of potential emissions of NO_x, the facility is a State-only facility. The Plan Approval and Operating Permit will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

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

48-399-058: Crayola, LLC (1100 Church Lane, P. O. Box 431, Easton, PA 18044-0431) for modification to their four existing south side crayon molding fabric collectors to exhaust outside at their facility in Forks Township, **Northampton County.** The facility is a non-Title V (State-only) facility and has been issued the State-only Operating Permit No. 48-00033. The PM emissions from each fabric collector will be less than the BAT standard of 0.02 grain/dscft. The Plan Approval and Operating Permit will include emission restrictions, monitoring, reporting, recordkeeping and work practice requirements designed to keep the sources operating within all applicable air quality requirements. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the State-only Operating Permit through an administrative amendment at a later date.

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

06-05024C: Reliant Energy Mid-Atlantic Power Holdings, LLC (121 Champion Way, Canonsburg, PA 15317) for installation of two test control devices on the three main boilers at the Titus Generating Station in Cumru Township, **Berks County**. The installation includes two adsorbent (trona and activated carbon) injection systems on each boiler for the control of sulfur trioxide and mercury. Each system will include a storage silo and various pneumatic conveying lines. The boilers are subject to the Department of Environmental Protection's (Department) mercury reduction regulations that become effective January 1, 2010. The plan approval will include monitoring, recordkeeping, work practices and reporting requirements designed to keep the source operating within all applicable air quality requirements. The station is presently covered by the Title V operating permit No. 06-05024. The parts of the plan approval, which Reliant and the Department determine are required to achieve the mercury reductions required by Chapter 123, will be incorporated into this permit in accordance with 25 Pa. Code § 127.450 (Administrative Amendment).

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

26-00402: Veolia ES Chestnut Valley Landfill, Inc. (Route No. 1, P. O. Box 266, McClellandtown, PA 15458) for expansion of their existing municipal solid waste landfill in German Township, **Fayette County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.45, the Department of Environmental Protection (Department) intends to issue a Plan Approval to allow the expansion of an existing municipal solid waste landfill in German Township, Fayette County.

Emissions from the facility are estimated to be 21.6 tons NO_x per year, 72.1 tons CO per year and 30.9 tons VOCs per year. The proposed facility is subject to the applicable requirements of 25 Pa. Code Chapter 127, related to construction, modification, reactivation and operation of sources, 40 CFR 60, Subpart WWW—Standards of Performance for Municipal Solid Waste Landfills, and 40 CFR 63, Subpart AAAA—National Emission Standards for HAPs: Municipal Solid Waste Landfills. The Department believes that the facility will meet these requirements by complying with the following Plan Approval conditions:

1. This Plan Approval authorizes an increase in the overall waste disposal design capacity, rearrangement of the usage of the existing enclosed and candle flares, installation of a heat exchanger on the exhaust from one of the candle flares, installation of a crusher with a diesel engine, and the installation of an emergency generator at the Veolia ES Chestnut Valley Landfill, Inc. municipal solid waste landfill facility located in German Township, Fayette County. (25 Pa. Code § 127.12b)

2. The amended design capacity of this facility is established at 4.6 million tons of municipal solid waste. This includes the waste deposited in the existing disposal areas, and the anticipated capacity of the proposed expansion area. Any increase in the design capacity above this level is subject to permitting by both Air Quality (AQ) and the Bureau of Waste Management (BWM). (25 Pa. Code § 127.12b)

3. In accordance with 40 CFR 60.752(b), this entire facility is subject to the applicable requirements of 40 CFR 60, Subpart WWW—Standards of Performance for Municipal Solid Waste Landfills.

4. In accordance with 40 CFR 63.1935(a)(3), this landfill is also subject to the applicable requirements of 40 CFR 63, Subpart AAAA—National Emission Standards for HAPs: Municipal Solid Waste Landfills. This subpart requires owner/operator to meet the startup, shutdown, and malfunction (SSM) requirements of the general provisions of this part and provides that compliance with the operating conditions shall be demonstrated by parameter monitoring results that are within the specified ranges. It also includes additional reporting requirements.

5. The landfill gas collection system consists of various vertical and horizontal collectors and gas extraction wells connected by a manifold system. All landfill gas shall be routed to the existing enclosed flare, rated at a nominal 2,400 CFM. Flare capacity shall be sufficient to handle the maximum expected gas flow rate. When flow rate to the existing enclosed flare reaches 80% of its design capacity, owner/operator shall make application to install an additional flare capacity. (Pa. Code 25 § 127.12b)

6. In accordance with 40 CFR 752(b)(2)(iii)(B), the enclosed flare shall be operated to either reduce NMOC emissions by 98 weight-percent, or reduce the outlet NMOC concentration to less than 20 parts per million by volume, dry basis as hexane at 3% oxygen.

7. The enclosed flare shall maintain a minimum operating temperature of 1,500° F, or the temperature at which the required destruction efficiency was demonstrated. A residence time at the required temperature must be maintained for at least 0.3 seconds. (25 Pa. Code § 127.12b)

8. The enclosed flare shall be operated with a flame present at all times. The flare shall be equipped with an automatic shutoff mechanism designed to immediately stop the flow of gases when a flameout occurs. During restart or startup, there shall be sufficient flow of auxiliary fuel to the burner such that unburned landfill gases are not emitted to the atmosphere. (25 Pa. Code § 127.12b)

9. The enclosed flare shall operate with no visible flame. (25 Pa. Code § 127.12b)

10. The enclosed flare shall be operated with no visible emissions except for periods not to exceed a total of 5 minutes during any 2-consecutive hours. (25 Pa. Code § 127.12b and 40 CFR 60.18(c)(1))

11. The owner/operator shall not permit the emission to the outdoor atmosphere from any source of any odorous air contaminants determined to be objectionable by the Department in such a manner that such odorous air contaminants are detectable outside the property on which the source is being operated. (25 Pa. Code § 127.12b)

12. The owner/operator shall comply with the fugitive emission standards adopted established at 25 Pa. Code §§ 123.1 and 123.2. There shall be no fugitive emissions except those that arise from the use of roads and stockpiling of materials. Reasonable actions shall be taken to prevent PM from aforementioned activities from becoming airborne. In no case shall fugitive emissions from the aforementioned activities cross the property line.

13. Performance Testing

(a) Stack testing shall be performed once every 5 years.

(b) All performance tests shall be conducted in accordance with the Department's source testing procedures described in the latest Source Testing Manual referenced in 25 Pa Code § 139.4(5) and 40 CFR 60.754(d).

(c) Owner/operator shall test the landfill gas heat value, the inlet NMOC and the outlet NO_x, CO and NMOC flow rates of the enclosed flare according to the schedule, to demonstrate compliance with the destruction efficiency and emission limits established herein. (25 Pa. Code § 127.12b)

(d) At least 60 days prior to the test, owner/operator shall submit to the Department two copies of the pre-test protocol. Drawings with dimensions indicating the location of sampling ports and other data to ensure the collection of representative samples shall be included.

(e) Owner/operator shall notify the Department of the date and the time of the stack test at least 2 weeks prior to the tests so that an observer may be present.

(f) Two copies of the performance test report shall be submitted to the Department within 60 days of testing of the enclosed flare.

(g) Owner/operator shall record all pertinent operating data during the stack test and include this data with the stack test results. Operating data shall include, but may not be limited to: enclosed flare operating temperature and flow rate of landfill gas to the enclosed flare.

14. The landfill gas collection and control system shall be operated in accordance with 40 CFR 60.753.

(a) Gas shall be extracted from each area, cell or group of cells in which solid waste has been in place for:

(i) 5 years or more if active; or

(ii) 2 years or more if closed or at final grade.

(b) The landfill gas collection system shall be operated with a negative pressure at each wellhead except under the following conditions:

(i) When a fire or increased well temperature is detected. The owner/operator shall record instances when positive pressure occurs in efforts to avoid fire.

(ii) When the collection or control systems are experiencing down times due to routine maintenance. Routine equipment maintenance includes gas collection header repairs, wellhead and valve repairs, replacement or modifications, and other similar activities.

(iii) When negative pressure has the potential to induce excess air infiltration.

(c) Gas temperature in each interior wellhead shall be less than 55° C, and shall have either a nitrogen level less than 20% or an O₂ level less than 5%. When approved by the Department, the owner/operator may establish a higher operating temperature, nitrogen or O₂ value at a particular well after demonstrating that the elevated parameter does not increase emissions, cause fires or significantly inhibit anaerobic decomposition by killing methanogens.

(i) The nitrogen level shall be determined by using US Environmental Protection Agency (EPA) Method 3C.

(ii) The O₂ content shall be determined using an oxygen meter per EPA Method 3A or 3C.

(d) The landfill gas collection system shall be operated with a methane leakage concentration of less than 500 ppm at any exposed piping, at all points around the perimeter of the collection area and along a serpentine pattern spaced 30 meters apart across the collection area in the closed capped areas of the landfill. The monitoring shall be conducted in accordance with a topographical map that shows proposed testing route. Methane leakage

testing shall be done in accordance with EPA Method 21 found in Appendix A of 40 CFR 60.

(e) The owner/operator may add additional wells and piping as necessary to meet operational requirements. Owner/operator shall inform both BWM and AQ by letter at least 15 days ahead of time of their intentions. As-built drawings shall be submitted within 60 days of installation of new wells. (25 Pa. Code § 127.12b)

15. Monitoring

(a) Owner/operator shall monitor in accordance with 40 CFR 60.756.

(i) Owner/operator shall install, calibrate, maintain and operate a temperature monitoring device to monitor the operating temperature of the enclosed flare. Device shall be equipped with a continuous recorder. Device shall have an accuracy of $\pm 1\%$ of the temperature being measured, expressed in degrees Celsius or $\pm 0.5^\circ\text{C}$, whichever is greater.

(ii) Owner/operator shall either: install, calibrate, maintain and operate a gas flow rate measuring device that shall record the flow of landfill gas to the enclosed flare at least every 15 minutes; or secure any flare bypass line in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism shall be performed at least once a month to ensure that the valve is maintained in the closed position and that the gas flow is not being diverted through any bypass line.

(iii) The owner/operator shall measure gauge pressure at each wellhead on a monthly basis. If a positive pressure exists, action shall be initiated to correct this condition within 5 calendar days.

(iv) To check for air infiltration into the landfill, the owner/operator shall monitor each well monthly for temperature and nitrogen or O₂ concentration.

(v) On a quarterly basis, the owner/operator shall monitor surface methane concentration using the procedures given in 40 CFR 60.755(c) and EPA Method 21 found in Appendix A of 40 CFR 60.

(vi) Monitoring and measuring devices shall be calibrated, maintained and operated according to the manufacturer's specifications. The owner/operator shall also comply with the provisions of 40 CFR 60.756(b), (c) or (d).

(b) Owner/operator shall evaluate the condition of the facility daily (when operating) to verify compliance with the fugitive emission, visible emission, and objectionable odor provisions of this approval. If problems are observed, permittee shall take immediate action to bring facility back into compliance. (25 Pa. Code § 127.12b)

16. Recordkeeping

(a) Owner/operator shall comply with the recordkeeping provisions of 40 CFR 60.758.

(i) The owner/operator shall keep onsite records of the maximum design capacity, the current amount of solid waste in place, and a year by year waste acceptance rate.

(ii) The owner/operator shall keep daily records of gas flow to the control device, and any parameters that are available to indicate that the control device is operating properly.

(iii) The owner/operator shall keep records of wells in operation and wells out of operation (if any) on a daily basis.

(iv) The owner/operator shall keep records of the installation date and location of all newly installed or replaced collection wells, pipe headers and other collection pipe assemblies.

(v) The owner/operator shall keep documentation of the nature, date of deposition, amount and location of asbestos containing or nondegradable waste excluded from collection as well as any nonlandfill gas producing areas excluded from the landfill gas collection system.

(vi) The owner/operator shall keep records of all monitoring activities performed to meet the requirements of 40 CFR 60, Subpart WWW.

(vii) The owner/operator shall keep records of any exceedances in the collection or control systems as defined in 40 CFR 60, Subpart WWW.

(b) The owner/operator shall keep records of all actions taken to ensure compliance with the fugitive emission, visible emission and objectionable odor provisions of this approval. (25 Pa. Code § 127.12b)

(c) In accordance with 40 CFR 63.1960, owner/operator must develop a written SSM plan according to the provisions in 40 CFR 63.6(e)(3). A copy of the SSM plan must be maintained onsite. Failure to write or maintain a copy of the SSM plan is a deviation from the requirements of 40 CFR 63, Subpart AAAA.

(d) In accordance with 40 CFR 63.1980(b), owner/operator must keep records and reports as specified in the general provisions of 40 CFR part 60 and this part as shown in Table 1 of this subpart. Applicable records in the general provisions include items such as SSM plans and the SSM plan reports.

(e) Records required under this Plan Approval shall be kept for a minimum period of 5 years and be made available to the Department upon request. (25 Pa. Code § 127.12b)

17. Reporting

(a) In accordance with 40 CFR 60.4 and 40 CFR 63.13, copies of all requests, reports, applications, submittals and other communications shall be forwarded to both the EPA and the Department at the addresses shown, unless otherwise noted:

Director, Air, Toxics, and Radiation
Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103

Department of Environmental Protection
Regional Air Quality Manager
Office of Air Quality
400 Waterfront Drive
Pittsburgh, PA 15222-4745

(b) The owner/operator shall comply with all of the reporting requirements of 40 CFR 60.757, including initial design capacity report, amended design capacity report (when applicable), NMOC emission rate report (when applicable), collection and control system design plan, initial performance test report, annual reports, closure report, and equipment removal reports.

(c) In accordance with 40 CFR 63.1980(a), owner/operator must submit the annual report described in 40 CFR 60.757(f) every 6 months.

(d) 40 CFR 63.10(d)(5) If actions taken during a SSM plan are consistent with the procedures in the SSM plan, this information shall be included in a semi-annual SSM

plan report. Any time an action taken during a SSM plan is not consistent with the SSM plan, the source shall report actions taken within 2 working days after commencing such actions, followed by a letter 7 days after the event

(e) The owner/operator shall, on or before March 1st of each year, submit to Department of Environmental Protection—Air Quality an Annual Inventory and Emission Statement for the previous year on forms provided by the Department. (25 Pa. Code § 127.12b)

(f) The owner/operator shall include with the Annual Inventory and Emission Statement a forecast of the total (before controls) NMOC emission generation rate anticipated each year for the next 5 years. Additionally, owner/operator shall calculate the actual NMOC emission rate, taking into account collection efficiencies and total destruction efficiencies achieved through the use of the landfill gas collection and destruction system. Forecast shall describe the current and scheduled collection system configurations for the forecast years, and shall include emissions from the actual waste in place, and the waste scheduled to be collected during the forecast years. (25 Pa. Code § 127.12b)

(i) The owner/operator shall use the value of the methane generation rate constant, k , published at the most recent compilation of air pollution emission factors (AP-42) to calculate NMOC emission rates. Other values of k may be used, provided that the use of an alternate value can be demonstrated through testing or engineering calculations.

(ii) The owner/operator shall use the value of the methane generation potential, L_0 , published at the most recent compilation of air pollution emission factors (AP-42) to calculate NMOC emission rates. Other values of L_0 may be used, provided that the use of an alternate value can be demonstrated through testing or engineering calculations.

(iii) The NMOC concentration determined during the most recent test shall be used when calculating NMOC emission rates.

18. Words and terms that are not otherwise defined in this plan approval shall have the meanings set forth in section 3 of the Air Pollution Control Act (APCA) (35 P. S. § 4003) and 25 Pa. Code § 121.1. (25 Pa. Code § 121.1)

19. The issuance of this plan approval does not prevent the future adoption by the Department of any rules, regulations or standards, or the issuance of orders necessary to comply with the requirements of the Federal Clean Air Act (CAA) or the APCA, or to achieve or maintain ambient air quality standards. The issuance of this plan approval shall not be construed to limit the Department's enforcement authority. (25 Pa. Code § 127.12b(a) and (b))

20. This plan approval authorizes temporary operation of the sources covered by this plan approval provided the following conditions are met.

(a) When construction, installation, modification or re-activation is being conducted, the permittee should provide written notice to the Department of the completion of the activity approved by this plan approval and the permittee's intent to commence operation at least 5 working days prior to the completion of said activity. The notice shall state when the activity will be completed and when the permittee expects to commence operation. When the activity involves multiple sources on different time schedules, notice is required for the commencement of operation of each source.

(b) Under 25 Pa. Code § 127.12b(d), temporary operation of the sources to facilitate the shakedown of sources and air cleaning devices, to permit operations pending the issuance of a permit under 25 Pa. Code Chapter 127, Subchapter F or G (relating to operating permits; and Title V operating permits) or to permit the evaluation of the air contaminant aspects of the source.

(c) This plan approval authorizes a temporary operation period not to exceed 180 days from the date of commencement of operation, provided the Department receives notice from the permittee under paragraph (a), previously.

(d) The permittee may request an extension of the 180-day shakedown period if further evaluation of the air contamination aspects of the sources is necessary. The request for an extension should be submitted, in writing, to the Department at least 15 days prior to the end of the initial 180-day shakedown period and shall provide a description of the compliance status of the source, a detailed schedule for establishing compliance, and the reasons compliance has not been established. This temporary operation period will be valid for a limited time and may be extended for additional limited periods, each not to exceed 120 days.

21. If, at any time, the Department has cause to believe that air contaminant emissions from the sources listed in this plan approval may be in excess of the limitations specified in, or established under this plan approval or the permittee's operating permit, the permittee may be required to conduct test methods and procedures deemed necessary by the Department to determine the actual emissions rate. The testing shall be conducted in accordance with 25 Pa. Code Chapter 139, where applicable, and in accordance with any restrictions or limitations established by the Department at the time as it notifies the company that testing is required. (25 Pa. Code § 127.12b)

22. The permittee shall maintain and operate the sources and associated air cleaning devices in accordance with good engineering practice as described in the plan approval application submitted to the Department. (25 Pa. Code § 127.12(a)(10))

23. The records, reports or information obtained by the Department or referred to at public hearings shall be available to the public, except as provided in paragraph (a) of this condition.

(a) Upon cause shown by the permittee that the records, reports or information or a particular portion thereof, but not emission data, to which the Department has access under the act, if made public, would divulge production or sales figures or methods, processes or production unique to that person or would otherwise tend to affect adversely the competitive position of that person by revealing trade secrets, including intellectual property rights, the Department will consider the record, report or information or particular portion thereof confidential in the administration of the act. The Department will implement this section consistent with sections 112(d) and 114(c) of the CAA (42 U.S.C.A. §§ 7412(d) and 7414(c)). Nothing in this section prevents disclosure of the report, record or information to Federal, State or local representatives as necessary for purposes of administration of Federal, State or local air pollution control laws, or when relevant in a proceeding under the act. (25 Pa. Code §§ 127.12(c) and (d) and 35 P. S. § 4013.2)

24. This plan approval will be valid for a limited time, as specified by the expiration date contained on page 1 of this plan approval.

(a) Except as provided in §§ 127.11a and 127.215 (relating to reactivation of sources; and reactivation), at the end of the time, if the construction, modification, reactivation or installation has not been completed, a new plan approval application or an extension of the previous approval will be required.

(b) If construction has commenced, but cannot be completed before the expiration of this plan approval, an extension of the plan approval must be obtained to continue construction. To allow adequate time for departmental action, a request for the extension should be postmarked at least 30 days prior to the expiration date. The Department will not issue an extension after the plan approval expires. The request for an extension should include the following:

(i) A justification for the extension.

(ii) A schedule for the completion of the construction.

If construction has not commenced before the expiration of this plan approval, then a new plan approval application must be submitted and approval obtained before construction can commence.

(c) If the construction, modification or installation is not commenced within 18-months of the issuance of this plan approval or if there is more than an 18-month lapse in construction, modification or installation, a new plan approval application that meets the requirements of 25 Pa. Code Chapter 127, Subchapters B, D and E (related to plan approval requirements; prevention of significant deterioration of air quality; and new source review) shall be submitted. (25 Pa. Code § 127.13)

25. This plan approval may not be transferred from one person to another except when a change of ownership is demonstrated to the satisfaction of the Department and the Department approves the transfer of the plan approval in writing.

(a) Section 127.12a (relating to compliance review) applies to a request for transfer of a plan approval. A compliance review form shall accompany the request.

(b) This plan approval is valid only for the specific source and the specific location of the source as described in the application. (25 Pa. Code § 127.32)

26. Under 35 P. S. § 4008, no person shall hinder, obstruct, prevent or interfere with the Department or its personnel in the performance of any duty authorized under the APCA.

(a) The permittee shall also allow the Department to have access at reasonable times to said sources and associated air cleaning devices with such measuring and recording equipment, including equipment recording visual observations, as the Department deems necessary and proper for performing its duties and for the effective enforcement of the APCA and regulations adopted under the act.

(b) Nothing in this plan approval condition shall limit the ability of the EPA to inspect or enter the premises of the permittee in accordance with section 114 or other applicable provisions of the CAA. (25 Pa. Code § 127.12(4) and 35 P. S. § 4008 and § 114 of the CAA)

27. This plan approval may be terminated, modified, suspended or revoked and reissued if one or more of the following applies:

(a) The permittee constructs or operates the source subject to the plan approval in violation of the act, the

CAA, the regulations promulgated under the act or the CAA, a plan approval or permit or in a manner that causes air pollution.

(b) The permittee fails to properly or adequately maintain or repair an air pollution control device or equipment attached to or otherwise made a part of the source.

(c) The permittee fails to submit a report required by this plan approval.

(d) The EPA determines that this plan approval is not in compliance with the CAA or the regulations thereunder. (25 Pa. Code § 127.13a)

28. The permittee, or any other person, may not circumvent the new source review requirements of 25 Pa. Code Chapter 127, Subchapter E by causing or allowing a pattern of ownership or development, including the phasing, staging, delaying or engaging in incremental construction, over a geographic area of a facility which, except for the pattern of ownership or development, would otherwise require a permit or submission of a plan approval application.

29. No person may permit the use of a device, stack height which exceeds good engineering practice stack height, dispersion technique or other technique which, without resulting in reduction of the total amount of air contaminants emitted, conceals or dilutes an emission of air contaminants which would otherwise be in violation of this plan approval, the APCA or the regulations promulgated thereunder, except that with prior approval of the Department, the device or technique may be used for control of malodors. (25 Pa. Code §§ 121.9 and 127.216)

30. If required by section 112(r) of the CAA, the permittee shall develop and implement an accidental release program consistent with requirements of the CAA, 40 CFR Part 68 (relating to chemical accident prevention provisions) and the Federal Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (Pub. L. No. 106-40).

(a) The permittee shall prepare and implement a Risk Management Plan (RMP) which meets the requirements of section 112(r) of the CAA, 40 CFR Part 68 and the Federal Chemical Safety Information, Site Security and Fuels Regulatory Relief Act when a regulated substance listed in 40 CFR 68.130 is present in a process in more than the listed threshold quantity at the facility. The permittee shall submit the RMP to the EPA according to the following schedule and requirements:

(i) The permittee shall submit the first RMP to a central point specified by the EPA no later than the latest of the following:

(1) Three years after the date on which a regulated substance is first listed under § 68.130; or,

(2) The date on which a regulated substance is first present above a threshold quantity in a process.

(ii) The permittee shall submit any additional relevant information requested by the Department or the EPA concerning the RMP and shall make subsequent submissions of RMPs in accordance with 40 CFR 68.190.

(iii) The permittee shall certify that the RMP is accurate and complete in accordance with the requirements of 40 CFR Part 68, including a checklist addressing the required elements of a complete RMP.

(iv) As used in this plan approval condition, the term "process" shall be as defined in 40 CFR 68.3. The term "process" means any activity involving a regulated substance including any use, storage, manufacturing, han-

dling or onsite movement of the substances or any combination of these activities. For purposes of this definition, any group of vessels that are interconnected or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process. (25 Pa. Code § 127.12(9) and 40 CFR Part 68)

31. A person may not cause or permit the operation of a source subject to § 127.11 (relating to plan approval requirements), unless the source and air cleaning devices identified in the application for the plan approval and the plan approval issued to the source, are operated and maintained in accordance with specifications in the application and conditions in the plan approval issued by the Department. A person may not cause or permit the operation of an air contamination source subject to this chapter in a manner inconsistent with good operating practices.

Those wishing to provide the Department with additional written information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to Barbara Hatch, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222. Each written comment must contain the following:

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

Identification of the proposed Plan Approval (specify the Plan Approval number).

Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval.

Comments must be received prior to the close of business 30 days after the date of this publication.

30-00173A (Delta-Energy PA No. 1, 350 Hochberg Road, Monroeville, PA 15146) In accordance with 25 Pa. Code §§ 127.44(b) and 127.45, notice is hereby given that the Department of Environmental Protection (Department) intends to issue a Plan Approval to allow the construction of a tire pyrolysis facility to be located in Cumberland Township, **Greene County**.

Emissions from the facility are estimated to be 1.34 tons of NOx per year, 13.89 tons of PM per year, 10.16 tons of PM10 per year and 14.24 tons of VOCs per year. The proposed facility is subject to the applicable requirements of 25 Pa. Code Chapter 127, related to construction, modification, reactivation and operation of sources. The Department believes that the facility will meet these requirements by complying with the following Plan Approval conditions:

1. This Plan Approval authorizes Delta-Energy PA No. 1 to construct a 40 ton per day tire depolymerization facility for the production of carbon black and pyrolysis oil to be located in Cumberland Township, Greene County.

2. Sources at this facility will include:

(a) Raw material preparation, equipped with a 5,000 cfm baghouse.

(b) Two pyrolysis reactor trains each consisting of three furnace zones equipped with electrically heated augers. Combined reactor emissions pass through an oil quench vessel, primary and secondary condensers and a vacuum source. Most of the uncondensed gases will be used for process heating in the pellet dryer. The remainder will be combusted in an enclosed flare.

(c) Carbon black plant consisting of a magnetic metal separator, and milling and pelletizing equipment, equipped with a 5,000 cfm baghouse for control of emissions.

(d) Supporting equipment at this site will include a cooling tower and seven 30,000 gallon tanks for the storage of pyrolysis oil, diesel fuel and approximately 23 small (less than 10,000 gallon) storage tanks for various low-vapor pressure liquids such as turbine oils, insulating oils, refrigerants, used oil and demineralized water.

3. Approval granted by the Department will be valid for a limited time, as specified by the Department in the approval. Except as provided in §§ 127.11a and 127.215 (relating to reactivation of sources; and reactivation), at the end of the time, if the construction, modification, reactivation or installation has not been completed, a new plan approval application or an extension of the previous approval will be required.

4. If the construction, modification or installation is not commenced within 18 months of the issuance of the plan approval or if there is more than an 18-month lapse in construction, modification or installation, a new plan approval application that meets the requirements of this subchapter and Subchapters D and E (relating to prevention of significant deterioration of air quality; and new source review) shall be submitted. The Department may extend the 18-month period upon a satisfactory showing that an extension is justified.

Restrictions

5. No person may permit the emission into the outdoor atmosphere of fugitive air contaminant from a source other than the following:

(a) Construction or demolition of buildings or structures.

(b) Grading, paving and maintenance of roads and streets.

(c) Use of roads and streets. Emissions from material in or on trucks, railroad cars and other vehicular equipment are not considered as emissions from use of roads and streets.

(d) Clearing of land.

(e) Stockpiling of materials.

(f) Open burning operations.

(g) Blasting in open pit mines. Emissions from drilling are not considered as emissions from blasting.

(h) Coke oven batteries, provided the fugitive air contaminants emitted from any coke oven battery comply with the standards for visible fugitive emissions in §§ 123.44 and 129.15 (relating to limitations of visible fugitive air contaminants from operation of any coke oven battery; and coke pushing operations).

(i) Sources and classes of sources other than those identified in paragraphs (1)—(8), for which the operator has obtained a determination from the Department that fugitive emissions from the source, after appropriate control, meet the following requirements:

(1) The emissions are of minor significance with respect to causing air pollution; and

(2) The emissions are not preventing or interfering with the attainment or maintenance of any ambient air quality standard.

6. All inplant roadways shall be paved and maintained as such. The Owner/Operator shall take all reasonable actions to prevent PM from becoming airborne.

7. No person may permit the emission into the outdoor atmosphere of PM from any process at any time, in such a manner that the concentration of PM in the effluent gas exceeds .02 grain per dry standard cubic foot.

8. No person may permit fugitive PM to be emitted into the outdoor atmosphere from a source specified in 25 Pa. Code § 123.1(a)(1)—(9) (relating to prohibition of certain fugitive emissions) if such emissions are visible at the point the emissions pass outside the person's property.

9. No person may permit the emission into the outdoor atmosphere of SO_x from a source in a manner that the concentration of the SO_x, expressed as SO₂, in the effluent gas exceeds 500 parts per million, by volume, dry basis.

10. No person may permit the emission into the outdoor atmosphere of any malodorous air contaminants from any source, in such a manner that the malodors are detectable outside the property of the facility.

11. No person may permit the emission into the outdoor atmosphere of visible air contaminants in such a manner that the opacity of the emission is either of the following:

(a) Equal to or greater than 20% for a period or periods aggregating more than 3 minutes in any 1 hour.

(b) Equal to or greater than 60% at any time.

12. Flare shall be operated to meet a destruction efficiency of at least 98%, or to reduce the outlet concentration to less than 20 parts per million, whichever is greater. (25 Pa. Code § 127.12b)

13. No person may permit the open burning of material in an area outside of air basins in a manner that:

(a) The emissions are visible, at any time, at the point such emissions pass outside the property of the person on whose land the open burning is being conducted.

(b) Malodorous air contaminants from the open burning are detectable outside the property of the person on whose land the open burning is being conducted.

(c) The emissions interfere with the reasonable enjoyment of life or property.

(d) The emissions cause damage to vegetation or property.

(e) The emissions are or may be deleterious to human or animal health.

14. The requirements of 25 Pa. Code § 129.14(a) and (b) do not apply where the open burning operations result from:

(a) A fire set to prevent or abate a fire hazard, when approved by the Department and set by or under the supervision of a public officer.

(b) A fire set for the purpose of instructing personnel in fire fighting, when approved by the Department.

(c) A fire set for the prevention and control of disease or pests, when approved by the Department.

(d) Not applicable.

(e) Not applicable.

(f) A fire set solely for recreational or ceremonial purposes.

(g) A fire set solely for cooking food.

(h) Clearing and grubbing wastes. The following is applicable to clearing and grubbing wastes:

(i) As used in this subsection the following terms shall have the following meanings:

Air curtain destructor—A mechanical device which forcefully projects a curtain of air across a pit in which open burning is being conducted so that combustion efficiency is increased and smoke and other PM are contained.

Clearing and grubbing wastes—Trees, shrubs and other native vegetation which are cleared from land during or prior to the process of construction. The term does not include demolition wastes and dirt laden roots.

Subsection (b) notwithstanding clearing and grubbing wastes may be burned outside of an air basin, subject to the following limitations:

Upon receipt of a complaint or determination by the Department that an air pollution problem exists, the Department may order that the open burning cease or comply with subsection (b) of this section.

Authorization for open burning under this paragraph does not apply to clearing and grubbing wastes transported from an air basin for disposal outside of an air basin.

During an air pollution episode, open burning is limited by Chapter 137 (relating to air pollution episodes) and shall cease as specified in such chapter.

Testing

15. Stack testing shall be conducted as follows (25 Pa. Code §§ 127.12b and 139.11):

(a) The enclosed flare outlet VOC and SO₂ emission concentrations shall be tested within 180 days of commencement of operation and once during the term of the operating permit thereafter.

(b) Stack testing shall be conducted in accordance with the provisions of 25 Pa. Code Chapter 139 and the Department's Source Testing Manual.

(c) The Owner/Operator shall submit three copies of a pre-test protocol to the Department for review at least 60 days prior to the performance of any stack test. All proposed stack test methods shall be identified in the pretest protocol and approved by the Department prior to testing.

(d) The Owner/Operator shall notify the Regional Air Quality Manager at least 15 days prior to any stack test so that an observer may be present at the time of the test.

(e) All relevant operating parameters shall be recorded at appropriate intervals throughout the duration of stack test. Operating data recorded shall be sufficient to establish that the units and the air cleaning devices are operating at maximum routine operating conditions. A discussion of the recorded operating parameters and values shall be included in the test report.

(f) The Owner/Operator shall submit three copies of the stack test report to the Department within 60 days of the completion of testing.

Monitoring Requirement

16. The Owner/Operator shall perform a Daily Facility-Wide Inspection for the presence of visible stack emissions, fugitive emissions and malodorous emissions.

Records of the inspections shall be maintained in a log and include any corrective actions taken.

17. The Owner/Operator shall develop and implement a written Preventative Maintenance Program for all pollution control devices and air contamination sources at the Facility based on the manufacturer's recommendations and good engineering practice.

18. Owner/operator shall install manometric pressure gauges to measure pressure drop across fabric filters. Pressure drop shall be observed and recorded daily.

19. Owner/operator shall install temperature gauges at the exhaust gas outlet of the primary and secondary condensers. Temperatures shall be observed and recorded daily.

20. Owner/operator shall install temperature gauge to measure flame temperature. Temperature shall be measured and recorded continuously.

21. Owner/operator shall develop parameters that may be used to ensure that the SO₂ limit of 500 ppm never exceeded. Parameters may include sulfur content of tires, operating feed rates and temperatures, and the like. These parameters shall be measured and recorded daily.

22. The owner/operator shall establish and follow leak detection and repair program to minimize fugitive emissions from the storage tanks.

23. The provisions of 25 Pa. Code § 129.57 shall apply to above ground stationary storage tanks with a capacity equal to or greater than 2,000 gallons which contain VOCs with vapor pressure greater than 1.5 psia (10.5 kilopascals) under actual storage conditions. Storage tanks covered under this section shall have pressure relief valves which are maintained in good operating condition and which are set to release at no less than .7 psig (4.8 kilopascals) of pressure or .3 psig (2.1 kilopascals) of vacuum or the highest possible pressure and vacuum in accordance with state or local fire codes or the National Fire Prevention Association guidelines or other national consensus standards acceptable to the Department.

Recordkeeping Requirements

24. All logs and required records shall be maintained onsite for a minimum of 5 years and shall be made available to the Department upon request.

Reporting Requirements

25. This Plan Approval authorizes the temporary operation of the sources covered by this Plan Approval provided the following conditions are met:

(a) The Owner/Operator shall submit written Notice of the Completion of Construction and the Operator's intent to commence operation at least 5 days prior to the completion of construction. The Notice shall state the date when construction will be completed and the date when the Operator expects to commence operation.

(b) Operation of the sources covered by this Plan Approval is authorized only to facilitate the start-up and shakedown of sources and air cleaning devices, to permit operations pending the issuance of an Operating Permit, or to permit the evaluation of the source for compliance with all applicable regulations and requirements.

(c) Upon receipt of the written Notice of the Completion of Construction from the Owner/Operator the Department shall authorize a 180-day Period of Temporary Operation of the sources from the date of commencement of operation. The Notice submitted by the Owner/

Operator, prior to the expiration of this Plan Approval, shall modify the Plan Approval expiration date. The new Plan Approval expiration date shall be 180 days from the date of commencement of operation.

(d) Upon determination by the Owner/Operator that the sources covered by this Plan Approval are in compliance with all conditions of the Plan Approval the Owner/Operator shall contact the Department's reviewing engineer and schedule the Initial Operating Permit Inspection.

(e) Upon completion of Initial Operating Permit Inspection and determination by the Department that the sources covered by this Plan Approval are in compliance with all conditions of the Plan Approval the Owner/Operator shall submit an application for a State-only Operating Permit to the Department at least 60 days prior to the expiration date of the Plan Approval.

(f) The Owner/Operator may request an extension of the 180-day Period of Temporary Operation if compliance with all applicable regulations and Plan Approval requirements has not been established. The extension request shall be submitted in writing at least 15 days prior to the end of the Period of Temporary Operation and shall provide a description of the compliance status of the source. The extension request shall include a detailed schedule for establishing compliance and the reasons compliance has not been established. This Period of Temporary Operation may be extended for additional limited periods, each not to exceed 120-days, by submitting an extension request as described previously.

26. The Owner/Operator shall submit an annual facility-wide emissions report (AIMS Report) to the Department by March 1 of each year for the previous calendar year.

Additional requirements

27. Upon completion of the construction of the facility, company must submit an Operating Permit application, or request that the existing Operating Permit be updated to include the new equipment and the new requirements. Notify the Department when the installation is completed so that the facility can be inspected for issuance/revision of an operating permit.

28. Words and terms that are not otherwise defined in this plan approval shall have the meanings set forth in section 3 of the Air Pollution Control Act (APCA) (35 P. S. § 4003) and 25 Pa. Code § 121.1. (25 Pa. Code § 121.1)

29. The issuance of this plan approval does not prevent the future adoption by the Department of any rules, regulations or standards, or the issuance of orders necessary to comply with the requirements of the Federal Clean Air Act (CAA) or the APCA, or to achieve or maintain ambient air quality standards. The issuance of this plan approval shall not be construed to limit the Department's enforcement authority. (25 Pa. Code § 127.12b(a) and (b))

30. If, at any time, the Department has cause to believe that air contaminant emissions from the sources listed in this plan approval may be in excess of the limitations specified in, or established under this plan approval or the permittee's operating permit, the permittee may be required to conduct test methods and procedures deemed necessary by the Department to determine the actual emissions rate. The testing shall be conducted in accordance with 25 Pa. Code Chapter 139, where applicable, and in accordance with any restrictions or

limitations established by the Department at the time as it notifies the company that testing is required. (25 Pa. Code § 127.12b)

31. The permittee shall maintain and operate the sources and associated air cleaning devices in accordance with good engineering practice as described in the plan approval application submitted to the Department. (25 Pa. Code § 127.12(a)(10))

32. The records, reports or information obtained by the Department or referred to at public hearings shall be available to the public, except as provided in paragraph (a) of this condition.

(a) Upon cause shown by the permittee that the records, reports or information or a particular portion thereof, but not emission data, to which the Department has access under the act, if made public, would divulge production or sales figures or methods, processes or production unique to that person or would otherwise tend to affect adversely the competitive position of that person by revealing trade secrets, including intellectual property rights, the Department will consider the record, report or information, or particular portion thereof confidential in the administration of the act. The Department will implement this section consistent with sections 112(d) and 114(c) of the CAA (42 U.S.C.A. §§ 7412(d) and 7414(c)). Nothing in this section prevents disclosure of the report, record or information to Federal, State or local representatives as necessary for purposes of administration of Federal, State or local air pollution control laws, or when relevant in a proceeding under the act. (25 Pa. Code §§ 127.12(c) and (d) and 35 P. S. § 4013.2)

33. This plan approval will be valid for a limited time, as specified by the expiration date contained on page 1 of this plan approval.

(a) Except as provided in §§ 127.11a and 127.215 (relating to reactivation of sources; and reactivation), at the end of the time, if the construction, modification, reactivation or installation has not been completed, a new plan approval application or an extension of the previous approval will be required.

(b) If construction has commenced, but cannot be completed before the expiration of this plan approval, an extension of the plan approval must be obtained to continue construction. To allow adequate time for departmental action, a request for the extension should be postmarked at least 30 days prior to the expiration date. The Department will not issue an extension after the plan approval expires. The request for an extension should include the following:

(i) A justification for the extension.

(ii) A schedule for the completion of the construction.

(c) If construction has not commenced before the expiration of this plan approval, then a new plan approval application must be submitted and approval obtained before construction can commence.

(d) If the construction, modification or installation is not commenced within 18-months of the issuance of this plan approval or if there is more than an 18-month lapse in construction, modification or installation, a new plan approval application that meets the requirements of 25 Pa. Code Chapter 127, Subchapters B, D and E (related to plan approval requirements; prevention of significant deterioration of air quality; and new source review) shall be submitted. (25 Pa. Code § 127.13)

34. This plan approval may not be transferred from one person to another except when a change of ownership

is demonstrated to the satisfaction of the Department and the Department approves the transfer of the plan approval in writing.

35. Section 127.12a (relating to compliance review) applies to a request for transfer of a plan approval. A compliance review form shall accompany the request.

36. This plan approval is valid only for the specific source and the specific location of the source as described in the application. (25 Pa. Code § 127.32)

37. Under 35 P. S. § 4008, no person shall hinder, obstruct, prevent or interfere with the Department or its personnel in the performance of any duty authorized under the APCA.

38. The permittee shall also allow the Department to have access at reasonable times to said sources and associated air cleaning devices with such measuring and recording equipment, including equipment recording visual observations, as the Department deems necessary and proper for performing its duties and for the effective enforcement of the APCA and regulations adopted under the act.

39. Nothing in this plan approval condition shall limit the ability of the Environmental Protection Agency (EPA) to inspect or enter the premises of the permittee in accordance with section 114 or other applicable provisions of the CAA. (25 Pa. Code § 127.12(4) and 35 P. S. §§ 4008 and 114 of the CAA)

40. This plan approval may be terminated, modified, suspended or revoked and reissued if one or more of the following applies:

(a) The permittee constructs or operates the source subject to the plan approval in violation of the act, the CAA, the regulations promulgated under the act or the CAA, a plan approval or permit or in a manner that causes air pollution.

(b) The permittee fails to properly or adequately maintain or repair an air pollution control device or equipment attached to or otherwise made a part of the source.

(c) The permittee fails to submit a report required by this plan approval.

(d) The EPA determines that this plan approval is not in compliance with the CAA or the regulations thereunder. (25 Pa. Code § 127.13a)

41. The permittee, or any other person, may not circumvent the new source review requirements of 25 Pa. Code Chapter 127, Subchapter E by causing or allowing a pattern of ownership or development, including the phasing, staging, delaying or engaging in incremental construction, over a geographic area of a facility which, except for the pattern of ownership or development, would otherwise require a permit or submission of a plan approval application.

42. No person may permit the use of a device, stack height which exceeds good engineering practice stack height, dispersion technique or other technique which, without resulting in reduction of the total amount of air contaminants emitted, conceals or dilutes an emission of air contaminants which would otherwise be in violation of this plan approval, the APCA or the regulations promulgated thereunder, except that with prior approval of the Department, the device or technique may be used for control of malodors. (25 Pa. Code §§ 121.9 and 127.216)

43. Reports, test data, monitoring data, notifications shall be submitted to the:

(a) Regional Air Program Manager
Department of Environmental Protection
(At the address given on the plan approval transmittal letter or otherwise notified) (25 Pa. Code § 127.12c)

44. If required by section 112(r) of the CAA, the permittee shall develop and implement an accidental release program consistent with requirements of the CAA, 40 CFR Part 68 (relating to chemical accident prevention provisions) and the Federal Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (Pub. L. No. 106-40).

(a) The permittee shall prepare and implement a Risk Management Plan (RMP) which meets the requirements of section 112(r) of the CAA, 40 CFR Part 68 and the Federal Chemical Safety Information, Site Security and Fuels Regulatory Relief Act when a regulated substance listed in 40 CFR 68.130 is present in a process in more than the listed threshold quantity at the facility. The permittee shall submit the RMP to the EPA according to the following schedule and requirements:

(b) The permittee shall submit the first RMP to a central point specified by the EPA no later than the latest of the following:

(i) Three years after the date on which a regulated substance is first listed under § 68.130; or,

(ii) The date on which a regulated substance is first present above a threshold quantity in a process.

(c) The permittee shall submit any additional relevant information requested by the Department or the EPA concerning the RMP and shall make subsequent submissions of RMPs in accordance with 40 CFR 68.190.

(d) The permittee shall certify that the RMP is accurate and complete in accordance with the requirements of 40 CFR Part 68, including a checklist addressing the required elements of a complete RMP.

(e) As used in this plan approval condition, the term "process" shall be as defined in 40 CFR 68.3. The term "process" means any activity involving a regulated substance including any use, storage, manufacturing, handling or onsite movement of the substances or any combination of these activities. For purposes of this definition, any group of vessels that are interconnected or separate vessels that are located such that a regulated substance could be involved in a potential release shall be considered a single process. (25 Pa. Code § 127.12(9) and 40 CFR Part 68)

Those who wish to provide the Department with written information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to Noor Un-Nahar, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222. Each written comment must contain the following:

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

Identification of the proposed Plan Approval (specify the Plan Approval number).

Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval.

Comments must be received prior to the close of business 30 days after the date of this publication.

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

24-017B: Morgan Advanced Materials & Technology (441 Hall Avenue, St. Marys, PA 15857) for installation of seven thermal oxidizers, which will replace existing control devices associated with seven gas-fired continuous coking ovens in the City of St. Marys, **Elk County**.

Under 25 Pa. Code §§ 127.44(a) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a Plan Approval for the replacement of existing control devices associated with seven gas-fired continuous coking ovens at their facility in the City of St. Marys, Elk County. The Plan Approval will subsequently be incorporated into the facility's Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. 24-017B is for installation of seven thermal oxidizers, which will replace existing control devices associated with seven gas-fired continuous coking ovens. Based on the information provided by the applicant and Department's own analysis, the sources will emit 21.14 tons of SO₂ per year, 0.59 ton of hydrogen sulfide per year, 0.50 ton of VOCs per year and 0.50 ton of polycyclic organic matter (POM) per year. The plan approval will include appropriate testing, monitoring, recordkeeping and work practice requirements as needed to demonstrate compliance with applicable air quality requirements.

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

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

1. Name, address and telephone number of the person submitting comments.
2. Identification of the proposed Plan Approval; No. 24-017B.
3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

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

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

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

09-00132: McAdoo & Allen—Quaker Color Division (201 South Hellertown Avenue, Quakertown, PA 18951) for operation their pigments dispersions manufacturing facility in Quakertown Borough, **Bucks County**. The permit is for a non-Title V (State-only) facility. The facility's main sources include: seven natural gas-fired boilers, two No. 2 fuel oil-fired boilers and a chip manufacturing process consisting of roll mills and paddle blenders. The facility has elected to cap VOC emissions to less than 25 tpy; therefore the facility is a Synthetic Minor. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

15-00074: RA Ferris & Co., Inc. (899 Fern Hill Road, West Chester, PA 19380) for operation of three Waste Type I and Type IV retorts (that is, crematories) in West Goshen Township, **Chester County**. The permit is a renewal of a non-Title V, State-only Operating Permit. The facility's potential to emit criteria pollutants is less than major thresholds; therefore the facility is a Natural Minor. The renewed permit will include monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

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

40-00061: Temple Inland, Inc. (533 Forest Road, Hazleton, PA 18202) for operation of a paperboard container and box manufacturing process and one boiler at their facility in Hazle Township, **Luzerne County**. This action is a renewal of the State-only (Synthetic Minor) Operating Permit for this facility. This Operating Permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

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

01-03015: Hanover Lantern, Inc. (350 Kindig Lane, Hanover, PA 17331) for operation of a lamp post and light fixture manufacturing plant in Conewago Township, **Adams County**. This action is a renewal of the State-only operating permit issued in 2003.

21-05013: Fry Communications, Inc. (800 West Church Road, Mechanicsburg, PA 17055) for their Plant No. 1 commercial printing operation in Mechanicsburg Borough, **Cumberland County**. This is a renewal of the State-only operating permit issued in 2003.

21-05028: Fry Communications, Inc. (15 Pleasant View Drive, Mechanicsburg, PA 17055) for their Plant No. 2 commercial printing operation in Mechanicsburg Borough, **Cumberland County**. This is a renewal of the State-only operating permit issued in 2003.

22-03013: Pinnacle Health System (218 South 2nd Street, Harrisburg, PA 17104) for operation of the boiler plant and emergency equipment at the Harrisburg Hospital in the City of Harrisburg, **Dauphin County**. This action is a renewal of the State-only operating permit issued in 2003.

22-05022: PA DGS Annex Complex (4 Cherry Road, Harrisburg, PA 17110-2927) for the operation of three natural gas and/or No. 2 oil fired boilers and emergency generators in Susquehanna Township, **Dauphin County**. Annual emissions are expected to be 1.4 tons of CO, 4.9

tons SOx and 5.3 tons NOx. The State-only operating permit will include emission restrictions, monitoring, recordkeeping, reporting and work practice standards to keep the facility operating within all applicable air quality requirements.

28-05027: Chambersburg Hospital (112 North 7th Street, Chambersburg, PA 17201) for operation of the boiler plant and emergency equipment at their hospital in Chambersburg Borough, **Franklin County**. Two of the boilers are subject to 40 CFR Part 60, Subpart Dc—Standards of Performance for Small Industrial—Commercial—Institutional Steam Generating units. This action is a renewal of the State-only operating permit issued in 2003.

67-03114: Hanover Lantern, Inc. (350 Kindig Lane, Hanover, PA 17331) for operation of an aluminum foundry at their High Street Plant in Hanover Borough, **York County**. This action is a renewal of the State-only operating permit issued in 2003.

67-05055: ConAgra Foods, Inc. (321 Taylor Avenue, Red Lion, PA 17356) for operation of their flour milling facility in Red Lion Borough, **York County**. This is a renewal of the State-only operating permit issued in November 2003.

67-05056: ConAgra Foods, Inc. (2800 Black Bridge Road, York, PA 17406) for operation of a flour mill at their plant in Manchester Township, **York County**. This action is a renewal of the State-only operating permit issued in 2003.

67-05098: O-N Minerals PenRoc LP—PenRoc Operation, d/b/a Carmeuse Lime & Stone—PenRoc (P. O. Box 1967, 496 PenRoc Drive, York, PA 17404) for operation of their limestone crushing plant in West Manchester Township, **York County**. Sources at the plant are subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants. This action is a renewal of the State-only operating permit issued in 2003.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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

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

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any

person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated above each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—34.

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

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

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

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

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

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

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

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated above each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a

concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

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

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

Coal Applications Received

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

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

¹The parameter is applicable at all times.

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

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

30081301 and NPDES Permit No. PA0235741, Foundation Mining, LP. (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to operate the Foundation Mine in Center and Jackson Townships, **Greene County** a new underground longwall mine and related NPDES permit. Stream restoration may be necessary to alleviate subsidence pooling impacts in Center Township to Hargus Creek in four areas bound by the following points on the Holbrook USGS Quad, N: 16.96 inches; W: 5.23 inches to N: 19.77 inches; W: 4.41 inches and to one area in House and McCourtney Runs bound by points N: 18.99 inches; W: 7.05 inches to N: 20.42 inches; W: 10.24 inches. Surface Acres Proposed 305.0, Underground Acres Proposed 9,438.0, Subsidence Control Plan Acres Proposed 6,678.0. Receiving streams Hodge Run and House Run, both classified for the following use: HQ-WWF. Application received February 27, 2008.

11991301 and NPDES Permit No. PA0215201, Rosebud Mining Company, (301 Market Street, Kittanning, PA 16201), to revise the permit for the Twin Rocks Mine in Blacklick Township, **Cambria County** and related NPDES to add a new outfall and construct a ventilation shaft site. Surface Acres Proposed 12.5. Receiving stream: UNT No. 14 to Little Elk Creek, classified for the following use: CWF. Application received July 21, 2008.

30841602 and NPDES Permit No. PA0215562, Duquesne Light Company, (1800 Seymour Street, S-Loft, Pittsburgh, PA 15233), to revise the permit for the Warwick Mine No. 2 Preparation Plant in Monongahela

Township, **Greene County** and related NPDES permit to dispose of gas well waste water into Warwick No. 2 Mine pool and increase NPDES effluent limits. Receiving stream: Whiteley Creek, classified for the following use: WWF. Application received September 2, 2008.

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

03080103 and NPDES PA0251488, Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Application for commencement, operation and reclamation of a bituminous surface mine, located in Redbank Township, **Armstrong County**, affecting 61.5 acres. Receiving streams: UNTs to Little Mudlick Creek and Redbank Creek, classified for the following uses: CWF and TF. The potable water supply with an intake within 10 miles downstream from the point of discharge: Borough of New Bethlehem. Application received September 12, 2008.

03030104 and NPDES Permit No. PA0250391, Allegheny Mineral Corp. (P. O. Box 1022, Kittanning, PA 16201). Renewal application for 3 year not started status of a bituminous surface mine, located in Manor Township, **Armstrong County**, affecting 100.3 acres. Receiving streams: UNTs to Rupp Run and Garretts Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received September 12, 2008.

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

24010101 and NPDES Permit No. PA0241857, AMFIRE Mining Company, LLC (One Energy Placer, Suite 2800, Latrobe, PA 15650). Transfer of an existing bituminous surface strip, auger and clay removal operation in Horton Township, **Elk County** affecting 264.3 acres. Receiving streams: UNT G to Mead Run and UNTs 2 and 3 to Johnson Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Transfer from FSMR, Inc. Application received September 19, 2008.

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

49920101R3. Blaschak Coal Corp., (P. O. Box 12, Mahanoy City, PA 17948), renewal of an existing anthracite surface mine operation in Coal Township, **Northumberland County** affecting 1,016.0 acres, receiving stream: none. Application received September 17, 2008.

54830206R4 and NPDES Permit No. PA0613541. Meadowbrook Coal Co., Inc., (6690 SR 209, Lykens, PA 17048), renewal of an existing anthracite coal refuse reprocessing operation in Tremont Township, **Schuylkill**

County affecting 11.1 acres, receiving stream: Stumps Run. Application received September 17, 2008.

54880202R4. Morea Cogen, Inc., (46 Public Square, Suite 600, Wilkes-Barre, PA 18701), renewal of an existing anthracite coal refuse reprocessing operation in Mahanoy Township, **Schuylkill County** affecting 200 acres, receiving stream: none. Application received September 17, 2008.

Noncoal Applications Received

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

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

* The parameter is applicable at all times.

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

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

28010301 and NPDES Permit No. PA0123811, R. A. Hill, Inc., 1364 Lincoln Way East, Chambersburg, PA 17202, renewal of NPDES Permit, Hamilton Township, **Franklin County**. Receiving streams: UNT to Conococheague Creek classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received September 12, 2008.

29890301 and NPDES Permit No. PA0212504. K. G. Richards, 810 Lincoln Way East, P. O. Box 128, McConnellsburg, PA 17233-1510, renewal of NPDES Permit, Todd Township, **Fulton County**. Receiving stream: Licking Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received September 15, 2008.

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

3779103. Cemex, Inc. (840 Gessner, Suite 1400, Houston, TX 77024). Renewal of NPDES Permit No. PA0109258, Shenango and Taylor Townships, **Lawrence County**. Receiving streams: UNT to McKee Run and UNT to Beaver Run, classified for the following use: WWF. There are no potable surface water supply intakes within 10 miles downstream. NPDES renewal application received September 15, 2008.

2579301. Walter Kuhl (9415 Peck Road, Erie, PA 16510-5233). Renewal of an NPDES permit No. PA0118354, Greene Township, **Erie County**. Receiving streams: Fourmile Creek to Lake Erie, classified for the following use: WWF. There are no potable surface water supply intakes within 10 miles downstream. NPDES renewal application received September 19, 2008.

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

06080301 and NPDES Permit No. PA0224715. Dyer Quarry, Inc., (P. O. Box 188, Birdsboro, PA 19508), commencement, operation and restoration of a quarry operation and NPDES Permit for discharge of treated mine drainage in Robeson Township, **Berks County** affecting 100.897 acres, receiving stream: Indian Corn Creek, classified for the following use: CWF. Application received September 9, 2008.

45990801. Richard S. Ianuale, (P. O. Box 605, Sciota, PA 18354), Stage I and II bond release of a quarry operation in Jackson Township, **Monroe County** affecting 1.0 acre on property owned by Richard Ianuale. Application received September 17, 2008.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

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

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing,

of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

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

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

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E29-095: Fulton County Conservation District, Scott Alexander, 216 North Second Street, McConnellsburg, PA 17233-4423, Carbaugh Farm Streambank Stabilization Project, Ayr Township, **Fulton County**, United States Army Corp of Engineers, Baltimore District.

To rehabilitate and maintain approximately 540-foot long streambanks of Spring Run (CWF) by constructing one rock cross vane, 16 log vanes, six mud sills and seven rock habitat clusters in order to improve the eroding banks, headcuts and floodplains located about 2.2 miles northeast of Big Cove Tannery Village (Big Cove Tannery, PA Quadrangle N: 21.84 inches; W: 2.57 inches, Latitude: 39° 52' 12.96"; Longitude: 78° 01' 5.97" and N: 21.70 inches; W: 2.65 inches, Latitude: 39° 52' 10.23"; Longitude: 78° 01' 8.06") in Ayr Township, Fulton County.

ACTIONS

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

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

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

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

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

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

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

I. NPDES Renewal Permit Actions

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|----------------------------------|---|--------------------------------------|---|-----------------------------|
| PA-0012092 (Industrial Waste) | Linde, Inc. Formerly BOC Gases 575 Mountain Avenue Murray Hill, NJ 07974 | Bethlehem City Northampton County | Dry swale tributary to the Lehigh Canal 02C | 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> |
|-----------------------------|---|--------------------------------------|--|-----------------------------|
| PA0101427 Sewerage | Brian J. Buchsen 383 Irish Road Coudersport, PA 16915 | Sweden Township Potter County | UNT Trout Run 16C | Y |
| PA0209244 IW | Brady Township-Troutville Borough Water Association, Inc. 3309 Shamokin Trail Luthersburg, PA 15848-4019 | Brady Township Clearfield County | UNT LaBorde Branch UNT East Branch Mahoning Creek 17C | Y |

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N</i> |
|-----------------------------|--|---|---|---------------------------|
| PA0219142 Sewage | Municipal Sewage Authority of the Township of Sewickley P. O. Box 46 Herminie, PA 15637 | Westmoreland County Sewickley Township | Little Sewickley Creek | Y |
| PA0252441 Sewage | AMFIRE Mining Company, LLC One Energy Place Latrobe, PA 15650-9628 | Indiana County Brush Valley Township | Ferrier Run by means of Culvert under Township Road | Y |
| PA0025968 Sewage | Municipal Water Authority of Aliquippa 160 Hopewell Avenue Aliquippa, PA 15001 | Beaver County City of Aliquippa | Ohio River | N |
| PA0252522 Sewage | Somerset Township Municipal Authority P. O. Box 247 Somerset, PA 15501 | Somerset County Somerset Township | West Branch Coxes Creek | Y |

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

| <i>NPDES No. (Type)</i> | <i>Facility Name & Address</i> | <i>County & Municipality</i> | <i>Stream Name (Watershed #)</i> | <i>EPA Waived Y/N ?</i> |
|-----------------------------|---|--|---|-----------------------------|
| PA0239089 | Joshua S. Wendel 1201 East Eschbach Road St. Marys, PA 15857 | City of St. Marys Elk County | UNT to Trout Run 17-A | Y |
| PA0103551 | Historical and Museum Commission Drake Well Museum 202 Museum Lane Titusville, PA 16354 | Cherrytree Township Venango County | Oil Creek 16-E | Y |
| PA0222810 | E. Kay Cumberledge P. O. Box 404 Evans City, PA 16033 | Connoquenessing Township Butler County | Little Connoquenessing Creek 20-C | Y |
| PA0210803 | Star Route Estates 2182 Beulah Road Pittsburgh, PA 15235-5023 | East Mead Township Crawford County | UNT to Little Sugar Creek 16-D | Y |

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

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

NPDES Permit No. PA0013005, Industrial Waste, **FiberMark Inc.**, 45 North 4th Street, Quakertown, PA 18951. This proposed facility is located in Quakertown Borough or Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge into a UNT to Beaver Run in Watershed 2D.

NPDES Permit No. PA0011851, Industrial Waste, **Superior Tube Company**, 3900 Germantown Pike, Colledgeville, PA 19426-3112. This proposed facility is located in Lower Providence Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge into the Perkiomen Creek and a UNT to Perkiomen Creek in Watershed 3E.

NPDES Permit No. PA0244414, Sewage, **Jaster Associates, LLC**, 437 King Road, Doylestown, PA 18901. This proposed facility is located in Bedminster Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the issuance to discharge treated sewage into a dry swale to a UNT to Cabin Run in Watershed 2D.

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

NPDES Permit No. PA0027316, Amendment No. 1, Sewage, **City of Lebanon Authority**, 2311 Ridgeview Road, Lebanon, PA 17042. This proposed facility is located in North Cornwall Township, **Lebanon County**.

Description of Proposed Action/Activity: Permit amendment authorizing the discharge from a facility known as Lebanon WWTP to the Quittapahilla Creek in Watershed 7-D.

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

PA0228966, SIC 4952, **Keith Bonin**, R. R. 1, Rome, PA 18837. This proposed facility will be located in Orwell Township, **Bradford County**.

Description of Proposed Activity: Permit issued authorizing discharge from a new wastewater treatment system to serve the 292 unit Lake Bonin Campground recreational vehicle park.

The receiving stream, UNT to Jerome Creek, is in the State Water Plan Watershed 4D and is classified for: CWF. The nearest downstream public water supply intake, for the Danville Borough Municipal Authority, is located on the Susquehanna River and is 139 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.007 mgd.

| <i>Discharge Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|----------------------------------|-----------------------------------|---|
| pH | 6.0 to 9.0 at all times | |
| Fecal Coliforms (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 | |
| C-BOD ₅ | 25 | 50 |
| Total Suspended Solids | 30 | 60 |
| Total Residual Chlorine | 0.5 | 1.6 |
| Ammonia-N (5-1 to 10-31) | 10 | 20 |
| (11-1 to 4-30) | 25 | 50 |
| Dissolved Oxygen | 3.0 as a minimum | |

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

NPDES Permit No. PA0023213, Sewage, **Amendment No. 1, Borough of Ridgway**, P. O. Box 149, Ridgway, PA 15853-0149. This proposed facility is located in Ridgway Borough, **Elk County**.

Description of Proposed Action/Activity: Amendment of an existing discharge of treated sewage, industrial waste and to also allow treatment of oil and gas brine wastewater.

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

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

WQM Permit No. 3908403, Sewerage, **Lehigh County Authority**, 1053 Spruce Street, P. O. Box 3348, Allentown, PA 18106-0348. This proposed facility is located in Weisenberg Township, **Lehigh County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit for the upgrade of the existing treatment to include Sequential Batch Reactors, chemical addition, filtration and UV disinfection. The plant flow will increase to 40,000 gpd.

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

WQM Permit No. 0108401, Sewage, **Bethel Assembly of God**, 2075 Fish and Game Road, Littlestown, PA 17340. This proposed facility is located in Germany Township, **Adams County**.

Description of Proposed Action/Activity: Construction of sewerage facilities consisting of a 9,000 gpd peak flow treatment system utilizing the Fixed Activated Sludge Treatment process manufactured by Biomicrobics, Inc. The discharge is onsite Disposals Beds 3 and 4.

ENVIRONMENTAL ASSESSMENTS

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

EA59-016. Tioga County Concerned Citizens Committee—Charles Andrews, President, P. O. Box 124, Blossburg, PA 16912. Fall Brook AMD Treatment Project, Ward Township, **Tioga County**, United States Army Corps of Engineers, Baltimore District (Gleason, PA Quadrangle Latitude N: 41° 40' 52"; Longitude W: 76° 59' 06").

To construct and maintain a chemical treatment system to treat four acid mine drainage discharges to Fall Brook Creek. Construction of the treatment system will permanently impact 2.06 acres of PEM-SS wetlands. Construction will occur on previously disturbed lands from past mining activities and the wetlands to be impacted were formed by the acid mine drainage seeps onsite. This activity has been authorized under section 105.12(a) (16) as a restoration waiver.

WQM Permit No. 0808401, Sewerage, SIC 4952, **Keith Bonin**, R. R. 1, Rome, PA 18837. This proposed facility will be located in Orwell Township, **Bradford County**.

Description of Proposed Action/Activity: Permit issued authorizing construction and operation of a new wastewater treatment system to serve the 292 unit Lake Bonin Campground recreational vehicle park. The system will consist of the existing 19 septic tanks, the existing collection system, the existing equalization basin, a proposed dosing chamber, a proposed surface sand filter, proposed erosion chlorination and a proposed chlorine contact tank.

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

WQM Permit No. 6570401-A3, Industrial Waste, **Alcoa, Inc., Alcoa Technical Center**, 100 Technical Drive, Aloc Center, PA 15061-0001. This existing facility is located in Upper Burrell Township, **Westmoreland County**.

Description of Proposed Action/Activity: Permit amendment issuance for the addition of a new constructed treatment wetlands system.

WQM Permit No. 0206401-A1, Sewerage, **Borough of Emsworth**, 171 Center Avenue, Pittsburgh, PA 15202. This existing facility is located in Emsworth Borough, **Allegheny County**.

Description of Proposed Action/Activity: Permit issuance for the replacement and operation of the Route 65 Pump Station.

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

WQM Permit No. 2508404, Sewerage, **Glenn Kosmatine**, 6630 Maple Lane, Tinley Park, IL 60477-2842. This proposed facility is located in Harborcreek Township, **Erie County**.

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

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|---|---------------|----------------------|---|
| PAI01 2308006 | One Landmark, LP 3744 West Chester Pike Newtown Square, PA 19073 | Delaware | Edgmont Township | Crum Creek CWF Ridley Creek HQ-TSF |
| PAI01 5108004 | H.E.R.B. CDC c/o OKKS Development, LP 1510 Cecil B. Moore Avenue Suite 300 Philadelphia, PA 19121 | Philadelphia | City of Philadelphia | Philadelphia Water Department Wastewater Treatment Plant |

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|----------------------------|-------------------------------|
| PAS10Q036-3R | K & M Associates P. O. Box 332 Trexlerstown, PA 18087 | Lehigh | Lower Macungie Township | Little Lehigh Creek HQ-CWF |
| PAI026408001 | Rite Aid Corporation 875 Kings Highway Suite 201 Woodbury, NJ 08096 | Wayne | Salem Township | Moss Hollow Creek HQ-CWF |

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|---|---------------|--|----------------------------|
| PAI024507013 | Brick City Associates, LLC 140 Dilley Street Forty Fort, PA 18704 | Monroe | Coolbaugh Township Tobyhanna Township | Indian Run Creek HQ-CWF |

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

| <i>NPDES Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|------------------------------|--------------------------------------|
| PAI033607004 | Samuel K. Fisher 1564 Slate Hill Road Peach Bottom, PA 17563 | Lancaster | Drumore and Fulton Townships | Gregs Run and Peters Creek HQ-WWF |

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

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

List of NPDES and/or Other General Permit Types

| | |
|-------------|--|
| PAG-1 | General Permit for Discharges From Stripper Oil Well Facilities |
| PAG-2 | General Permit for Discharges of Stormwater Associated With Construction Activities (PAR) |
| PAG-3 | General Permit for Discharges of Stormwater From Industrial Activities |
| PAG-4 | General Permit for Discharges From Small Flow Treatment Facilities |
| PAG-5 | General Permit for Discharges From Gasoline Contaminated 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 Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site |
| PAG-9 (SSN) | Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage |
| PAG-10 | General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines |
| PAG-11 | (To Be Announced) |
| PAG-12 | Concentrated Animal Feeding Operations (CAFOs) |
| PAG-13 | Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4) |

General Permit Type—PAG-2

Facility Location:

| <i>Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|--|-------------------|---|---|---|
| Southampton Township Bucks County | PAG200 0908061 | Semenuk Family Limited Partnership 4 Colts Neck Drive Newtown, PA 19040 | Southampton and Pennypack Creeks TSF, MF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| West Rockhill Township Bucks County | PAG200 0908087 | Kevin S. Diehl P. O. Box 95 Perkasie, PA 18944 | East Branch Perkiomen Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Hilltown Township Bucks County | PAG200 0908072 | Harleysville Savings Bank 271 Main Street Harleysville, PA 19438 | UNT Skippack Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| East Rockhill Township Bucks County | PAG200 0907106 | Prowler Properties, LLC 1044 Old Bethlehem Road Perkasie, PA 18944 | East Branch Perkiomen Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |

| <i>Facility Location: Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|---------------------|---|---------------------------------------|---|
| Newtown Township Bucks County | PAG200 0908005 | OHB Homes, Inc. One Greenwood Square Suite 101 3333 Street Road Bensalem, PA | Neshaminy Creek WWF, MF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Bensalem Township Bucks County | PAG200 0908050 | Bensalem Realty Enterprises, LP 1950 Street Road Suite 204 Bensalem, PA 19020-3755 | Poquessing Creek WWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| West Rockhill Township Bucks County | PAG200 0908080 | Stephen Howard 605 North Broad Street Lansdale, PA 19446 | East Branch Perkiomen Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Richland Township Bucks County | PAG200 0908077 | Moyer Realty 266 East Paletown Road Quakertown, PA 18951 | Tohickon Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| West Goshen Township Chester County | PAR10 G515-R | Cold Spring Run 10 Debbyn V Lane West Chester, PA 19382 | Westtown Road Run TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Upper Oxford Township Chester County | PAG200 1508049 | Upper Oxford Township 1185 Limestone Road Oxford, PA 19363 | UNT Muddy Run TSF, MF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| East Marlborough Township Chester County | PAG200 1508042 | Howard Curtis 1603 Newark Road Kennett Square, PA 19348 | Doe Run TSF, MF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Limerick Township Montgomery County | PAG200 4608010 | Hirschorn Builders, Inc. 320 Swamp Pike Schwenskillville, PA 19473 | Hartenstine Creek WWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Towamencin Township Montgomery County | PAG200 4604144-1 | Towamencin Township 1090 Troxel Road P. O. Box 303 Kulpsville, PA 19443 | Skipack Creek Tributary TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Limerick Township Montgomery County | PAG200 4608085 | Micro-Coax, Inc. 206 Jones Boulevard Pottstown, PA 19464 | Possum Hollow Run WWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Upper Frederick Township Montgomery County | PAG200 4608049 | Rick Buckman 2817 Yost Road Perkiomenville, PA 18074 | Deep Creek WWF, TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Lower Pottsgrove Township Montgomery County | PAG200 4608096 | Rosedon Construction Co., LLC 201 Pennsylvania Avenue Wayne, PA 19087 | Srogels Run WWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Springfield Township Montgomery County | PAG200 4608030 | Danny Jake Corporation 3625 Welsh Road Willow Grove, PA 19090 | Sandy Run Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Pottstown Borough Montgomery County | PAG200 4608076 | Tri-County Business Campus, LLC 6937 Groton Street Forest Hills, NY 11375 | Manatawny Creek CWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |

NOTICES

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| <i>Facility Location: Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|---------------------|--|--|--|
| Upper Hanover Township Montgomery County | PAG200 4605143-2 | Hills at Perkiomen, LP 345 Main Street Harleysville, PA 19438 | Macoby Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Lower Salford Township Montgomery County | PAG200 4608114 | Lower Salford Township Authority P. O. Box 243 57 Main Street Harleysville, PA 19438 | Skippack Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Towamencin Township Montgomery County | PAG200 4608029 | Prospect Acquisitions 404 Sumneytown Pike Suite 200 North Wales, PA 19454 | Skippack Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Hatfield Township Montgomery County | PAG200 4608104 | PECO Energy Company 2301 Market Street Philadelphia, PA 19103 | Skippack Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Dalton Borough Lackawanna County | PARI0N06(R) | James Rogers 106 North Turnpike Road Box 433 Dalton, PA 18414 | Tributary to South Branch Tunkhannock Creek CWF | Lackawanna County Conservation District (570) 281-9495 |
| Butler Township Schuylkill County | PAG2005408015 | Schuylkill City Municipal Authority Attn: David Holley Manager 221 South Centre Street Pottsville, PA 17901 | Gordon Reservoir CWF Rattling Run CWF Mahanoy Creek CWF | Schuylkill County Conservation District (570) 622-3742 |
| North Newton Township Cumberland County | PAG2002108015 | Robert Zimmerman 406 Long Lane East Earl, PA 17519 | Green Spring Creek CWF | Cumberland County Conservation District 310 Allen Road Carlisle, PA 17013 (717) 240-7812 |
| Lincoln Township Huntingdon County | PAG2003108007 | William Watson, III P. O. Box 358 Hustontown, PA 17229 | James Creek WWF | Huntingdon County Conservation District 10605 Raystown Road Suite A Huntingdon, PA 16652-9603 (814) 627-1627 |
| West Manheim Township York County | PAG2006703017 | Michael Stoner Lutheran Social Services 1050 Pennsylvania Avenue York, PA 17404 | Indian Run WWF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| Altoona City Blair County | PAG2000708016 | Plank Road Point, LLC Dan Lawruk 210 West Plank Road Altoona, PA 16602 | Mill Run WWF | Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5 |
| Howe Township Perry County | PAG2035008005 | Newport Plaza Associates, LP 3307 Trindle Road Camp Hill, PA 17011 | UNT to Juniata River WWF | Perry County Conservation District P. O. Box 36 31 West Main Street New Bloomfield, PA 17068 (717) 582-5119 |

| <i>Facility Location: Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|--|------------------------------------|--|
| Manheim Township Lancaster County | PAG2003608056 | BFW Group 1650 Crooked Oak Drive Suite 300 Lancaster, PA 17601 | UNT to Conestoga River WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361 |
| Manheim Township Lancaster County | PAG2003608054 | Alpha Charlie, Inc. P. O. Box 476 Mountville, PA 17554 | Bachman Run WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361 |
| Columbia Borough Lancaster County | PAG2003608051 | Columbia Consolidated Fire Department 265 South Tenth Street Columbia, PA | Shawnee Run WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361 |
| West Donegal Township Lancaster County | PAG2003608017 | Timber Villa, Inc. 1898 North Market Street Elizabethtown, PA 17022 | Snitz Creek WWF | Lancaster County Conservation District 1383 Arcadia Road Room 200 Lancaster, PA 17601 (717) 299-5361 |
| Hellam Township York County | PAG2006708035 | James Baugh 44 Walnut Springs Road Hellam, PA 17406 | UNT to Kreutz Creek WWF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| York City York County | PAG2006708033 | City of York School District Jon Boyer 101 West College Avenue York, PA 17401 | Willis Run-Codorus Creek WWF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| Manchester Township York County | PAG2006708049 | FES System, Inc. 3475 Board Road York, PA 17406 | Codorus Creek WWF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| Dallastown Borough York County | PAG2006708011 | Robert E. Peters 470 East Market Avenue Dallastown, PA 17313 | UNT to Scott Creek TSF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| Penn Township York County | PAG2006708055 | Stephen Wolf Shipley Fuels, LTD 415 Norway Street York, PA 17405-1969 | Furnace Creek WWF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| Penn and Walker Townships Huntingdon County | PAG2003108008 | Daniel Crotsley R. R. 1 Box 22B Hesston, PA 16647 | Crooked Creek WWF | Huntingdon County Conservation District 10605 Raystown Road Suite A Huntingdon, PA 16652-9603 (814) 627-1627 |
| Lower Windsor Township York County | PAG2006708036 | Craig E. Dallmeyer 4775 North Sherman Street Extended Box 1 Mount Wolf, PA 17347 | UNT to Canadochly Creek WWF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |

NOTICES

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| <i>Facility Location: Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|---|--|---|
| Penn Township York County | PAG2006704096 | Conewago North Ridge Partners, LP Allen M. Smith P. O. Box 688 610 Edgegrove Road Hanover, PA 17331 | Slagle Run UNT to South Branch Conewago Creek WWF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| Newberry Township York County | PAG2006708022 | Brent Zeiders Newberry Township Municipal Authority 1915 Old Trail Road Etters, PA 17319 | Fishing Creek TSF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| Manchester Township York County | PAG2006708037 | Hauck Logistics, LLC Nick Hauck 100 West Crone Road York, PA 17406 | UNT to Little Conewago Creek TSF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| Hellam Township York County | PAG2006708042 | Timothy Pasch 2645 Carnegie Road York, PA 17402 | Codorus Creek WWF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| Springettsbury Township York County | PAG2006703022-1 | Kinsley Equities II, LP 6259 Reynolds Mill Road Seven Valleys, PA 17360 | Kreuta Creek WWF | York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430 |
| Maidencreek Township Berks County | PAR10C449 | Lorianne Sitzabee SarahCare Adult Services 548 Gun Club Road Kutztown, PA 19530 | Willow Creek WWF | Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201 |
| Heidelberg Township Womelsdorf Borough Berks County | PAG2000603062R | Richard Levengood LAO Company P. O. Box 928 Lancaster, PA 17608 | Tulpehocken Creek CWF | Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201 |
| Amity Township Berks County | PAG2000608038 | Timothy O'Connor Hess Corporation 1 Hess Plaza Woodbridge, NJ 07095 | Schuylkill River CWF | Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201 |
| City of Reading Berks County | PAG2000608021 | Andrew Hicks 122 South 3rd Street Partners, LP 150 East Pennsylvania Avenue Suite 400 Downingtown, PA 19335 | Schuylkill River WWF | Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201 |
| West Providence Township Bedford County | PAG2000508013 | Turnpike Commission 220 North Centre Avenue New Stanton, PA 15672 | Raystown Branch Juniata River TSF | Bedford County Conservation District 702 West Pitt Street Suite 3 Fairlawn Court Bedford, PA 15522 (814) 623-7900, Ext. 3 |

*Facility Location:
Municipality &
County*

| <i>Facility Location: Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|---|---|--|
| North Woodbury Township Blair County | PAG2000708015 | Andrew and Jennifer Heltzel R. D. 2 Box 5 Martinsburg, PA 16662 | Plum Creek CWF | Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5 |
| Centre County Port Matilda Borough Worth Township | PAG2001403035R | Kenneth J. Moscone, Sr. The Drucker Company 200 Shady Lane Philipsburg, PA 16866 | Bald Eagle Creek TSF | Centre County Conservation District 414 Holmes Avenue Suite 4 Bellefonte, PA 16823 (814) 355-6817 |
| Cambria County Cambria Township | PAG2001108009 | William B. Brett Texas Eastern Gas Transmission, LP 890 Winter Street Suite 300 Waltham, MA 02451 | Roaring Run CWF | Cambria County Conservation District (814) 472-2120 |
| Erie County Erie City | PAG2002508022 | City of Erie School District Jefferson Elementary Practice Field 148 West 21st Street Erie, PA 16502 | Municipal Storm Sewer Lake Erie CWF | Erie County Conservation District (814) 825-6403 |
| Mercer County Lake Township | PAG2004308009 | Scott Kraynak Lakeview Area Recreation Association P. O. Box 712 444 Stoneboro Lateral Road Stoneboro, PA 16153 | Little Shenango River TSF | Mercer County Conservation District (724) 662-2242 |
| Findley and Springfield Townships Mercer County | PAG2104308005 | BAMR P. O. Box 8476 Harrisburg, PA 17105-8476 | UNT to Pine and Mill Runs TWF | BAMR P. O. Box 8476 Harrisburg, PA 17105-8476 (717) 783-1311 |
| Wayne Township Lawrence County | PAG2103708006 | BAMR P. O. Box 8476 Harrisburg, PA 17105-8476 | Squaw Run to Duck Run WWF | BAMR P. O. Box 8476 Harrisburg, PA 17105-8476 (717) 783-1311 |

General Permit Type—PAG-3

*Facility Location:
Municipality &
County*

| <i>Facility Location: Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|---|--------------------------------------|---|
| Blair County Duncansville Borough | PAR803711 | Yellow Transportation, Inc. (ATO) 1059 Old Route 22 Duncansville, PA 16635 | UNT to Blair Gap Run CWF | DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| Franklin County Guilford Township | PAR803658 | Target Corporation Distribution Center T-589 3001 Archer Drive Chambersburg, PA 17201-7736 | UNT to Conococheague Creek WWF | DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |

| <i>Facility Location: Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------------|--|---|--|
| Tuscarora Township Bradford County | PAR214834 Stormwater | Johnson Brothers Quarries R. R. 2 Box 278C Towanda, PA 18848 | UNT to Tuscarora Creek CWF | Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666 |
| North Fayette Township Allegheny County | PAR226128 | Wood Waste Recycling, LLC 111 Bridge Street Burgettstown, PA 15021 | Half Crown Run and UNT of Half Crown Run | Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000 |
| City of Hermitage Mercer County | PAR218320 | Castle Builders Supply Inc. 1325 Broadway Avenue Hermitage, PA 16148 | UNT to the Shenango River | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |
| Wheatland Borough Mercer County | PAR208346 | Xaloy Keystone Rolls, Inc. 40 Council Avenue P. O. Box 368 Wheatland, PA 16161 | Shenango River | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |
| Conewango Township Warren County | PAR708313 | IA Const. Corp. 240 River Road Warren, PA 16365 | Allegheny River | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |

General Permit Type—PAG-4

| <i>Facility Location: Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|---|--|---|
| Doylestown Township Bucks County | PAG040026 | Donald Adler 46 Poplar Lane Doylestown, PA 18901 | UNT to Neshaminy Creek Watershed 2F | Southeast Regional Office 2 East Main Street Norristown, PA 19401 |
| Thornbury Township Delaware County | PAG040094 | William H. Schatz 43 Carter Road Thornton, PA 19373 | UNT to West Branch Chester Creek Watershed 3G | Southeast Regional Office 2 East Main Street Norristown, PA 19401 |
| Hilltown Township Bucks County | PAG040096 | Kathleen J. Smith 2520 Rickert Road Perkasie, PA 18944 | UNT to Morris Run Watershed Three Mile Run 2D | Southeast Regional Office 2 East Main Street Norristown, PA 19401 |
| Concord Township Delaware County | PAG040098 | Michael and Debra Dell'Orefice 65 Willits Way Glen Mills, PA 19342 | UNT to Green Creek Watershed 3G | Southeast Regional Office 2 East Main Street Norristown, PA 19401 |
| Ulster Township Bradford County | PAG045255 | Bradford County Humane Society P. O. Box 179 Ulster, PA 18850-0179 | UNT to Susquehanna River WWF | Water Management Program Manager 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664 |
| Brokenstraw Township Warren County | PAG048870 | Bonnie F. Mayes 1385 Crippen Hill Road Pittsfield, PA 16340-6527 | UNT to Brokenstraw Creek 16-B | DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |

General Permit Type—PAG-5

Facility Location:

| <i>Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|------------------------------------|-------------------|---|----------------------------|--|
| Athens Township Bradford County | PAG054836 | Elmira Street Land Company, Inc. 952 Wilkes-Barre Township Boulevard Wilkes-Barre, PA 18702 | Chemung River WWF | Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664 |

General Permit Type—PAG-9

Facility Location:

| <i>Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Site Name & Location</i> | <i>Contact Office & Phone No.</i> |
|---|-------------------|--|--|--|
| Mark Cromley 2055 Shakespeare Road Milton, PA 17847 West Chillisquaque Township Northumberland County | PAG094836 | Mark Cromley 69 Campbell Mill Road Lewisburg, PA 17837 | Cromley Farm West Chillisquaque Township Northumberland County | Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664 |

General Permit Type—PAG-10

Facility Location:

| <i>Municipality & County</i> | <i>Permit No.</i> | <i>Applicant Name & Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office & Phone No.</i> |
|------------------------------------|-------------------|---|--|---|
| Richhill Township Greene County | PAG106121 | Texas Eastern Transmission, LP 890 Winter Street Suite 300 Waltham, MA 02451 | UNT of Barneys Run and UNT of Dunkard Fork of Wheeling Creek | Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000 |

PUBLIC WATER SUPPLY (PWS) PERMITS

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

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

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

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

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

| | |
|--|---|
| Permit No. 2308502 , Public Water Supply. | |
| Applicant | Chester Water Authority 415 Welsh Street P. O. Box 467 Chester, PA 19016-0467 |
| Township | Little Britain |
| County | Lancaster |
| Type of Facility | PWS |
| Consulting Engineer | CET Engineering Service, Inc. 1240 North Mountain Road Harrisburg, PA 17112 |

Permit to Construct Issued September 11, 2008

Permit No. 308503, Public Water Supply.
 Applicant **Aqua Pennsylvania, Inc.**
 762 West Lancaster Avenue
 Bryn Mawr, PA 19010
 Township Marple
 County **Delaware**
 Type of Facility PWS
 Consulting Engineer CET Engineering Service, Inc.
 1240 North Mountain Road
 Harrisburg, PA 17112

Permit to Construct Issued September 12, 2008

Permit No. 4608510, Public Water Supply.
 Applicant **Horsham Water and Sewer Authority**
 617 Horsham Road
 Horsham, PA 19044
 Township Horsham
 County **Montgomery**
 Type of Facility PWS
 Consulting Engineer Aqua Pennsylvania, Inc.
 762 West Lancaster Avenue
 Bryn Mawr, PA 19010

Permit to Construct Issued September 18, 2008

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

Permit No. 3608503, Public Water Supply.
 Applicant **Acorn Water Company**
 Municipality Earl Township
 County **Lancaster**
 Type of Facility Installation of an ortho/polyphosphate blend for lead and copper treatment.
 Consulting Engineer Charles A. Kehew, II, P. E.
 James A. holley & Associates, Inc.
 18 South George Street
 York, PA 17401

Permit to Construct Issued September 18, 2008

Permit No. 6708504, Public Water Supply.
 Applicant **The York Water Company**
 Municipality West Manchester Township
 County **York**
 Type of Facility North West Booster Station
 Consulting Engineer Mark S. Snyder, P. E.
 The York Water Company
 130 East Market Street
 P. O. Box 15089
 York, PA 17405-7089

Permit to Construct Issued September 18, 2008

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

Operations Permit issued to **Borough of Conway**, 1208 Third Avenue, Conway, PA 15027, (PWSID No. 5040022) Conway Borough, **Beaver County** on September 12, 2008, for the operation of facilities approved under Construction Permit No. 0406504.

Operations Permit issued to **Beaver Falls Municipal Authority**, 1425 8th Avenue, P. O. Box 400, Beaver Falls, PA 15010, (PWSID No. 5040012) West Mayfield Borough, **Beaver County** on September 12, 2008, for the operation of facilities approved under Construction Permit No. 0407506MA.

Operations Permit issued to **Findlay Township Municipal Authority**, 1271 Route 30, P. O. Box 409, Clinton, PA 15026, (PWSID No. 5020078) Findlay Township, **Allegheny County** on September 12, 2008, for the operation of facilities approved under Construction Permit No. 0206512.

Operations Permit issued to **Nemacolin Woodlands, Inc.**, 1001 LaFayette Drive, Farmington, PA 15437, (PWSID No. 5260045) Wharton Township, **Fayette County** on September 19, 2008, for the operation of facilities approved under Construction Permit No. 2602501.

Operations Permit issued to **Center Township Water Authority**, 224 Center Grange Road, Aliquippa, PA 15001, (PWSID No. 5040007) Center Township, **Beaver County** on September 19, 2008, for the operation of facilities approved under Construction Permit No. 0407501MA.

Permit No. 0208510MA, Minor Amendment, Public Water Supply.

Applicant **Pennsylvania American Water Company**
 800 West Hersheypark Drive
 P. O. Box 888
 Hershey, PA 17033
 Borough or Township Union Township
 County **Washington**
 Type of Facility Aldrich Washwater Tank No. 1
 Consulting Engineer
 Permit to Construct Issued September 12, 2008

Permit No. 6508501MA, Minor Amendment, Public Water Supply.

Applicant **Municipal Authority of Westmoreland County**
 124 Park & Pool Road
 New Stanton, PA 15672
 Borough or Township Oklahoma Borough
 Bell and Washington Townships
 County **Westmoreland**
 Type of Facility Leechburg low service area project
 Consulting Engineer The EADS Group, Inc.
 450 Aberdeen Drive
 Somerset, PA 15501
 Permit to Construct Issued September 12, 2008

Permit No. 0208506MA, Minor Amendment, Public Water Supply.

Applicant **Municipal Authority of Westmoreland County**
124 Park & Pool Road
New Stanton, PA 15672

Borough or Township **White Oak Borough**

County **Allegheny**

Type of Facility **White Oak Borough water storage tank**

Consulting Engineer **The EADS Group, Inc.**
450 Aberdeen Drive
Somerset, PA 15501

Permit to Construct Issued **September 19, 2008**

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

Operations Permit issued to Slippery Rock Municipal Authority, PWSID No. 5100079, Slippery Rock, **Butler County**, on September 12, 2008, for operation of the newly constructed booster pump station at the Heights Apartment Complex, according to specifications approved by construction permit 1008501, issued June 25, 2008.

Operations Permit issued to Pennsylvania American Water Company-Kane, PWSID No. 6420019, Wetmore Township, **McKean County**, on September 22, 2008, for operation of the new chemical feed points for chlorine and caustic soda within lower reservoir No. 3 according to specifications approved by construction permit 4294501-MA2, issued May 30, 2008.

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

Wellhead Protection Program Approval issued to the Meadville Area Water Authority, 18160 Rogers Ferry Road, Meadville, PA 16335, PWSID No. 6200036, City of Meadville, **Crawford County** on September 18, 2008.

SEWAGE FACILITIES ACT PLAN APPROVAL

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

| <i>Casino Item</i> | <i>Patrons per day/Capacity</i> | <i>Gallons per Day</i> | <i>Total Proposed Sewage Flow</i> |
|---|---------------------------------|------------------------|-----------------------------------|
| Gaming Floor (5,000 slot machines) | 23,837 | 9 | 214,533 |
| Food and Beverage seating (nonbar and cocktail seating) | 10,800 patrons/day, 1,800 seats | 6.67 | 72,036 |
| Food and Beverage seating (bar and cocktail seating) | 1,200 patrons/day, 1,200 seats | 8 | 9,600 |
| Event Center | 5,008 patrons | 3.33 | 16,677 |
| Retail (18,330 sq. ft.) | 18,330 sq. ft./1,000 sq. ft. | 120 gpd/1,000 sq. ft. | 2,200 |
| Office (31,500 sq. ft.) | 31,500 sq. ft./1,000 sq. ft. | 50 gpd/1,000 sq. ft. | 1,575 |
| Warehouse/Storage (38,400 sq. ft.) | 38,400 sq. ft./1,000 sq. ft. | 5 gpd/1,000 sq. ft. | 192 |
| Hotel | 1,264 rooms | 75 | 94,800 |
| Employees | 1,350 | 6.67 | 9,005 |
| Total: | | | 420,618 |

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

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|--|---------------|
| Butler Township | 415 West Butler Drive Drums, PA 18222 | Luzerne |

Plan Description: This Plan Revision, as outlined in the Executive Summary of the Plan, calls for:

(1) Updates to the implementation schedule to reflect the current project timeline for continuing on with the 2004 Plan Revision recommendations of elimination of the Drums Wastewater Treatment Facility with subsequent replacement with a 1.0 mgd pump station and expansion of the St. John's Wastewater Treatment Facility from 0.6 mgd to 2.2 mgd.

According to the revised implementation schedule, the following task items are included:

- Completion of Construction: December 2009
- Initiation of Operation/Performance Certification: December 2009

(2) A change in the alignment routing of the force main and gravity sewer lines connecting the new Drums wastewater pump station to the St. John's Treatment Facility.

The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

Plan Description: On September 11, 2008, the Southeast Regional office approved the sewage facilities planning module for the Sugarhouse Casino Project, Department Code 1-51000-974-3J, APS ID 648157, Site ID 691276. The project is located in the City of Philadelphia, **Philadelphia County**. This sewage facilities planning module constitutes a revision to the City of Philadelphia's Official Sewage Facilities Plan.

This revision provides for adequate sewage facilities planning to permit the development of a casino that will ultimately contain the following:

This project is located at 941-1025 North Delaware Avenue, in City of Philadelphia, Philadelphia County.

This project will be connected to the City of Philadelphia Water Department collection system and will generate 420,618 gallons of sewage per day to be treated at the City of Philadelphia Water Department's Southeast Water Pollution Control Wastewater Treatment Facility.

SEWAGE FACILITIES ACT PLAN DISAPPROVAL

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

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

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|--|---------------|
| Juniata Township | 719 Mowry Hill Road Buffalo Mills, PA 15534 | Bedford |

Plan Description: The proposed Official Plan revision consists of a 12 lot single-family residential subdivision which would be served by individual onlot sewage disposal systems and individual water supplies. The proposed development is located along Teaberry Hollow Road.

The plan was disapproved for the following reasons:

1. Planning needs to be addressed for all lots in the subdivision, the Plot Plan shows that what is being called the residue lot is not one contiguous parcel. All stand alone lots need to have individual planning requirements addressed.

2. The Plot Plan does not show the percolation holes associated with the soil pit test.

3. Lot 8 shows 3 soil pit locations, when there is only information supplied for two test pits and a conversation with the SEO (Kim Corle) confirmed that only two test pits were conducted at this site.

4. The module did not contain a checklist signed by the township representative.

5. The module did not include a Transmittal letter.

6. The module did not contain a Resolution of Adoption.

7. The module did not contain Component 4 and any additional comments sheets from the county planning commission.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

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

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation

standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

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

The Department has received the following plans and reports:

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

East Street Cleaners Service, Doylestown Borough, **Bucks County**. Gary Brown, RT Environmental Services, 215 West Church Road, King of Prussia, PA 19406 on behalf of Buck Collins, URGE Properties, 530 West Butler Avenue, Chalfont, PA 18914 has submitted a Final Report concerning remediation of site soil contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Oxford Former MGP Site, Oxford Borough, **Chester County**. Bryan Sladky, Silar Services, Inc., 983 Butler Pike, Blue Bell, PA 19422, Craig Shamory, PPL Service Corporation, Two North Ninth Street, GENTW-17, Allentown, PA 18101-1179, John A. Ducar, P. G., The RETEC Group, Inc., 3040 William Pitt Way, Pittsburgh, PA 15238 on behalf of Michael Hasel, PPL Gas Utilities Corporation, Two North Ninth Street, GENTW-17, Allentown, PA 18101 has submitted a Risk Assessment, Cleanup Plan and Final Report, concerning remediation of site groundwater and Soil contaminated with other organics an PAH. The report is intended to document remediation of the site to meet the Site-Specific Standard and Statewide Health Standard.

Verizon Ardmore Business Center, Lower Merion Township, **Montgomery County**. Sean Damon, Langan Engineering and Environmental Services, 2700 Kelly Road, Suite 200, Warrington, PA 18976 on behalf of Cheryl Houghton, Verizon Pennsylvania, Inc., 966 South Matlack Street, West Chester, PA 19380 has submitted a Final Report concerning remediation of site groundwater contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

Warriors Mark Fuel Tanker Release, Warriors Mark Township, **Huntingdon County**. ATC Associates, 101 Allegheny Street, Hollidaysburg, PA 16643, on behalf of Sel-Lo Oil, R. D. 2, Box 629, Altoona, PA 16601, submitted a Final Report concerning remediation of site soils contaminated with gasoline released in a truck accident. The report is intended to document remediation of the site to the Statewide Health Standard.

Former Department of Transportation Stockpile, Topton Borough, **Berks County**. Department of Transportation, P. O. Box 2957, Harrisburg, PA 17105 and East Penn Manufacturing, Deka Road, P. O. Box 147, Lyon Station, PA 19536 submitted a Final Report concerning remediation of site soils and groundwater contaminated with diesel fuel, leaded gasoline, PAHs and inorganics. 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.

Sunbury Textile Mills Inc. Site 1, 2 and 3, City of Sunbury, **Northumberland County**, Geosyntec Consultants, 130 Research Lane, Suite 2, Guelph, Ontario, Canada N1G 5G3 on behalf of Sunbury Textile Mills, 1200 Miller Street, Sunbury, PA 17801 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with chlorinated solvents and petroleum hydrocarbons. The applicant proposes to remediate the site to meet the Site-Specific Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

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

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If re-

quired, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

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

The Department has received the following plans and reports:

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

Bryan Horetsky Residence, Taylor Township, **Blair County**. Groundwater and Environmental Services, Inc., 6 Sheraton Drive, Suite 2, Altoona, PA 16601, on behalf of Bryan Horetsky, 131 Brumbaugh Road, Roaring Spring, PA 16673, submitted a Final Report concerning remediation of site soils and groundwater contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department of Environmental Protection on September 12, 2008.

Raymark-Manheim Lower Mill Facility, Manheim Borough, **Lancaster County**. RT Environmental Services, Inc., 215 West Church Road, King of Prussia, PA 19406, on behalf of Manheim Economic Development Corporation, 15 East High Street, Manheim, PA 17545, submitted a combined remedial investigation report and Final Report concerning remediation of site soils contaminated with lead, arsenic, petroleum hydrocarbons and phenols. The combined report demonstrated attainment of a combination of the Nonresidential Statewide Health and Site-Specific Standards was approved by the Department of Environmental Protection on September 15, 2008.

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

ACP Manufacturing, Lawrenceville Borough, **Tioga County**, Teeter Environmental, R. R. 1, Box 124B, Sayre, PA 1840 on behalf of ACP Manufacturing, 115 Gulick Street, Blossburg, PA 16912 has submitted a Final Report concerning remediation of site groundwater contaminated with propylene glycol. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on September 15, 2008.

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

Central Chemical, Butler Township, **Butler County**. Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 on behalf of CDC Environmental, 112 Woods Drive, Butler, PA 16001 has submitted

a Final Report concerning the remediation of site soil contaminated with arsenic, gamma-BHC, aldrin, alpha chlordane, gamma-chlordane, dieldrin, heptachlor and site groundwater contaminated with arsenic, gamma-BHC, nitrate-nitrite and nitrate nitrogen. The Final Report demonstrated attainment of the Special Industrial Area requirements and was approved by the Department of Environmental Protection on September 19, 2008.

**REGISTRATION FOR GENERAL
PERMIT—RESIDUAL WASTE**

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

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

General Permit Registration No. WMGR109NE001. Environmental Energy Recycling Corporation, P. O. Box 20922, Lehigh Valley, PA 18002. Registration approval to operate under General Permit No. WMGR109NE001 for the processing of used restaurant oil, yellow grease and similar compounds for beneficial use as biofuel at this residual waste processing facility located in Allentown City, **Lehigh County**. The registration approval was issued in the Regional Office on July 21, 2008, having an expiration date of March 9, 2016.

AIR QUALITY

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

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Sachin Shankar, New Source Review Chief, (484) 250-5920.

GP3-15-0053: Glasgow, Inc. (Limekiln and Willow Grove Avenues, Glenside, PA 19038) on September 19, 2008, to operate a portable nonmetallic mineral processing plant in East Whiteland Township, **Chester County**.

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

GP6-67-03152: New Formprest, Inc. (52 North Ridge Avenue, York, PA 17403) on September 16, 2008, for Petroleum Dry Cleaning under GP6 in the City of York, **York County**.

GP14-22-03031: Cremation Society of Pennsylvania (4100 Jonestown Road, Harrisburg, PA 17109) on September 17, 2008, for Human or Animal Crematories under GP14 in Lower Paxton Township, **Dauphin County**.

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

GP-25-1017A: Pet Cremation Services, LLC (West Ridge Road, Erie, PA 16506) on September 19, 2008, for an animal crematory (BAQ-GPA/GP-14) in Fairview Township, **Erie County**.

GP-25-1018A: EXCO—North Coast Energy, Inc.—May Compressor Station (Wales Road, Hammett, PA 16510) on September 15, 2008, for a natural gas fired compressor engine (BAQ-GPA/GP-5) in Greene Township, **Erie County**.

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

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Sachin Shankar, New Source Review Chief, (484) 250-5920.

23-0009E: The Boeing Co.—Integrated Defense Systems—Rotorcraft (P. O. Box 16858, Philadelphia, PA 19142) on September 18, 2008, to install an aerospace paint spray booth in Building 3-12 at the Boeing aircraft production plant in Ridley Township, **Delaware County**. This facility is a major facility. Emissions of VOCs and organic HAPs will be controlled by use of compliant coatings, under 40 CFR Part 63 Subpart GG and 25 Pa. Code § 129.73. Emissions of PM/PM10/PM2.5 and inorganic HAP from paint overspray will be controlled by a three-stage dry filter, certified 40 CFR Part 63 Subpart GG compliant. With the installation of the new paint booth, combined emissions for the two paint booths in Bldg 3-12 will be: 3.6 tpy VOC, 0.031 tpy PM10/PM2.5 and 1.6 tpy HAP. The company shall comply with good air pollution control practices, monitoring and recordkeeping procedures designed to keep the facility operating within all applicable air quality requirements.

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

24-012H: C/G Electrodes, LLC—St. Marys Plant (800 Theresia Street, St. Marys, PA 15857-1898) on September 16, 2008, to exhaust an existing source (metallurgical coke screening operations venting through a dust collector indoors) to the outdoors in St. Marys City, **Elk County**. This is a Title V facility.

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

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

67-03133: Separation Technologies, Inc. (101 Hampton Avenue, Neeham, MA 02494-2628) on September 8, 2008, to construct a fly ash processing facility at the Brunner Island Steam Electric Station in East Manchester Township, **York County**. This plan approval was extended.

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

41-302-050: Wirerope Works, Inc. (100 Maynard Street, Williamsport, PA 17701) on September 17, 2008, to extend the authorization to operate two 15 mmBtu/hr anthracite coal-fired boilers on a temporary basis to March 16, 2009, in the City of Williamsport, **Lycoming County**.

53-399-008: PA Pellets, LLC (705 South Main Street, Coudersport, PA 16915) on September 18, 2008, to extend the authorization to operate a wood-fired rotary wood chip dryer and associated air cleaning device (a multiclone collector), two pellet mills, a hammermill and associated air cleaning device (a fabric collector), a pellet cooler and associated air cleaning device (a cyclone collector), two dried wood chip storage bins and one wood pellet storage bin on a temporary basis to March 17, 2009, in Ulysses Borough, **Potter County**.

14-399-016A: Spectrum Control, Inc. (1900 West College Avenue, State College, PA 16801) on September 17, 2008, to extend the authorization to operate various ceramic capacitor manufacturing operations on a temporary basis to March 16, 2009, in Ferguson Township, **Centre County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, M. Gorog and B. Hatch, Environmental Engineer Managers, (412) 442-4163/5226.

65-302-071: Koppers, Inc. (345 Donner Avenue, Monessen, PA 15062) on September 26, 2008, a plan approval extension to allow continued temporary operation of two coke oven gas/natural gas boilers at their Monessen Coke Plant, in the City of Monessen, **Westmoreland County** until March 25, 2009. The Plan Approval has been extended.

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

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

36-05140: Valley Proteins, Inc. (693 Wide Hollow Road, East Earl, PA 17519-9645) on September 17, 2008, to operate the rendering operation to process raw inedible animal byproducts in East Earl Township, **Lancaster County**. This Title V operating permit was administratively amended to incorporate plan approval 36-05140B. This is Revision No. 1.

67-05032: Harley-Davidson Motor Company Operations, Inc. (1425 Eden Road, York, PA 17402-1599) on September 16, 2008, for their York motorcycle assembly plant in Springettsbury Township, **York County**. This Title V operating permit was administratively amended to incorporate plan approval 67-05032D. This is Revision No. 1.

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, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

15-00118: Allan A. Myers, LP—d/b/a Independence Construction Materials—Devault Asphalt Plant (4042 State Road, Charlestown Township, PA 19432) on September 17, 2008, to operate their stone quarry on Route 29 in Charlestown Township, **Chester County**. The permit is for a non-Title V (State-only) facility. The Devault Stone Quarry consists of two tertiary cone crushers, rated at 151 tph and two portable nonmetallic mineral processing plants, each rated at 600 tph. The plant utilizes a water spray wet suppression system to

control PM emissions. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

01-03032: Carma Industrial Coatings, Inc. (710 Berlin Road, New Oxford, PA 17350-8721) on September 17, 2008, to install a surface coating system in Berwick Township, **Adams County**.

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

33-00108: Brookville Hospital (100 Hospital Road, Brookville, PA 15825-1367) on September 17, 2008, to re-issue a Natural Minor Permit to operate a general medical and surgical hospital in Brookville Borough, **Jefferson County**. The major emitting sources included: 1) five natural gas or /No. 2 fuel oil fueled Boilers; and 2) two fuel oil No. 2 fueled emergency generators. The facility is natural minor because the emission of pollutants from the facility is less than Title V threshold limits.

37-00302: Axion Power Battery Manufacturing, Inc. (3601 Clover Lane, New Castle, PA 16105) on September 18, 2008, to re-issue a Natural Minor Operating Permit to Axion Power Battery Manufacturing, Inc., in Neshannock Township, **Lawrence County**. The primary emissions from this facility are from the production of automotive type batteries.

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

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

21-05048: IAC Carlisle, LLC (P. O. Box 40, Carlisle, PA 17013-0040) on September 19, 2008, to operate automotive carpet and backing operations in Carlisle Borough, **Cumberland County**. This State-only operating permit was administratively amended due to a change of ownership. This is Revision No. 1.

28-03027: Carlton Creek Coatings, LLC (8473 Lincoln Way West, Saint Thomas, PA 17252-9710) on September 15, 2008, to operate their finish paint facility in St. Thomas Township, **Franklin County**. This State-only operating permit was administratively amended due to a change of ownership. This is Revision No. 1.

De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.

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

04-00306: BASF Corp. (370 Frankfort Road, Monaca, PA 15061-2296) for increases of 0.17 ton each NOx and CO per year resulting from the installation on or about September 23, 2008, of a 28 mmBtu/hr natural gas boiler operating for no more than 14 days at the Monaca facility in Potter Township, **Beaver County**.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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

Coal Permits Actions

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

26961601 and NPDES Permit No. PA0214779, Matt Canestrone Contracting, Inc., (P. O. Box 234, Belle Vernon, PA 15012-0234), to revise the permit for the LaBelle Site in Luzerne Township, **Fayette County** to construct a haul road, utilize fly ash for structural fill and change the land use for 8.2 acres from forestland to industrial/commercial. Surface Acres Proposed 8.2. No additional discharges. Application received November 16, 2007. Permit issued September 15, 2008.

30841317 and NPDES Permit No. PA0213527, Consol Pennsylvania Coal Company, (1525 Pleasant Grove Road, P. O. Box J, Claysville, PA 15323), to renew the permit and related NPDES permit and revise the permit for the Enlow Fork Mine in Richhill and Morris Townships, **Greene County** and East Finley, West Finley and Morris Townships, **Washington County** to delete 8,441.67 acres from the subsidence control plan area. No additional discharges. Application received February 1, 2005. Permit issued September 15, 2008.

30841317 and NPDES Permit No. PA0213527, Consol Pennsylvania Coal Company, LLC (1800 Washington Road, Pittsburgh, PA 15241), to transfer the permit for the Enlow Fork Mine in Richhill and Morris Townships, **Greene County** and Morris, East Finley and West Finley Townships, **Washington County** and related NPDES permit from Consol Pennsylvania Coal Company. No additional discharges. Application received October 18, 2007. Permit issued September 15, 2008.

30921601 and NPDES Permit No. PA0214060, River Processing Corporation, (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to renew the permit for the Monongahela Resources Tipple in Jefferson Township, **Greene County** and related NPDES permit. No additional discharges. Application received April 8, 2008. Permit issued September 15, 2008.

32971302 and NPDES Permit No. PA0215040, Rosebud Mining Company, (301 Market Street, Kittanning, PA 16201), to renew the permit for the Dutch Run Mine in Washington Township, **Indiana County** and Plumcreek Township, **Armstrong County** and related

NPDES permit. No additional discharges. Application received July 10, 2007. Permit issued September 16, 2008.

63831302, Eighty Four Mining Company, (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to revise the permit the Mine No. 84 in Amwell, North Bethlehem and West Bethlehem Townships, **Washington County** to perform stream remediation as may be necessary for five areas of Shipe Run, six areas of Potato Run, seven areas of Brush Run and four areas of Little Tenmile Creek to alleviate subsidence pooling impacts from longwall mining bound by the following points on the Amity USGS Quad N: 14.07 inches; W: 5.36 inches to N: 18.82 inches; W: 3.26 inches to N: 20.83 inches; W: 8.83 inches to N: 15.99 inches; W: 10.71 inches. No additional discharges. Application received November 13, 2006. Permit issued September 18, 2008.

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

32020104 and NPDES No. PA0249033, Thomas J. Smith, Inc., 2340 Smith Road, Shelocta, PA 15774, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in South Mahoning Township, **Indiana County**, affecting 78.5 acres. Receiving streams: UNTs to Ross Run and Ross Run; UNTs to Little Mahoning Creek classified for the following uses: HQ; HQ. There are no potable water supply intakes within 10 miles downstream. Application received March 26, 2008. Permit issued September 15, 2008.

56040101 and NPDES No. PA0249556, Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, revision of an existing bituminous surface mine to add the removal of buried coal refuse from the site to the operational plan in Black Township, **Somerset County**, affecting 52.0 acres. Receiving streams: Rhoades Creek classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received July 29, 2008. Permit issued September 15, 2008.

56930106 and NPDES No. PA0212458, Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, permit renewal for reclamation only of a bituminous surface mine in Black Township, **Somerset County**, affecting 192.2 acres. Receiving streams: UNTs to/and Casselman River classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received July 22, 2008. Permit issued September 18, 2008.

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

03860111 and NPDES Permit No. PA0589144, State Industries, Inc. (P. O. Box 1022, Kittanning, PA 16201). Permit renewal issued for continued operation and reclamation of a bituminous surface/auger mine located in East Franklin Township, **Armstrong County**, affecting 667.4 acres. Receiving streams: UNTs to Allegheny River. Application received June 11, 2008. Renewal issued September 16, 2008.

Noncoal Permits Actions

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

Final Bond Release

08050807, James P. Perkins Development Co., Inc. (R. R. 1, Box 195H, Rome, PA 18837), noncoal mining

operation in Orwell Township, **Bradford County**. Restoration of 1.0 acre completed. Receiving streams South Creek, tributary to Johnson Creek. Application received August 20, 2008. Final bond release September 15, 2008.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

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

Blasting Permits Actions

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

44084104. M & J Explosives, Inc., P. O. Box 608, Carlisle, PA 17013-0608, blasting activity permit issued for school development in Derry Township, **Mifflin County**. Blasting activity permit end date is September 30, 2009. Permit issued September 8, 2008.

21084153. Newville Construction Services, Inc., 408 Mohawk Road, Newville, PA 17241-9424, blasting activity permit issued for pool/pond development in Shipensburg Township and Borough, **Cumberland County**. Blasting activity permit end date is September 9, 2009. Permit issued September 11, 2008.

21084154. Newville Construction Services, Inc., 408 Mohawk Road, Newville, PA 17241-9424, blasting activity permit issued for warehouse development in Dickinson Township, **Cumberland County**. Blasting activity permit end date is September 10, 2009. Permit issued September 11, 2008.

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

30084006. Shallenberger Construction (2611 Memorial Avenue, Connellsville, PA 15425). Blasting activity permit for construction of the Willis No. 16 Atlas Well Site located in Cumberland Township, **Greene County**, with an expected duration of blasting for 180 days. Permit issued September 15, 2008.

26084004. Mashuda Corp. (21101 Route 19, Cranberry Township, PA 16066). Blasting activity permit for construction of the Mon/Fayette Expressway, SR 0043, Section 51G, located in Luzerne Township, **Fayette County** with an expected duration of blasting for 1 year. Permit issued September 19, 2008.

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

24084003. Seneca Resources, Inc. (51 Zents Road, Brookville, PA 15825) Blasting activity permit for stone removal in Ridgway Township, **Elk County**. This blasting activity permit will expire on September 19, 2009. Application received September 11, 2008. Permit issued September 19, 2008.

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

06084126. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Holiday Village in Bern Township, **Berks County** with an expiration date of September 10, 2009. Permit issued September 15, 2008.

39084119. Schlouch, Inc., (P. O. Box 69, Blandon, PA 19510), construction blasting for Blue Ridge West Estates in Upper Saucon Township, **Lehigh County** with an expiration date of September 10, 2009. Permit issued September 15, 2008.

46084120. American Rock Mechanics, Inc., (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Guidemark in Franconia Township, **Montgomery County** with an expiration date of September 11, 2009. Permit issued September 15, 2008.

40084119. Austin Powder Company, (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Humbolt Industrial Park in Hazleton Township, **Luzerne County** with an expiration date of September 10, 2009. Permit issued September 16, 2008.

360841102. Gerlach's Drilling & Blasting, (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Kline's Service in East Hempfield Township, **Lancaster County** with an expiration date of September 25, 2009. Permit issued September 17, 2008.

64084110. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for the Wayne Industrial Park in Sterling Township, **Wayne County** with an expiration date of September 15, 2009. Permit issued September 17, 2008.

67084004. Explosives Experts, Inc., (P. O. Box 879, Sparks, MD 21152), construction blasting for Arm & Hammer Manufacturing Plant in Jackson Township, **York County** with an expiration date of June 30, 2009. Permit issued September 18, 2008.

35084120. Holbert Explosives, Inc., (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for a single dwelling in Dunmore Borough, **Lackawanna County** with an expiration date of September 28, 2009. Permit issued September 18, 2008.

35074121. Hayduk Enterprises, Inc., (257 Riverside Drive, Factoryville, PA 18419), construction blasting for Mt. Margaret Estates in Dunmore Borough, **Lackawanna County** with an expiration date of September 30, 2009. Permit issued September 18, 2008.

38084126. M & J Explosives, Inc., (P. O. Box 608, Carlisle, PA 17013), construction blasting for Swiss Premium Dairy in North Cornwall Township, **Lebanon County** with an expiration date of September 30, 2009. Permit issued September 18, 2008.

64084111. Hayduk Enterprises, Inc., (257 Riverside Drive, Factoryville, PA 18419), construction blasting for Kory Shale Pit in Clinton Township, **Wayne County** with an expiration date of December 31, 2008. Permit issued September 18, 2008.

66084106. Hayduk Enterprises, Inc., (257 Riverside Drive, Factoryville, PA 18419), construction blasting for a single dwelling in Lemon Township, **Wyoming County** with an expiration date of September 30, 2009. Permit issued September 18, 2008.

52084117. Holbert Explosives, Inc., (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for Blue Heron Woods in Blooming Grove Township, **Pike County** with an expiration date of September 30, 2009. Permit issued September 21, 2008.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously

received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

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

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

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

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

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

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E46-1025. Weis Markets Inc., 1000 South 2nd Street, P. O. Box 471, Sunbury, PA 17801, Douglass Township, **Montgomery County**, United States Army Corps of Engineers, Philadelphia District.

To perform the following activities within a UNT to Swamp Creek (TSF) associated with a proposed Weis Supermarket:

1. To place fill within approximately 30 linear feet of the stream and to construct and maintain approximately 40 linear feet of new channel.
2. To regrade, stabilize and maintain approximately 160 linear feet of the stream.

This project is located approximately 250 feet northeast of the intersection of Montgomery and Philadelphia Avenues (SR 0073) (Sassamansville, PA USGS Quadrangle N: 14.2 inches; W: 0.2 inch).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. 134 (a)).

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

E41-584. Borough of Muncy, 14 North Washington Street, Muncy, PA 17756. Standard Joint Water Obstruction Permit, in Muncy Borough and Muncy Creek Township, **Lycoming County**, United States Army Corps of Engineers, Susquehanna River Basin District (Muncy, PA Quadrangle N: 14.9 inches; W: 4.8 inches).

To dredge 4,100 feet of Glade Run 2.5 feet deep in Muncy Borough, Lycoming County. This project proposes to have a significant impact on Glade Run, which is designated a WWF. This project does not propose to impact any jurisdictional wetlands.

E41-590. Scott Shirk and Jayson Mumma, 9 Oak Street, Lebanon, PA 17046. Water Obstruction and Encroachment Joint Permit, in Cogan House Township, **Lycoming County**, United States Army Corps of Engineers, Susquehanna River Basin District (White Pine, PA Quadrangle N: 41° 28' 12.4"; W: 77° 11' 6").

To construct and maintain a 4-inch outfall from an existing upper pond, a 6-inch outfall from an existing lower pond, a footbridge measuring 15 feet long, 4 feet wide with a minimum underclearance of 4 feet, bank stabilization measuring 10 feet long by 4 feet high and a stabilized ford crossing measuring 15 feet long and 12 feet wide, all of which is located along Flicks Run, 1.7 mi south of the intersection with SR 0284 in Cogan House Township, Lycoming County. This project proposes to have a minimal impact on Flicks Run, which is designated a HQ-CWF and does not propose to impact any jurisdictional wetlands. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E49-300. Northumberland Sewer Authority, 100 Water Street, P. O. Box 325, Northumberland, PA 17857. Queen Street Pump Station Upgrades, in Northumberland Borough, **Northumberland County**, United States Army Corp of Engineers, Baltimore District (Latitude: 40° 53' 02"; Longitude: 76° 47' 46").

To construct operate and maintain a new 16 inch common force main parallel to an existing 12 inch which will be disconnected once the upgrades are complete. The new force main will extend 1,000 linear feet. This project is located at the South end of Priestley Avenue.

ENVIRONMENTAL ASSESSMENTS

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

EA02-006CO. Houston-Starr Company, 300 Brushton Avenue, Pittsburgh, PA 15221. Monroeville Borough, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District.

Project proposes to construct, operate and maintain a nonjurisdictional dam (Detention Basin No. 2) and to modify an existing nonjurisdictional dam (Detention Basin No. 1). The dams are located across a tributary to Simpson Run in Monroeville Borough, Allegheny County.

Detention basin No. 2 will impact approximately 100 linear feet of stream channel for stormwater management purposes. The embankment of Detention Basin No. 1 will be lowered so the reservoir will have a maximum depth of 14.27 feet. The dams are located approximately 3,300 feet southwest of the intersection of Saunders (SR 2100) and Meadowbrook Roads (Murrysville, PA Quadrangle N: 4.95"; W: 15.95").

D40-099EA. Land Manager Supervisor, Post Office Box 220, Dallas, PA 18612. Salem Township, **Luzerne County**, United States Army Corps of Engineers, Baltimore District.

Project proposes to breach and remove Intake Dam across Little Shickshinny Creek (HQ-CWF) for the purpose of eliminating a threat to public safety and restoring

the stream to a free flowing condition. The project will restore approximately 100 feet of stream channel. The dam is located approximately 2,800 feet west of the intersection of US 11 and Shickshinny Valley Road (SR 4004) (Shickshinny, PA Quadrangle Latitude: 41° 09' 04"; Longitude: 76° 09' 40").

EA45-005CO. The Hamlet Recreation Club, P. O. Box 69, Canadensis, PA 18325. Price Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District. To rehabilitate and maintain Dormoy Lake Dam across a tributary to Stony Run (EV, Wild Trout) for recreation. Repair of the nonjurisdictional dam will impact 70 lineal feet of watercourse. The project is located approximately 400 feet south of the intersection of Blue Ridge Drive and Yellow Birch Road (Skytop, Quadrangle Latitude: 41° 10' 06"; Longitude: 75° 11' 39").

STORAGE TANKS

SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101 and 6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.

| <i>SSIP Permit No.</i> | <i>Applicant Name & Address</i> | <i>County</i> | <i>Municipality</i> | <i>Tank Type</i> | <i>Tank Capacity</i> |
|------------------------|---|---------------|---------------------|-----------------------------------|-----------------------|
| 08-30-002 | Delta-Energy PA No. 1 350 Hochberg Road Monroeville, PA 15146-1516 Attn: Michael R. Silsbee | Greene | Cumberland Township | 7 ASTs storing petroleum products | 210,000 gallons total |

SPECIAL NOTICES

Special Public Notice

NPDES Permit No. PA0027235-A1. On May 1, 2007, the Department of Environmental Protection (Department) issued a permit to Easton Area Joint Sewer Authority for the discharge of treated sewage to the Delaware River. On May 29, 2007, Easton Area Joint Sewer Authority filed an appeal of NPDES Permit No. PA0027235 to the Environmental Hearing Board. Easton Area Joint Sewer Authority's appeal asserts, among other things, that the Department committed error by mandating an effluent limit for Whole Effluent Toxicity that may become effective in the fourth year of the permit term. After negotiation with representatives of the Easton Area Joint Sewer Authority, the Department and the Easton Area Joint Sewer Authority entered into a stipulation of settlement whereby the Department agreed to reissue NPDES Permit No. PA0027235 without the requirement for the Whole Effluent Toxicity effluent limit to become effective in the fourth year of the permit. The stipulation of settlement also requires the Easton Area Joint Sewer Authority to conduct a mixing study concerning its discharge that will be submitted to the Department for review and consideration.

The Department hereby notices NPDES Permit No. PA0027235-A1 for public comment. The Department shall consider any comments submitted during the 30 day comment period in deciding whether to reissue NPDES Permit No. PA0027235-A1 in accordance with the terms of the settlement agreement.

| <i>NPDES Permit No.</i> | <i>Applicant Name and Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Waters</i> |
|-------------------------|-----------------------------------|---------------|---------------------|-------------------------|
| PA0027235-A1 | Easton Area Joint Sewer Authority | Northampton | City of Easton | Delaware River |

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

EGS 02004. Redland Brick, Inc. (5718 Clear Spring Road, P. O. Box 160, Williamsport, MD 21795). An Environmental Good Samaritan project to eliminate surface expressions of and discharges from the Indianola Mine, located in Harmar Township, **Allegheny County**, affecting 4.2 acres. Receiving stream: Deer Creek. Project proposal received: September 11, 2008.

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

The Department of Environmental Protection (Department) will hold a public meeting to discuss and accept comments on a proposed TMDL for the Beech Creek Watershed in Clearfield County. The meeting will be held in conjunction with the Beech Creek Watershed Meeting on October 20, 2008, beginning at 7 p.m. at the Beech Creek Borough Building located at 51 Locust Street,

Beech Creek, PA 16822. Individuals who plan to make a presentation at the public meeting should contact John Mital at the Moshannon District Mining Office at (814) 342-8200 no later than 4 p.m. on Friday, October 17, 2008. The Department will consider all comments in developing the final TMDL for the Beech Creek Watershed, which will be submitted to the Environmental Protection Agency for approval.

The proposed TMDL for the Beech Creek Watershed was established in accordance with the requirements of the Clean Water Act, section 303(d). One stream segment in the Beech Creek Watershed has been identified as impaired on the 1996 Pennsylvania section 303(d) list, primarily due to acid mine drainage pollution resulting in depressed pH and/or high concentrations of metals. The listed segment and miles degraded are shown in the following table:

| Stream Name | Stream Code | Miles Degraded |
|-------------|-------------|----------------|
| Beech Creek | 22596 | 26 |

The proposed plan provides calculations of the 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 | 0.75 | Total Recoverable |
| Iron | 1.5 | Total Recoverable |
| Manganese | 1.00 | Total Recoverable |
| pH | 6.0 to 9.0 | NA |

The primary pollutant source for the watershed is abandoned mine workings. This watershed was mined for coal in the 1900s. The effects of this are still present.

The proposed TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a 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 proposed TMDL. The proposed TMDL for the Beech Creek Watershed sets allowable loading rates for metals and acidity at specified points in the watershed. Field data was used to establish the proposed TMDL for the Beech Creek Watershed. The data and all supporting information used to develop the proposed TMDL are available from the Department.

The Department will accept written comments on the proposed TMDL for the Beech Creek Watershed. All written comments must be postmarked by December 4, 2008, and sent to:

John Mital
Department of Environmental Protection
Moshannon District Mining Office
186 Enterprise Drive
Philipsburg, PA 16866
(814) 342-8200

To request a copy of the proposed TMDL and associated information sheet or to obtain directions to the Moshannon District Mining Office, contact John Mital at the previous phone number.

The proposed TMDL for the Beech Creek Watershed can be accessed through the Department's web site www.dep.state.pa.us by typing "TMDL" in the DEP Key-

word field, and clicking GO. Persons with a disability who require accommodations to attend this meeting should contact the Department at (814) 472-1900 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Load (TMDL) for Crooked Creek Watershed in Armstrong and Indiana Counties

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931.

The Department of Environmental Protection (Department) is accepting comments on a proposed TMDL. The proposed TMDL was established in accordance with the requirements of the 1996 section 303(d) of The Clean Water Act. Several stream segments in the Crooked Creek Watershed have been identified as impaired on the 1996 Pennsylvania 303(d) list due to suspended solids; additional segments were identified in 1998, 2002, 2004 and 2006. The 1996 listed segment and miles degraded are shown in the following table:

| Stream Code | Stream Name | Miles Degraded |
|-------------|------------------------------|----------------|
| 46216 | UNT to Connoquenessing Creek | 6.2 |

There currently are no State or Federal instream numerical water quality criteria for siltation or suspended solids. Therefore, the Department utilized a reference watershed approach to implement the applicable narrative criteria. These proposed TMDLs set allowable loadings of sediment in the UNT to Connoquenessing Creek Watershed. The sediment loadings were allocated among all land use categories present in the watersheds. Data used in establishing these TMDLs was generated using a water quality analysis model designed by the Pennsylvania State University.

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 Travis Stoe at (717)772-2284 between 8 a.m. and 3 p.m., Monday through Friday, at 400 Market Street, 10th Floor RCSOB, Harrisburg, PA 17105.

The TMDL can be viewed and printed by accessing the Department's web site at www.dep.state.pa.us (PA Keyword: TMDL).

Written comments will be accepted at the previous address and must be postmarked by December 3, 2008. The Department will consider all comments in developing the final TMDL, which will be submitted to the Environmental Protection Agency for approval.

Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Loads (TMDLs) for Narrows Creek Watershed in Clearfield and Elk Counties

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866.

The Department of Environmental Protection (Department) is holding a public meeting on October 20, 2008, beginning at 10 a.m. at the Moshannon District Office in Ebensburg, PA to discuss and accept comments on a proposed TMDL. The proposed TMDL was established in accordance with the requirements of the 1996 section 303(d) of The Clean Water Act. One stream segment in

the Narrows Creek Watershed has been identified as impaired on the 1996 Pennsylvania 303(d) list due to high concentrations of metals; additional segments were identified in 1998, 2002, 2004 and 2006. The listed segment and miles degraded are shown in the following table:

| <i>Stream Code</i> | <i>Stream Name</i> | <i>Miles Degraded</i> |
|--------------------|--------------------|-----------------------|
| 48834 | Narrows Creek | 5.5 |

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron and manganese) and pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

| <i>Parameter</i> | <i>Criterion value (mg/l)</i> | <i>Total Recoverable/Dissolved</i> |
|------------------|-------------------------------|------------------------------------|
| Aluminum | 0.75 | Total Recoverable |
| Iron | 1.5 | Total Recoverable |
| Manganese | 1.00 | Total Recoverable |
| pH | 6.0 to 9.0 | NA |

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the 20th century. The effects of this are still present. The TMDL consists of load allocations, which are made to nonpoint sources of pollution and waste load allocations, which are made to permitted point sources.

The TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a dataset based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected in 2007.

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 Scott Heidel at (717) 787-1421 between 8 a.m. and 3 p.m., Monday through Friday, at Rachel Carson State Office Building, 10th Floor, 400 Market Street, Harrisburg, PA 17101. E-mail will be received at jeorr@state.pa.us. Directions to the meeting place can also be obtained through this contact.

The TMDL can be viewed and printed by accessing the Department's web site at www.dep.state.pa.us (PA Keyword: TMDL).

Written comments will be accepted at the previous address and must be postmarked by December 4, 2008. Persons who plan to make a presentation at the public meeting should notify the Department no later than 3 p.m. Monday, October 20, 2008. The Department will consider all comments in developing the final TMDL, which will be submitted to the Environmental Protection Agency for approval.

[Pa.B. Doc. No. 08-1806. Filed for public inspection October 3, 2008, 9:00 a.m.]

Bid Opportunity

OSM 10(0755)102.1, Abandoned Mine Reclamation Project, Claytonia, Clay Township, Butler County.

The principal items of work and approximate quantities include 39,000 cubic yard of Grading, 4.5 acre of Seeding and 3,060 trees for Tree Planting. This project issues on October 3, 2008, and bids will be opened on October 30, 2008, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by Pub. L. No. 95-87 dated August 3, 1977, The Surface Mining Control and Reclamation Act of 1977, and is subject to that Law, and to the Federal Grant for this project. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-1807. Filed for public inspection October 3, 2008, 9:00 a.m.]

Nutrient and Sediment Reduction Credit Trading Program; Nutrient Trading Program and NPDES Permits

The Department of Environmental Protection (Department) provides notice of the following actions regarding the Nutrient and Sediment Reduction Credit Trading Program (Trading Program). These actions were taken in relation to the Final Trading of Nutrient and Sediment Reduction Credits—Policy and Guidelines (Policy) (DEP ID No. 392-0900-001) (see 36 Pa.B. 7999 (December 30, 2006)). The Policy called for a transparent system of credit reviews and approvals.

Trading is a market-based program that provides incentives for entities to create nutrient reduction credits by going beyond statutory, regulatory or voluntary obligations and goals by removing nutrients from a watershed. The credits can be traded to help others more cost-effectively meet their obligations or goals. The primary purpose of the Trading Program is to provide for more efficient ways for National Pollutant Discharge Elimination System (NPDES) permittees to meet their effluent limits for nutrients and sediment. Currently, the focus of the program is on the Chesapeake Bay Watershed.

The actions described in this notice relate to: (1) submitted proposals; (2) approved proposals; and (3) registered credits, through September 19, 2008.

Background

Before a credit can be used by an NPDES permittee, a three-step process is followed. First, the credit or offset proposal must be approved, second, it must be verified and third, it must be registered.

Approval is also known as certification, which is a written approval by the Department for the use of proposed or implemented activities to generate credits (in some cases the person generating the credits is not permitted to transfer them to another person, in which case they are called "offsets"). Certifications are based on at least: (1) a credit or offset proposal to be submitted describing the qualifying activities that will reduce the nutrient loadings delivered to the applicable watershed; (2) the calculation to quantify the pounds of reductions

expected; and (3) a verification plan that, when implemented, ensures that the qualifying nutrient reduction activities have taken place. Proposals, certifications and registrations described in this Notice apply to the Chesapeake Bay Watershed.

Once the credits or offsets are certified, they must be verified. Verification means implementation of the verification plan contained in a certified credit or offset proposal as required by the Department. Verification plans require annual submittal of documentation to the Department that demonstrates that the qualifying nutrient reduction activities have taken place for the applicable compliance year.

The credits or offsets also need to be registered by the Department before they can be used in an NPDES permit. Registration occurs only after credits or offsets have been certified and verified, and a trading contract for credits has been submitted to the Department. For the Chesapeake Bay Watershed, the Department will register credits on an annual basis for use during the compliance year in which the qualifying nutrient reduction activities have taken place and will provide such credits with an annual registry number for reporting and tracking purposes.

The Department has received 61 proposals that have been submitted for review to generate nutrient reduction credits in the Chesapeake Bay Watershed. Of those, 36 have been approved, 7 are in review, 1 has been withdrawn and the remaining need additional clarification prior to certification.

Proposals under Review

The following proposals are being reviewed by the Department. Comments will be received on these projects for 30 days.

| <i>Proposal Applicant</i> | <i>Proposal Description</i> |
|---|---|
| 1. AET Agriculture Consulting | Nitrogen credits generated by fencing, buffers and barn yard improvements, Susquehanna County. |
| 2. Electro Cell Technology | Nitrogen and Phosphorus credits generated by a technology based process installed on a hog operation, Lancaster County. |
| 3. Berks County Conservation District | Nitrogen credits generated by the implementation of grazing BMPs, Berks County. |
| 4. Bedford County Conservation District | Nitrogen credits generated by implementation of no-till, Bedford County. |
| 5. Capital RC&D | Phosphorus credits generated by implementation of no-till, Bradford County. |

Correction—At 38 Pa.B. 4584 (August 16, 2008), a proposal applicant was incorrectly referenced. It was stated that Bradford County Conservation District submitted a proposal for nitrogen credits generated by implementation of no-till. It should have been noticed that Capital RC&D submitted a proposal for nitrogen credits generated by the implementation of no-till in Bradford County.

Certifications:

The Department has approved the following credit-generating proposals.

| <i>Applicant and proposal description</i> | <i>Nitrogen Credits</i> | <i>Phosphorus Credits</i> | <i>Sediment Reductions</i> |
|---|-------------------------|---------------------------|----------------------------|
| 1. Chester County Conservation District—generated credits by the installation of cover crops. | 39,977 | | |
| 2. Lebanon County Conservation District—generated credits by the installation of mortality composters. | 4 | 2 | |
| 3. Dauphin County Conservation District—generated credits by the installation of stream bank fencing, riparian buffers and a mortality composter. This proposal will generate credits for multiple years. | 3,463 | 183 | |
| 4. Cumberland County Conservation District—generated by the installation of animal waste systems. This proposal will generate credits for multiple years. | 6,514 | 363 | |
| 5. Red Barn Trading Company—Poultry Manure Export from Juniata County to a location outside of the watershed. | 24,160 | 3,020 | |
| Total: | 74,118 | 3,568 | |

Verifications and Registrations:

To date, there are no verifications and registrations.

For further information about the previous information or the Department's Nutrient Trading Program, contact Ann Smith, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-4726, annsmith@state.pa.us or visit the Department's web site at www.depweb.state.pa.us (DEP Keywords: Nutrient Trading).

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-1808. Filed for public inspection October 3, 2008, 9:00 a.m.]

Oil and Gas Technical Advisory Board; Location Change

The October 30, 2008, meeting of the Oil and Gas Technical Advisory Board will now convene at an alternate location than was previously advertised in the *Pennsylvania Bulletin*. The meeting will begin at 9 a.m. at The Springhill Suites by Marriott, 16 Trinity Point Drive, Washington, PA 15301 in the Washington Room.

Questions concerning the meeting can be directed to the Carol Daniels at (717) 772-2199, cardaniels@state.pa.us. The agenda and meeting materials for the meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (DEP Keywords: Public Participation, Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Carol Daniels at (717) 772-2199 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-1809. Filed for public inspection October 3, 2008, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Good Shepherd Rehabilitation Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Good Shepherd Rehabilitation Hospital has requested an exception to the requirements of 28 Pa. Code § 101.31(7) (relating to permanent on-site facilities for the care of patients 24 hours a day).

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

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

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

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or

hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-1810. Filed for public inspection October 3, 2008, 9:00 a.m.]

Application of Montrose General Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Montrose General Hospital has requested an exception to the requirements of 28 Pa. Code § 123.25(2) (relating to regulations for control of anesthetic explosion hazards).

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

The facilities are requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

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

EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-1811. Filed for public inspection October 3, 2008, 9:00 a.m.]

Application for Request for Exception to 28 Pa. Code § 569.35

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that the following facilities have requested an exception to the requirements of 28 Pa. Code § 569.35 (relating to general safety precautions):

Wills Surgery Center at Philadelphia Stadium Campus
Holy Redeemer Ambulatory Surgery Center

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

The facilities are requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

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

EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-1812. Filed for public inspection October 3, 2008, 9:00 a.m.]

Long-Term Care Nursing Facilities; Requests for Exception

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building).

Falling Spring Nursing and Rehabilitation Center
201 Franklin Farm Lane
Chambersburg, PA 17201

Golden LivingCenter—Erie
2686 Peach Street
Erie, PA 16508
FAC ID 020602

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.9(c) (relating to corridors).

Rest Haven-York
1050 South George Street
York, PA 17403

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.36(a) and (h) (relating to bathing facilities).

Transitional Care Center Clarion Hospital
One Hospital Drive
Clarion, PA 16214
FAC ID 297802

Golden LivingCenter—Erie
2686 Peach Street
Erie, PA 16508
FAC ID 020602

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

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

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact V/TT (717) 783-6514 for

speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-1813. Filed for public inspection October 3, 2008, 9:00 a.m.]

Tobacco Use Prevention and Cessation Advisory Committee; Public Hearing and Public Meeting

The Tobacco Use Prevention and Cessation Advisory Committee (Committee) of the Department of Health (Department) will hold a public hearing and a public meeting on October 16, 2008. The public hearing and public meeting will be held in Room E-100, Labor and Industry Building, Seventh and Forster Streets, Harrisburg, PA.

The public hearing of the Committee will be held from 10 a.m. to 12 p.m. Comments must be submitted in writing no later than 2:30 p.m. on October 10, 2008, to the Department of Health, Bureau of Health Promotion and Risk Reduction, Division of Tobacco Prevention and Control, Room 833, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120 or fax (717) 214-6690. Written comments must be limited to no more than three typewritten pages. Persons wishing to present written statements orally at the public hearing must contact Judy Ochs at (717) 783-6600 no later than 2:30 p.m. on October 10, 2008, to make a reservation for testifying at the hearing. Oral testimony will be limited to 5 minutes. Persons will be scheduled on a first come, first served basis, as time permits.

The public meeting of the Committee will be held from 1 p.m.—3:30 p.m. The purpose of the meeting is to discuss the tobacco use prevention and cessation priorities for the State Fiscal year 2009-2010.

This meeting is open to the public. No reservations are required to attend the public meeting.

For additional information contact Judy Ochs, Director, Division of Tobacco Prevention and Control, Room 833, Health and Welfare Building, 625 Forster Streets, Harrisburg, PA 17120-0701 at (717) 783-6600.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so should contact Judy Ochs at (717) 783-6600 or V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

This hearing and meeting is subject to cancellation without notice.

EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-1814. Filed for public inspection October 3, 2008, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Availability of the Fiscal Year 2009 Low-Income Home Energy Assistance Program State Plan

The Department of Public Welfare (Department) is making available to the public the 2009 Low-Income Home Energy Assistance Program State Plan (State Plan). The State Plan describes how the Department plans to use block grant funds provided under the Low-Income Home Energy Assistance Act of 1981, Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) (42 U.S.C.A. §§ 8621–8629), during the 2008-09 program year.

An online version of the State Plan can be found on the Department of Public Welfare LIHEAP web site at www.dpw.state.pa.us/ServicesPrograms/LIHEAP/. In addition, copies of the State Plan are available upon written request to Donna Roe, Director, Division of Federal Programs and Program Management, Department of Public Welfare, DGS Annex, Room 224, Willow Oak Building, 1006 Hemlock Drive, Harrisburg, PA 17110.

ESTELLE B. RICHMAN,
Secretary

[Pa.B. Doc. No. 08-1815. Filed for public inspection October 3, 2008, 9:00 a.m.]

Nursing Facility Assessment Program

This notice announces the proposed assessment amount, the proposed assessment methodology and the estimated aggregate impact on nursing facilities that will be subject to the assessment under the Nursing Facility Assessment Program (Assessment Program) in Fiscal Year (FY) 2008-2009.

Background

In 2003, the Pennsylvania General Assembly amended the Public Welfare Code to authorize the Department of Public Welfare (Department) to implement a monetary assessment on private nursing facilities in this Commonwealth over a 4 year period beginning July 1, 2003, and ending June 30, 2007. Act of September 30, 2003 (P. L. 169, No. 25) (Act 25), codified at 62 P. S. §§ 801-A–815-A. Since the implementation of the Assessment Program, the Department used the Assessment Program revenue to maintain and augment payments to Pennsylvania's Medical Assistance (MA) nursing facility providers. Recognizing the substantial benefits realized through the Assessment Program, the General Assembly enacted Act 16 of 2007 to reauthorize the Assessment Program for an additional 5 years. Act of June 30, 2007 (P. L. 169, No. 16) (Act 16). In addition to reauthorizing the Assessment Program, Act 16 amended the Public Welfare Code to allow the Department to include county nursing facilities in the Assessment Program effective July 1, 2007. *Id.*, 62 P. S. § 802-A. For FY 2007-2008, the Department exercised its discretion to include the county nursing facilities in the Assessment Program.

For each fiscal year that the Assessment Program is implemented, the Secretary of the Department (Secretary), in consultation with the Secretary of the Budget, must determine the aggregate amount of the assessment and the annual assessment rate. The aggregate amount

and rate of assessment must be approved by the Governor's Office. The annual assessment rates must be sufficient to generate at least \$50 million in additional revenue, subject to the maximum aggregate assessment amount that qualifies for Federal matching funds. See section 804-A of Act 25 (62 P. S. § 804-A).

Before implementing the Assessment Program in a fiscal year, the Secretary must publish a notice in the *Pennsylvania Bulletin* that specifies the amount of the assessment being proposed, provides an explanation of the assessment methodology and assessment amount, and identifies the aggregate impact on nursing facilities subject to the assessment. See section 805-A of Act 25 (62 P. S. § 805-A).

Additionally, the Department must seek approval from the Federal Centers for Medicare and Medicaid Services (CMS) to implement the Assessment Program in conformity with Federal law and to guarantee that the assessment amounts qualify for matching Federal funds. See 62 P. S. § 812-A. To assure that revenues generated from the Assessment Program qualify for Federal matching funds, the Department submitted a request to CMS for an amendment to the Assessment Program for FY 2008-2009. The implementation of the changes to the Assessment Program is contingent on CMS's approval of the request.

This notice announces the assessment amounts, rates, and methodology that the Department is proposing to implement in FY 2008-2009 and the estimated aggregate impact on nursing facilities that will be subject to the assessment in FY 2008-2009.

Proposed Assessment Methodology and Rates

During FY 2008-2009, the Department is proposing to maintain the same assessment methodology that was used in FY 2007-2008.

The following nursing facilities will continue to be exempt from the Assessment Program in FY 2008-2009:

- (1) State owned and operated nursing facilities.
- (2) Veteran's Administration nursing facilities.
- (3) Nursing facilities that have not been licensed and operated by the current or previous owner for the full calendar quarter prior to the calendar quarter in which an assessment is collected.
- (4) Nursing facilities that provide nursing facility services free of charge to all residents.

Under the proposed rate structure, the Department will continue to assess nonexempt nursing facilities at two rates. One rate will apply to county nursing facilities, to facilities that have 50 or fewer beds, and to nursing facilities that participate in a continuing care retirement community (CCRC). The other rate will apply to all other nonexempt facilities. Each nonexempt facility's quarterly assessment amount will continue to be calculated by multiplying its assessment rate by the facility's non-Medicare resident days during the calendar quarter that immediately precedes the assessment quarter.

Although the Department intends to maintain the same basic rate structure for FY 2008-2009, the Department is proposing to decrease the assessment rates for nonexempt nursing facilities from FY 2007-2008. Specifically, the Department proposes to implement the following assessment rates during FY 2008-2009:

- (1) The proposed assessment rate for county nursing facilities and for nonexempt facilities that either have 50 or fewer beds or participate in a CCRC will be \$2.30 per non-Medicare resident day.

(2) The proposed assessment rate for all other nonexempt nursing facilities will be \$23.75 per non-Medicare resident day.

Aggregate Assessment Amounts and Fiscal Impact

The Department estimates that, if the proposed assessment rates are implemented, the annual aggregate assessment fees for nonexempt nursing facilities will total \$378,315 million for FY 2008-2009. The Department will use the State revenue derived from the assessment fees and any associated Federal matching funds to maintain and increase payments to qualified MA nursing facility providers in accordance with applicable law and regulations.

Public Comment

Interested persons are invited to submit written comments regarding the contents of this notice to Gail Weidman, Department of Public Welfare, Office of Long-Term Living, P. O. Box 2675, Harrisburg, PA 17105. Comments must be submitted within 30 days of publication of the notice. See 62 P. S. § 805-A. After considering the comments, the Secretary will publish a second notice announcing the final assessment rates for FY 2008-2009. The Department will not begin collecting assessment fees until after the publication of the final assessment rate notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-569. No fiscal impact; (8) recommends adoption. Enactment of this regulation is expected to generate \$283.736 million in State revenue.

[Pa.B. Doc. No. 08-1816. Filed for public inspection October 3, 2008, 9:00 a.m.]

2008 Group One Exception Requests Medical Assistance Long-Term Care Participation Review

By this notice, published under 55 Pa. Code § 1187.21a(e)(4) (relating to nursing facility exception requests—statement of policy), the Department of Public Welfare (Department) announces the 2008 Group One Exception Requests covering the submission period of January 1, 2008, through June 30, 2008.

Expansion Requests

| <i>Number</i> | <i>Facility</i> | <i>Address</i> | <i>County Beds</i> |
|---------------|--------------------------------|--|--------------------|
| JJ08001 | Nipple Convalescent Home | 100 South Front Street Liverpool, PA 17045 | Perry 23 |

Copies of the previously listed exception requests are available for review during the 30-day comment period. The public may review the requests during regular business hours. To schedule an appointment to review a request, call (717) 772-2526.

Public Comment

Interested persons are invited to submit written comments regarding this notice to the Department of Public Welfare, Attention: Walter Barnes, P. O. Box 2675, Harrisburg, PA 17105. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability who require an auxiliary aid or service may submit comments using the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-570. No fiscal impact; (8) recommends adoption. Enactment of this regulation in expected to generate \$283.736 million in State revenue.

[Pa.B. Doc. No. 08-1817. Filed for public inspection October 3, 2008, 9:00 a.m.]

**DEPARTMENT OF
TRANSPORTATION**

**Finding
Crawford County**

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Director of the Bureau of Design as delegated by the Secretary of Transportation makes the following written finding:

The Federal Highway Administration (FHWA) and the Department of Transportation (Department) are planning to remove the Venango Veterans Memorial Bridge and make improvements to Walters and Sherred Hill Roads in Venango Borough and Cambridge Township, Crawford County.

The project will require the use of the Venango Veterans Memorial Bridge, which is eligible for listing in the National Register of Historic Places, and qualifies as section 4(f)/section 2002 resource.

An Environmental Assessment (EA) was prepared to evaluate the potential environmental impacts caused by the subject project. The FHWA issued a Finding of No Significant Impact (FONSI) for the subject project on August 27, 2008. The FONSI determined that the preferred alternative (Alternative 6 Modified) will have no significant impact on the human environment.

The EA and supporting documentation find there is no practicable alternative to construction of the preferred alternative, and the proposed action includes all practicable measures to minimize harm to the environment that may result from the proposed project.

Mitigation measures will be taken to minimize harm as stipulated in the EA and the Programmatic section 4(f) Evaluation.

The environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code have been considered. It has

been concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize the effects.

BRIAN G. THOMPSON, P. E.,
Director, Bureau of Design

[Pa.B. Doc. No. 08-1818. Filed for public inspection October 3, 2008, 9:00 a.m.]

Request for Bids

Sealed bids for the demolition and removal of the following properties located in Northumberland County will be accepted by the Department of Transportation, 715 Jordan Avenue, Montoursville, PA 17754 until 10 a.m. on Tuesday, October 28, 2008. An inspection of the properties will be held from 11 a.m. until 1:30 p.m. on Thursday, October 9, 2008.

Property 1: 146 Oakview Road. South on route 147. Go 1/10 mile past the intersection of route 405 and take first left (Oakview). Take first driveway on right (dark brown ranch).

Property 2: 240 Ryan Lane. South on route 147. Turn right on route 405 and go 2/10 mile. Turn right onto Hidden Paradise Road (look for the Yogi Bear Shangri-La Campground sign). Pass under route 147 and take the

first right onto Ryan Lane. Go straight to the top of the hill and take the first driveway on the right. (Log home).

Property 3: 1964 Susquehanna Trail. South on route 147. Take the first driveway on the left after passing route 405 (Beige ranch).

Prequalification of bidders is not required on bids under \$25,000. For additional information, contact Lenny P. Confer, (570) 368-4337 or lconfer@state.pa.us.

Not all Bidding Opportunities are advertised in the *Pennsylvania Bulletin* for State government agencies. Generally, Bidding Opportunities over \$20,000 for materials and \$250,000 for services are advertised on the Department of General Services, Bureau of Procurement web site at www.dgsweb.state.pa.us/comod/main.asp. The Bidding Opportunities web site is updated on a daily basis.

Suppliers interested in doing business with Commonwealth agencies are strongly encouraged to register as a portal supplier at www.pasupplierportal.state.pa.us.

For more information, contact the Department Supplier Services and Support, (717) 346-2676, (877) 435-7363 (toll free), rasrmhelp@state.pa.us.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 08-1819. Filed for public inspection October 3, 2008, 9:00 a.m.]

FISH AND BOAT COMMISSION

Designation of Exclusive Use Fishing Areas; Franklin County

The Executive Director of the Fish and Boat Commission, acting under the authority of 58 Pa. Code § 65.21 (relating to waters limited to specific purposes—exclusive use fishing areas), designates the following water areas as being for the exclusive use of children, special populations or both, as indicated. These designations will go into effect on January 1, 2009.

| <i>County</i> | <i>Water Area</i> | <i>Length</i> | <i>Type</i> |
|---------------|---------------------|--|---------------------------------------|
| Franklin | Carbaugh Run | From the junction with Conococheague Creek upstream to the Route 30 bridge, a distance of 955 feet | Children Only |
| Franklin | Conococheague Creek | From a cable crossing the stream 1,300 feet below the Tallow Hill Bridge upstream to an additional cable crossing the stream 250 feet below the Tallow Hill Bridge, a distance of 1,050 feet in length | Children and Special Populations Only |

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

[Pa.B. Doc. No. 08-1820. Filed for public inspection October 3, 2008, 9:00 a.m.]

HISTORICAL AND MUSEUM COMMISSION

National Register Nominations to be Reviewed by the Historic Preservation Board

The Historic Preservation Board (Board) will hold a meeting on October 7, 2008, at 9:45 a.m. in Room 125C, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA. Persons with a disability who wish to

attend the meeting and require an auxiliary aid, service or other accommodation to participate should contact Helena Johnson at (717) 783-2698 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the agency can accommodate their needs. Persons with questions or comments should contact the Bureau for Historic Preservation at (717) 783-8946.

1. York Historic District Boundary Increase, roughly bounded by Charles Avenue, East Princess Avenue, MD & PA RR, and Church Avenue, York City, York County, 105464.

2. Wynnestay, 5125 Woodbine Avenue, Philadelphia County, 051686.

3. St. Stanislaus Institute, 141 Old Newport Street, Newport Township, Luzerne County, 144081

4. Scottish Rite Cathedral, 110—120 East Lincoln Avenue, New Castle City, Lawrence County, 094687.

5. Shelly School, 130 Richlandtown Pike, Richland Township, Bucks County, 116410.

6. Lutz-Franklin School, 4216 Countryside Lane, Lower Saucon Township, Northampton County, 121546.

7. Woodcrest, 610 King of Prussia Road, Radnor Township, Delaware County, 079246.

8. POS of A Hall, 465 South Sterling Road, Dreher Township, Wayne County, 144054.

9. Fort Washington Historic District, roughly bounded by Bethlehem Pike, Lafayette Avenue, Morris Road and Pennsylvania Avenue, Whitmarsh Township, Montgomery County, 103085.

10. Amalgamated Clothing Workers of America Office Building, 2101—2143 South Street, Philadelphia County, 144039.

BARBARA FRANCO,
Executive Director

[Pa.B. Doc. No. 08-1821. Filed for public inspection October 3, 2008, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, September 18, 2008, and announced the following:

Regulation Deemed Approved Under Section 5(g) of the Regulatory Review Act—Effective September 17, 2008

Insurance Department #11-235: Actuarial Opinion and Memorandum (amends 31 Pa. Code Chapter 84)

Regulations Approved:

Department of Corrections #19-9: State Intermediate Punishment (amends 37 Pa. Code 97)

State Board of Education #6-307: Special Education for Gifted Students (amends 22 Pa. Code Chapter 16)

Approval Order

Public Meeting held
September 18, 2008

Commissioners Voting: Arthur Coccodrilli, Chairperson; Nancy Sabol Frantz, Esq., Abstained; Karen A. Miller; John F. Mizner, Esq., by Phone

*Department of Corrections—
State Intermediate Punishment;
Regulation No. 19-9 (#2590)*

On February 1, 2007, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Corrections (Depart-

ment). This rulemaking amends 37 Pa. Code 97. The proposed regulation was published in the February 17, 2007 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on July 25, 2008.

This regulation implements the directive of Act 112 of 2004 to establish in regulation the assessment and operating procedures for the Drug Offender Treatment Program.

We have determined this regulation is consistent with the statutory authority of the Department (42 Pa.C.S. § 9906) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
September 18, 2008

Commissioners Voting: Arthur Coccodrilli, Chairperson; Nancy Sabol Frantz, Esq.; Karen A. Miller; John F. Mizner, Esq., by Phone

*State Board of Education—
Special Education for Gifted Students;
Regulation No. 6-307 (#2635)*

On August 23, 2007, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Education (Board). This rulemaking amends 22 Pa. Code Chapter 16. The proposed regulation was published in the September 8, 2007 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on August 12, 2008.

This final-form regulation amends requirements for gifted education programs and services in the public schools of this Commonwealth. It addresses the screening and evaluation process, gifted individualized education programs, educational placement and procedural safeguards for students identified as gifted.

We have determined this regulation is consistent with the statutory authority of the Board (24 P. S. §§ 13-1372 and 26-2603-B(k)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-1822. Filed for public inspection October 3, 2008, 9:00 a.m.]

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period.

The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 645.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

| Reg. No. | Agency/Title | Close of the Public Comment Period | |
|----------|---|------------------------------------|-----------------|
| | | IRRC | Comments Issued |
| 125-91 | Pennsylvania Gaming Control Board Preliminary Provisions; Onsite Shopkeepers Certification, Labor Organizations; and Slot Machine Licenses 38 Pa.B. 3980 (July 26, 2008) | 8/25/08 | 9/24/08 |

Pennsylvania Gaming Control Board Regulation

#125-91 (IRRC #2708)

Preliminary Provisions; Onsite Shopkeepers Certification, Labor Organizations; and Slot Machine Licenses

September 24, 2008

We submit for your consideration the following comments on the proposed rulemaking published in the July 26, 2008 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Pennsylvania Gaming Control Board (Board) to respond to all comments received from us or any other source.

1. Regulation of “onsite shopkeepers.”—Statutory authority; Need, Economic impact; Reasonableness.

The proposed rulemaking provides for regulation of an “onsite shopkeeper” in Chapter 434a. *Onsite Shopkeeper Certification*. The regulation defines “onsite shopkeeper” in Section 401a.3 as:

A person, other than a slot machine licensee, who engages or proposes to engage in any commercial activity at the licensed facility and who is not otherwise required to be licensed, certified or registered.

The opening of the Board’s Preamble states:

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1202(b)(15) and (30) (relating to general and specific powers) and the authority in 4 Pa.C.S. §§ 1102(8) and (9), 1202(23) and 1313 (relating to legislative intent; general and specific powers; and slot machine license application financial fitness requirements), proposes to amend Chapters 401a, 438a and 441a (relating to preliminary provisions; labor organizations; and slot machine licenses) and add Chapter 434a (relating to onsite shopkeeper certification) to read as set forth in Annex A.

As discussed below, we have concerns with the proposed regulation of onsite shopkeepers relating to our criteria of statutory authority, need, economic impact and reasonableness.

Statutory authority

Commentators do not believe the Board has authority to regulate onsite shopkeepers. The commentators argue that the Pennsylvania Race Horse Development and Gaming Act does not address the issue of onsite shopkeepers or any standards by which such entities and their employees should be licensed. They believe that since these businesses do not provide any goods, services or property to slot machine licensees, they should not be regulated. The commentators do not believe the Board’s general authority encompasses the regulation of onsite shopkeepers.

As quoted above, the Board cites its general authority for this rulemaking. We agree with the commentators that the Pennsylvania Race Horse Development and Gaming Act does not address the issue of onsite shopkeepers. Therefore, the Board should explain how it has authority to regulate onsite shopkeepers and how it will defend its actions under the general authority of the statute and the specific requirements set forth in this regulation.

Need, Economic impact and Reasonableness

Commentators provided a wealth of argument, examples and cost analyses in support of their position that onsite shopkeepers do not need to be regulated. Commentators believe the regulation is “devoid of any public benefit” and is “burdensome and costly.” They provided an example that employees who scoop ice cream would be required to be fingerprinted and complete nongaming employee registrations. They point to the costs related to certification of employees that would be wasted due to the high turnover rate of these employees. They provide information that other states either do not regulate onsite shopkeepers or use minimal regulation (including New Jersey, Nevada, Colorado, Illinois, Indiana, Iowa Mississippi and Missouri).

We agree with the commentators that the Preamble does not provide sufficient justification of the need, cost and reasonableness to regulate onsite shopkeepers. In support of the final-form regulation, the Board needs to provide justification for the need to regulate onsite shopkeepers and explain how the costs and administrative burden placed on these shops is outweighed by the need to regulate them.

2. Section 401a.3. Definitions.—Need; Reasonableness; Clarity.

Onsite shopkeeper

“Onsite shopkeeper” is defined as “A person, other than a slot machine licensee, who engages or proposes to engage in any commercial activity at the licensed facility and who is not otherwise required to be licensed, certified or registered.” A key phrase of this definition is that it includes a person who engages in any commercial activity at the “licensed facility.” It is not clear who is encompassed by this definition and therefore must be certified under this proposed rulemaking.

The existing definition of “licensed facility” in this same section states: “The physical land-based location at which a licensed gaming entity is authorized to place and operate slot machines.” This wording is exactly the same as the statutory definition (4 Pa.C.S. § 1103) and consequently does not provide any further guidance on the

Board's interpretation of the boundaries of a licensed facility. Taken broadly, the regulation may encompass any business located on land physically owned by the licensee, which may include many acres of land. Taken more narrowly, the regulation may only affect locations where the "gaming entity is authorized to place and operate slot machines."

Additionally, the Board is amending the definition of "licensed facility" in rulemaking #125-85 titled "Licensed Facility" (IRRC #2692). Before we can make a determination of whether this rulemaking is in the public interest, the Board must conclude rulemaking #125-85 and then state clearly in this regulation who is an onsite shopkeeper and required to be certified.

3. Section 434a.2. Onsite Shopkeeper certification applications.—Clarity.

Unless otherwise directed by the Board

Paragraph (a)(1) contains nonregulatory language which allows the requirement for an original and four copies to be amended by the Board. As written, the Board could expand this requirement to require more copies. We recommend deleting the phrase "unless otherwise directed by the Board."

4. Section 434a.3. Individual certifications and investigations.—Need; Economic impact; Reasonableness; Feasibility.

Pennsylvania Personal History Disclosure Form

This section specifies who must file a Pennsylvania Personal History Disclosure Form. From our review of the Board's web site, this form and accompanying documents are substantially long and detailed, involving many pages of instructions and questions. The response to Regulatory Analysis Form (RAF) Question 14 states the Board anticipates the cost of certification will be approximately \$10,000, or \$2,500 per year of the four-year certification. However, it is not clear what the specific cost to the applicant is to prepare and file the Pennsylvania Personal History Disclosure Form. The Board should provide an estimated cost for the preparation of this form. The Board should justify the need for these forms from the persons specified in each subsection of the regulation and explain how the need outweighs the costs imposed on those seeking certification.

Subsection (f)

This subsection extends the possibility of filing Pennsylvania Personal History Disclosure Forms to employees of a certified onsite shopkeeper. Commentators believe this provision is onerous because they experience high levels of employee turnover. Why does the Board need so much information from the employees of an onsite shopkeeper and what would the Board do with that information? What does the Board anticipate will be the effect on the viability of a business when employees are required to file these forms?

5. Section 434a.5. Certified onsite shopkeeper responsibilities.—Reasonableness; Economic impact; Feasibility.

Nongaming employee registration

Similar to our comment on Section 434a.4(f) above, Subsection (b) of this section requires employees of a certified onsite shopkeeper to obtain a nongaming employee registration if their job duties require any contact with patrons of the licensed facility. Commentators also find this provision to be onerous because they experience high levels of employee turnover. The commentators do

not have the on-site human resources personnel to administer the nongaming employee registration process. Why does the Board need registration of these employees of an onsite shopkeeper and what would the Board do with that information? What does the Board anticipate will be the effect on the viability of a business when employees are required to register?

6. Sections 434a.7. Permission to conduct business prior to certification.—Reasonableness.

Due diligence by the licensee

Paragraph 434a.7(a)(2) requires the licensee to certify it has performed due diligence on the onsite shopkeeper. A commentator questions why the burden should be on the licensee, rather than on the onsite shopkeeper applicant, to demonstrate to the Board it should be certified. The commentator further questions what type of due diligence would meet the Board's regulation. The Board should explain why the burden is placed on the licensee. If that burden remains with the licensee, the regulation should specify the actions the licensee must take to meet the standard of due diligence.

7. Section 434a.8. Slot machine licensees' duties and responsibilities.—Reasonableness; Clarity.

Licensee investigation of applicants for onsite shopkeeper certification

Subsection (a) requires a slot machine licensee to investigate the background and qualifications of applicants for onsite shopkeeper certification. A commentator believes that a licensee does not possess the same capability or expertise as the Board to investigate backgrounds of applicants. A licensee also does not have access to resources available to the Board to conduct thorough investigations. The Board should explain why investigation of the background and qualifications of an applicant for onsite shopkeeper certification is properly the responsibility of a licensee. If the responsibility is properly placed on the licensee, the Board should put in regulation what specific degree of investigation or actions will meet the requirement.

Affirmative duty to avoid certain applicants

Subsection (b) places the affirmative duty on slot machine licensees to avoid applicants "whose background or association is injurious to the public health safety, morals, good order and general welfare of the people of this Commonwealth, who threaten the integrity of gaming in this Commonwealth or who discredit or tend to discredit the gaming industry in this Commonwealth or the Commonwealth." This provision is vague. What does the Board expect the licensee to do to meet these broad parameters?

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-1823. Filed for public inspection October 3, 2008, 9:00 a.m.]

Notice of Filing of Final Rulemaking

The Independent Regulatory Review Commission (Commission) received the following regulation. It is scheduled to be considered on the date noted. The Commission's public meetings are held at 333 Market Street, 14th Floor, in Harrisburg, PA at 10:30 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from

the promulgating agency, the Commission will provide a copy or you can obtain a copy from our web site, www.irrc.state.pa.us.

Final-Form

| <i>Reg. No.</i> | <i>Agency/Title</i> | <i>Received</i> | <i>Public Meeting</i> |
|-----------------|--|-----------------|-----------------------|
| 16-40 | Department of State Lobbying Disclosure Regulations Committee Lobbying Disclosure | 9/18/08 | 11/6/08 |

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-1824. Filed for public inspection October 3, 2008, 9:00 a.m.]

LEGISLATIVE REFERENCE BUREAU

Pamphlet Laws, Slip Laws and Pennsylvania Consolidated Statutes; Printing, Binding, Storage and Distribution; Notice to Bidders

Sealed proposals will be received by the Legislative Reference Bureau (Bureau) for the following contracts:

(1) A contract for printing, binding, storage and distribution of the *Pamphlet Laws* (Laws of Pennsylvania).

(2) A contract for printing, binding, storage and distribution of the *Slip Laws*.

(3) A contract for printing, binding, storage and distribution of the *Pennsylvania Consolidated Statutes*.

The contract period for each contract begins January 1, 2009, and ends December 31, 2012, with provision for optional renewal for one additional 2-year period.

Proposals will be received at 641 Main Capitol Building, Harrisburg, PA 17120-0033, until 10 a.m., Wednesday, October 29, 2008, and will be publicly opened and read at 10 a.m., Wednesday, November 5, 2008.

Facilities for offset printing and pamphlet binding are required. The *Pamphlet Law* contract requires case binding by Smyth or equivalent sewing. At the discretion of the Bureau, subcontracting by bidders will be considered.

Bids must be accompanied by a certified or bank cashier's check in the sum of \$1,000. The Bureau reserves the right to reject any or all parts of bids and to waive technical defects in bids. Blanks and information may be obtained upon application to Marilyn Puskarich (717) 787-6060 at the previously listed address.

ROBERT W. ZECH, Jr.,
Director

[Pa.B. Doc. No. 08-1825. Filed for public inspection October 3, 2008, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The Liquor Control Board seeks the following new site:

Allegheny County, Wine & Spirits Store #8654, (New Store), Pittsburgh, PA

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board up to 10,000 net useable square feet of new or existing retail commercial space. Location must be within a 1/4 mile radius from the intersection of Penn Avenue and 20th Street serving the Pittsburgh Strip District. Must have delivery access for tractor trailer loading.

Proposals due: October 10, 2008, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222-1210
Contact: George Danis or Bruce VanDyke, (412) 565-5130

Delaware County, Wine & Spirits Store #2322, (New Store), Woodlyn, PA

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space. Location must be within a 1 mile radius of Woodlyn Shopping Center, Ridley Township, Woodlyn, PA.

Proposals due: October 17, 2008, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Robert Jolly, (215) 482-9670

Montgomery County, Wine & Spirits Store #4640, (Relocation), Wyncote, PA

Lease Expiration Date: August 31, 2010

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space. Location must be within a 1 mile radius of the Cheltenham Mall, Wyncote, PA.

Proposals due: October 17, 2008, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Robert Jolly, (215) 482-9670

Philadelphia County, Wine & Spirits Store #5126, (New Store), Philadelphia, PA

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 9,000 net useable square feet of new or existing retail commercial space. Location must be within a 1/4 mile radius of 16th and Vine Streets, Philadelphia, PA.

Proposals due: October 17, 2008, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Henry Blocker, (215) 482-9670

Philadelphia County, Wine & Spirits Store #5130, (New Store), Philadelphia, PA

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board up to 2,000 net useable square feet of new or existing retail commercial space. Location must be within a 1/2 mile radius of 9th and Christian Streets, Philadelphia, PA.

Proposals due: October 17, 2008, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Henry Blocker, (215) 482-9670
 PATRICK J. STAPLETON, III,
Chairperson

[Pa.B. Doc. No. 08-1826. Filed for public inspection October 3, 2008, 9:00 a.m.]

PENNSYLVANIA ENERGY DEVELOPMENT AUTHORITY

Board Meeting

A meeting of the Pennsylvania Energy Development Authority Board is scheduled to be held on Monday, October 20, 2008, at 10 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning the agenda can be directed to Jeanne Dworetzky at (717) 783-8411 or jdworetzky@state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Angela Rothrock at (717) 772-8911, or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department of Environmental Protection may accommodate their needs.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-1827. Filed for public inspection October 3, 2008, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commis-

sion, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by October 20, 2008. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.*

A-2008-2055317. Shakia N. Priester t/a Sure Ride Paratransit Company (4740 North 12th Street, Philadelphia, Philadelphia County, PA 19141), a corporation of the Commonwealth—persons in paratransit service, from points in the Counties of Delaware, Montgomery and Philadelphia, to points in Pennsylvania, and return.

A-2008-2061044. Gene Leman, t/a Bangor Cab (660 Ridge Road, Bangor, Northampton County, PA 18013)—persons, in paratransit service, from points in the Borough of Bangor, Northampton County, to points in Pennsylvania and return.

A-2008-2061141. Howayda Said Moustafa (1637 Paxton Street, Harrisburg, Dauphin County, PA 17104)—in call or demand service, in the City of Harrisburg, Dauphin County, and 15 airline miles from the limits of said city. Subject to the following condition: That service shall only be provided in the Counties of Dauphin and Cumberland.

A-2008-2061177. Ahmed Mekled (1639 Paxton Street, Harrisburg, Dauphin County, PA 17104)—in call or demand service, in the Counties of Dauphin and Cumberland.

A-2008-2061227. Carlos Panjon (P. O. Box 9214, Allentown, Lehigh County, PA 18102)—to begin to transport, as a common carrier, by motor vehicle, persons, in limousine service, from points in the Counties of Lehigh and Northampton to points in Pennsylvania, and return.

A-2008-2062388. Suson Elizabeth Akakpo-Martin (1 Horseshoe Drive, Middletown, Dauphin County, PA 17057)—persons, in paratransit service, from points in the Counties of Dauphin and Cumberland, to points in Pennsylvania and return.

A-2008-2062639. Madalyn Maty Ciabattoni t/a The Reading Express Airport Shuttle (401 Perkasio Avenue, West Lawn, Berks County, PA 19609)—in airport transfer service, from Reading Regional Airport (RDG), Reading, Berks County, to the following airports: Lehigh Valley International Airport (ABE) located in the Township of Hanover, Lehigh County; from Lancaster Airport (LNS) located in Lititz, Lancaster County, and Philadelphia International Airport (PHL), located in the City and County of Philadelphia and the Township of Tinicum, Delaware County; and vice versa.

A-2008-2063510. Waleed Magdy Abdelmalek (540 7th Street, New Cumberland, Cumberland County, PA 17070)—persons, in paratransit service, between points in the Counties of Dauphin and Cumberland, to points in Pennsylvania and return.

Application of the following for *amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under the application.*

A-2008-2062674. D & L Cab Co., Inc. (106 Morning-side Drive, Red Lion, York County, PA 17356), a corporation of the Commonwealth—persons, upon call or demand

in the county of York; *So As To Permit*: persons upon call or demand in the County of Adams.

Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods by transfer of rights as described under the application.

A-2008-2061325. Wherley Generations, Inc. (1201 Greenwood Street, York, York County, PA 17404)—a corporation of the Commonwealth—for the additional right to transport, as a common carrier, by motor vehicle, household goods in use, between points in Pennsylvania; which is to be a transfer of all the right authorized under the certificate issued at A-00120334 to Leonard-Wherley Moving Systems, Inc., subject to the same limitations and conditions. *Attorney*: J. Bruce Walter, Rhoads & Sinon, LLP, P. O. Box 1146, Harrisburg, PA 17108, (717) 233-5731.

Application of the following for approval to begin operating as contract carriers for transportation of persons as described under the application.

A-2008-2062209. Amjad Transportation Services, Inc. (2755 Germantown Avenue, Philadelphia, Philadelphia County, PA 19133)—a corporation of the Commonwealth—persons in partransit service, for the Medical Assistance Transportation Program (MATP) through Logisticare Solutions, LLC, between points in the City and County of Philadelphia. *Attorney*: Mark Feinman, Esquire, 8171 Castor Avenue, Philadelphia, PA 19152.

Application of the following for approval to begin operating as a broker for transportation of persons as described under the application.

A-2008-2061217. Cookies Travelers, Inc. (1136 Philo Street, Scranton, PA 18505)—for a brokerage license evidencing the Commission's approval of the right and privilege to operate as a broker, to arrange for the transportation of persons between points in Pennsylvania.

Application of the following for the approval of the transfer of stock as described under the application.

A-2008-2054224. L. A. Lewis, Inc. (2401 Luzerne Street, Scranton, Lackawanna County, PA 18504)—a corporation of the Commonwealth—for the approval of the transfer of 21 shares of issued and outstanding shares held by Diane Lewis Trescavage to L. A. Lewis, Inc. *Attorney*: Brigid E. Carey, Esquire, 429 South Main Street, Suite 6, Old Forge, PA 18518.

*Pennsylvania Public Utility Commission, Bureau of
Transportation and Safety v. Zari Cab Co.;
Doc. No. C-2008-2049780*

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Zari Cab Co., maintains its principal place of business at P. O. Box 14498, Philadelphia, PA 19115-0498.

2. That respondent was issued a certificate of public convenience by this Commission on September 30, 1994 at Application Docket No. A-00111337.

3. That respondent abandoned or discontinued service without having first filed an application to this Commission for abandonment or discontinuance of service. Respondent has not reported intrastate revenue for calendar year 2007.

4. That respondent, by failing to file an application with this Commission prior to abandoning or discontinuing service, violated 52 Pa. Code § 3.381(a)(1)(v) and 66 Pa.C.S. § 1102(a)(2) and, by failing to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke respondent's Certificate of Public Convenience at A-00111337.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
Wendy J. Keezel, Chief of Enforcement

NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date, as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty days, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

C. If you file an answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the revocation of your Certificate of Public Convenience.

D. If you file an answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1168.

*Pennsylvania Public Utility Commission, Bureau of
Transportation and Safety v. Nickson, Inc.;*
Doc. No. C-2008-2049163

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Nickson, Inc., maintains its principal place of business at 8549 Fayette Street, Philadelphia, PA 19150-1901.

2. That respondent was issued a certificate of public convenience by this Commission on September 1, 1997 at Application Docket No. A-00113354.

3. That respondent abandoned or discontinued service without having first filed an application to this Commission for abandonment or discontinuance of service. Respondent has not reported intrastate revenue for calendar year 2007.

4. That respondent, by failing to file an application with this Commission prior to abandoning or discontinuing service, violated 52 Pa. Code § 3.381(a)(1)(v) and 66 Pa.C.S. § 1102(a)(2) and, by failing to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke respondent's Certificate of Public Convenience at A-00113354.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
Wendy J. Keezel, Chief of Enforcement

NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is

the mailing date, as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty days, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

C. If you file an answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the revocation of your Certificate of Public Convenience.

D. If you file an answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1168.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1828. Filed for public inspection October 3, 2008, 9:00 a.m.]

Telecommunications

A-2008-2064894. Verizon Pennsylvania, Inc. and Cbeyond Communications, LLC. Joint petition of Verizon Pennsylvania, Inc. and Cbeyond Communications, LLC for approval of an adoption of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and Cbeyond Communications, LLC, by its counsel, filed on September 18, 2008, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an adoption of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania, Inc. and Cbeyond Communications, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1829. Filed for public inspection October 3, 2008, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project No. 08-115.1, Drainage and Paving Improvements at Pier 82 South until 2 p.m. on Thursday, October 23, 2008. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available October 7, 2008. Additional information and project listings may be found at www.philaport.com. The cost of the bid document is \$35 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer (EEO). Contractor must comply with all applicable EEO laws. Bidders must provide to the Procurement Department in writing (24 hours prior to the meeting), the names of individuals that will be attending, fax (215) 426-6800, Attn: Procurement Department.

Mandatory prebid job site meeting will be held Wednesday, October 23, 2008, 10 a.m. at Columbus Boulevard and Entrance Gate North of Snyder Avenue, Philadelphia, PA 19148.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 08-1830. Filed for public inspection October 3, 2008, 9:00 a.m.]

SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing and Meeting

The Susquehanna River Basin Commission (Commission) held a public hearing as part of its regular business meeting on September 11, 2008, in Lewisburg, PA. At the public hearing, the Commission: 1) approved certain water resources projects; 2) approved enforcement actions for six projects; and 3) granted a request for extension of an emergency certificate issued on July 24, 2008. Details concerning these and other matters addressed at the public hearing and business meeting are contained in the Supplementary Information section of this notice.

For further information contact Richard A. Cairo, General Counsel, (717) 238-0423, Ext. 306, fax (717) 238-2436, rcairo@srbc.net or Stephanie L. Richardson, Secretary to the Commission, (717) 238-0423, Ext. 304, fax (717) 238-2436, srichardson@srbc.net. Regular mail inquiries may be sent to Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391.

Supplementary Information

In addition to the public hearing and its related action items identified, the following items were also presented or acted on at the business meeting: 1) a special presentation on Bucknell University's Susquehanna River Initiative by Dr. Benjamin Hayes; 2) a special presentation on Environmental Flows by Mark Breyer of the Nature Conservancy; 3) a report on the present hydrologic conditions of the basin; 4) approval of a health insurance trust fund; 5) approval/ratification of various grants and con-

tracts; 6) a directive for staff to move forward on a proposed rulemaking action regarding consumptive use by gas well development projects; 7) establishment of a "Compliance Reserve Fund" to hold the proceeds of settlements and civil penalty assessments; 8) deferral of action on an errata sheet for the public hearing transcript of March 13, 2008, to the December 4, 2008 meeting; and 9) appointment of Stephanie L. Richardson as the new Secretary to the Commission. The Commission also heard a Legal Counsel's report and an update on recent activities in the regulatory program.

The Commission also convened a public hearing and took the following actions:

Public Hearing—Projects Approved:

1. Project Sponsor and Facility: East Resources, Inc. (Seeley Creek), Town of Southport, Chemung County, NY. Application for surface water withdrawal of up to 0.036 mgd.

2. Project Sponsor and Facility: Chesapeake Appalachia, LLC (for operations in Chemung and Tioga Counties, NY, and Bradford, Susquehanna and Wyoming Counties, PA). Application for consumptive water use of up to 2.075 mgd from various surface water sources and the following public water suppliers: Towanda Municipal Authority, Aqua Pennsylvania, Inc.—Susquehanna Division, Canton Borough Authority, Borough of Troy and Village of Horseheads, NY.

3. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River), Town of Owego, Tioga County, NY. Application for surface water withdrawal of up to 0.999 mgd.

4. Project Sponsor and Facility: Cabot Oil & Gas Corporation (for operations in Susquehanna and Wyoming Counties, PA). Application for consumptive water use of up to 3.039 mgd from various surface water sources and the following public water suppliers: Tunkhannock Borough Municipal Authority, Pennsylvania American Water Company—Montrose System and Meshoppen Borough Council.

5. Project Sponsor and Facility: Cabot Oil & Gas Corporation (Susquehanna River), Great Bend Borough, Susquehanna County, PA. Application for surface water withdrawal of up to 0.980 mgd.

6. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River), Athens Township, Bradford County, PA. Application for surface water withdrawal of up to 0.999 mgd.

7. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River), Oakland Township, Susquehanna County, PA. Application for surface water withdrawal of up to 0.999 mgd.

8. Project Sponsor and Facility: Cabot Oil & Gas Corporation (Susquehanna River), Susquehanna Depot Borough, Susquehanna County, PA. Application for surface water withdrawal of up to 0.980 mgd.

9. Project Sponsor and Facility: Fortuna Energy, Inc. (Susquehanna River), Sheshequin Township, Bradford County, PA. Application for surface water withdrawal of up to 0.250 mgd.

10. Project Sponsor and Facility: East Resources, Inc. (Crooked Creek), Middlebury Township, Tioga County, PA. Application for surface water withdrawal of up to 0.036 mgd.

11. Project Sponsor and Facility: Chief Oil & Gas, LLC (for operations in Bradford County, PA). Application for consumptive use of water of up to 5.000 mgd.

12. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River), Wysox Township, Bradford County, PA. Application for surface water withdrawal of up to 0.999 mgd.

13. Project Sponsor and Facility: Cabot Oil & Gas Corporation (Unnamed Tributary to Meshoppen Creek), Dimock Township, Susquehanna County, PA. Application for surface water withdrawal of up to 0.980 mgd.

14. Project Sponsor and Facility: Cabot Oil & Gas Corporation (Tunkhannock Creek), Lennox Township, Susquehanna County, PA. Application for surface water withdrawal of up to 0.980 mgd.

15. Project Sponsor and Facility: Cabot Oil & Gas Corporation (Meshoppen Creek-2), Lemon Township, Wyoming County, PA. Application for surface water withdrawal of up to 0.980 mgd.

16. Project Sponsor and Facility: Cabot Oil & Gas Corporation (Meshoppen Creek-1), Lemon Township, Wyoming County, PA. Application for surface water withdrawal of up to 0.980 mgd.

17. Project Sponsor and Facility: Pennsylvania General Energy Company, LLC (operations in Potter and McKean Counties, PA). Application for consumptive water use of up to 4.900 mgd from various surface water sources and the following public water suppliers: Jersey Shore Joint Water Authority, Williamsport Municipal Water Authority, and Borough of Montoursville.

18. Project Sponsor and Facility: Pennsylvania General Energy Company, LLC (East Fork Sinnemahoning Creek—Horton), East Fork Township, Potter County, PA. Application for surface water withdrawal of up to 0.008 mgd.

19. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River), Mehoopany Township, Wyoming County, PA. Application for surface water withdrawal of up to 0.999 mgd.

20. Project Sponsor and Facility: Pennsylvania General Energy Company, LLC (First Fork Sinnemahoning Creek), Sylvania Township, Potter County, PA. Application for surface water withdrawal of up to 0.107 mgd.

21. Project Sponsor and Facility: Pennsylvania General Energy Company, LLC (East Fork Sinnemahoning Creek—East Fork), East Fork Township, Potter County, PA. Application for surface water withdrawal of up to 0.025 mgd.

22. Project Sponsor and Facility: Pennsylvania General Energy Company, LLC (East Fork Sinnemahoning Creek), Wharton Township, Potter County, PA. Application for surface water withdrawal of up to 0.027 mgd.

23. Project Sponsor and Facility: Cabot Oil & Gas Corporation (Susquehanna River), Tunkhannock Township, Wyoming County, PA. Application for surface water withdrawal of up to 0.980 mgd.

24. Project Sponsor and Facility: Pennsylvania General Energy Company, LLC (First Fork Sinnemahoning Creek), Wharton Township, Potter County, PA. Application for surface water withdrawal of up to 0.231 mgd.

25. Project Sponsor and Facility: Cabot Oil & Gas Corporation (Bowmans Creek), Eaton Township, Wyoming County, PA. Application for surface water withdrawal of up to 0.980 mgd.

26. Project Sponsor and Facility: Neptune Industries, Inc. (Lackawanna River), Borough of Archbald,

Lackawanna County, PA. Application for surface water withdrawal of up to 0.499 mgd.

27. Project Sponsor and Facility: PEI Power Corporation, Borough of Archbald, Lackawanna County, PA. Modification to consumptive water use and surface water withdrawal approval (Docket No. 20010406) for addition of up to 0.530 mgd from a public water supplier as a secondary supply source, and settlement of an outstanding compliance matter.

28. Project Sponsor and Facility: Range Resources—Appalachia, LLC (for operations in Bradford, Centre, Clinton, Lycoming, Sullivan and Tioga Counties, PA). Application for consumptive water use of up to 5.000 mgd from various surface water sources and the following public water suppliers: Jersey Shore Joint Water Authority—Pine Creek and Anthony Facilities, Williamsport Municipal Water Authority, City of Lock Haven Water Department, Borough of Bellefonte, Borough of Montoursville, Milesburg Water System and Towanda Municipal Authority.

29. Project Sponsor and Facility: Range Resources—Appalachia, LLC (Lycoming Creek), Lewis Township, Lycoming County, PA. Application for surface water withdrawal of up to 0.200 mgd.

30. Project Sponsor and Facility: Range Resources—Appalachia, LLC (Lycoming Creek), Lycoming Township, Lycoming County, PA. Application for surface water withdrawal of up to 0.200 mgd.

31. Project Sponsor and Facility: Chief Oil & Gas, LLC (for operations in Lycoming County, PA). Application for consumptive water use of up to 5.000 mgd from various surface water sources and the following public water suppliers: Jersey Shore Joint Water Authority—Pine Creek and Anthony Facilities, Williamsport Municipal Water Authority, Borough of Montoursville, and Towanda Municipal Authority.

32. Project Sponsor and Facility: Chief Oil & Gas, LLC (Muncy Creek), Penn Township, Lycoming County, PA. Application for surface water withdrawal of up to 0.099 mgd.

33. Project Sponsor and Facility: Chief Oil & Gas, LLC (Larrys Creek), Mifflin Township, Lycoming County, PA. Application for surface water withdrawal of up to 0.099 mgd.

34. Project Sponsor and Facility: Chief Oil & Gas, LLC (Muncy Creek), Picture Rocks Borough, Lycoming County, PA. Application for surface water withdrawal of up to 0.099 mgd.

35. Project Sponsor and Facility: Chief Oil & Gas, LLC (Loyalsock Creek), Montoursville Borough, Lycoming County, PA. Application for surface water withdrawal of up to 0.099 mgd.

36. Project Sponsor and Facility: Range Resources—Appalachia, LLC (West Branch Susquehanna River), Colebrook Township, Lycoming County, PA. Application for surface water withdrawal of up to 0.200 mgd.

37. Project Sponsor and Facility: Rex Energy Corporation (for operations in Centre and Clearfield Counties, PA). Application for consumptive water use of up to 5.000 mgd from various surface water sources and the following public water supplier: Clearfield Municipal Authority.

38. Project Sponsor and Facility: Rex Energy Corporation (West Branch Susquehanna River), Goshen Township, Clearfield County, PA. Application for surface water withdrawal of up to 5.000 mgd.

39. Project Sponsor and Facility: Range Resources—Appalachia, LLC (Beech Creek), Snow Shoe Township, Centre County, PA. Application for surface water withdrawal of up to 0.200 mgd.

40. Project Sponsor and Facility: Rex Energy Corporation (Moshannon Creek—Route 53), Snow Shoe Township, Centre County, PA. Application for surface water withdrawal of up to 2.000 mgd.

41. Project Sponsor and Facility: Rex Energy Corporation (Moshannon Creek Outfall), Snow Shoe Township, Centre County, PA. Application for surface water withdrawal of up to 2.000 mgd.

42. Project Sponsor and Facility: Rex Energy Corporation (Moshannon Creek—Peale), Snow Shoe Township, Centre County, PA. Application for surface water withdrawal of up to 2.000 mgd.

43. Project Sponsor: Suez Energy North America, Inc. Project Facility: Viking Energy of Northumberland, Point Township, Northumberland County, PA. Modification to consumptive water use approval (Docket No. 19870301).

44. Project Sponsor: New Enterprise Stone & Lime Co., Inc. Project Facility: Tyrone Quarry, Warriors Mark Township, Huntingdon County and Snyder Township, Blair County, PA. Modification to consumptive water use and groundwater withdrawal approval (Docket No. 20031205) for groundwater withdrawals of 0.095 mgd from Well 1, 0.006 mgd from Well 2, 0.050 mgd from Well 3 and 0.003 mgd from Well 5.

45. Project Sponsor and Facility: Papetti's Hygrade Egg Products, Inc., d/b/a Michael Foods Egg Products Co., Upper Mahantango Township, Schuylkill County, PA. Modification of consumptive water use approval (Docket No. 19990903) and a new groundwater withdrawal of 0.450 mgd from Well 3.

46. Project Sponsor: Old Castle Materials, Inc. Project Facility: Pennsy Supply, Inc.—Hummelstown Quarry, South Hanover Township, Dauphin County, PA. Application for surface water withdrawal of up to 29.952 mgd.

47. Project Sponsor and Facility: Dart Container Corporation of Pennsylvania, Upper Leacock Township, Lancaster County, PA. Modification of groundwater approval (Docket No. 20040910).

48. Project Sponsor: East Berlin Area Joint Authority. Project Facility: Buttercup Farms, Hamilton Township, Adams County, PA. Applications for groundwater withdrawals (30-day averages) of 0.144 mgd from Well TW-1, 0.029 mgd from Well TW-2, and a total system withdrawal limit of 0.173 mgd.

Public Hearing—Projects Tabled

1. Project Sponsor and Facility: Chief Oil & Gas, LLC (Sugar Creek), West Burlington Township, Bradford County, PA. Application for surface water withdrawal of up to 0.053 mgd.

2. Project Sponsor and Facility: Fortuna Energy Inc. (Sugar Creek), West Burlington Township, Bradford County, PA. Application for surface water withdrawal of up to 0.250 mgd.

3. Project Sponsor and Facility: Fortuna Energy Inc. (Towanda Creek), Franklin Township, Bradford County, PA. Application for surface water withdrawal of up to 0.250 mgd.

4. Project Sponsor and Facility: Chief Oil & Gas, LLC (Pine Creek), Cummings Township, Lycoming County, PA. Application for surface water withdrawal of up to 0.099 mgd.

5. Project Sponsor and Facility: Rex Energy Corporation (Upper Little Surveyor Run), Girard Township, Clearfield County, PA. Application for surface water withdrawal of up to 0.400 mgd.

6. Project Sponsor and Facility: Rex Energy Corporation (Lower Little Surveyor Run), Girard Township, Clearfield County, PA. Application for surface water withdrawal of up to 0.400 mgd.

Public Hearing—Project Withdrawn

Project Sponsor and Facility: Cabot Oil & Gas Corporation (Martins Creek), Lathrop Township, Susquehanna County, PA. Application for surface water withdrawal of up to 0.980 mgd.

Public Hearing—No Action

Project Sponsor: PPL Holtwood, LLC. Project Facility: Holtwood Hydroelectric Station, Martic and Conestoga Townships, Lancaster County and Chanceford and Lower Chanceford Townships, York County, PA. Applications for amendment to existing FERC license (FERC Project No. 1881) and for redevelopment of the project with modification of its operations on the lower Susquehanna River, including the addition of a second power station and associated infrastructure.

Public Hearing—Enforcement Actions:

The Commission accepted settlement offers for the following projects:

1. Project Sponsor and Facility: Cabot Oil & Gas Corporation; Teel, Greenwood, Ely, Lewis and Black Wells; Dimock and Springfield Townships, Susquehanna County, PA.

2. Project Sponsor and Facility: Chief Oil & Gas, LLC; Kensing, Spotts, and Poor Shot Wells; Mifflin, Penn and Anthony Townships, Lycoming County, PA.

3. Project Sponsor and Facility: EOG Resources, Inc.; Houseknecht, Olsyn and Pierce Wells; Springfield Township, Bradford County, PA; PHC Well, Lawrence Township, Clearfield County, PA; Leasgang and Pichler Wells, Jay Township, Elk County, PA.

4. Project Sponsor and Facility: North Coast Energy, Inc.; Litke Wells, Burnside Township, Centre County, PA.

5. Project Sponsor and Facility: Range Resources—Appalachia LLC; McWilliams, Bobst Mountain, Ogontz, and Ulmer Wells; Cogan House, Cummings and Lycoming Townships, Lycoming County, PA; Gulf USA Well, Snow Shoe Township, Centre County, PA; Duffey Well, Ridgebury Township, Bradford County, PA.

6. Project Sponsor and Facility: Turm Oil, Inc., LaRue Well, Rush Township, Susquehanna County, PA.

Public Hearing—Extension of Emergency Certificate:

The Commission granted an extension of an Emergency Certificate until December 4, 2008, to the following project:

CAN DO, Inc., Hazle Township, Luzerne County, PA—Request to extend the use of Site 14 Test Well to serve Humbolt Industrial Park.

Authority: Pub. L. No. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806—808. Dated: September 22, 2008.

PAUL O. SWARTZ,
Executive Director

[Pa.B. Doc. No. 08-1831. Filed for public inspection October 3, 2008, 9:00 a.m.]