



Volume 38 (2008)

Pennsylvania Bulletin
Repository

10-11-2008

October 11, 2008 (Pages 5579-5728)

Pennsylvania Legislative Reference Bureau

Follow this and additional works at: https://digitalcommons.law.villanova.edu/pabulletin_2008

Recommended Citation

Pennsylvania Legislative Reference Bureau, "October 11, 2008 (Pages 5579-5728)" (2008). *Volume 38 (2008)*. 41.

https://digitalcommons.law.villanova.edu/pabulletin_2008/41

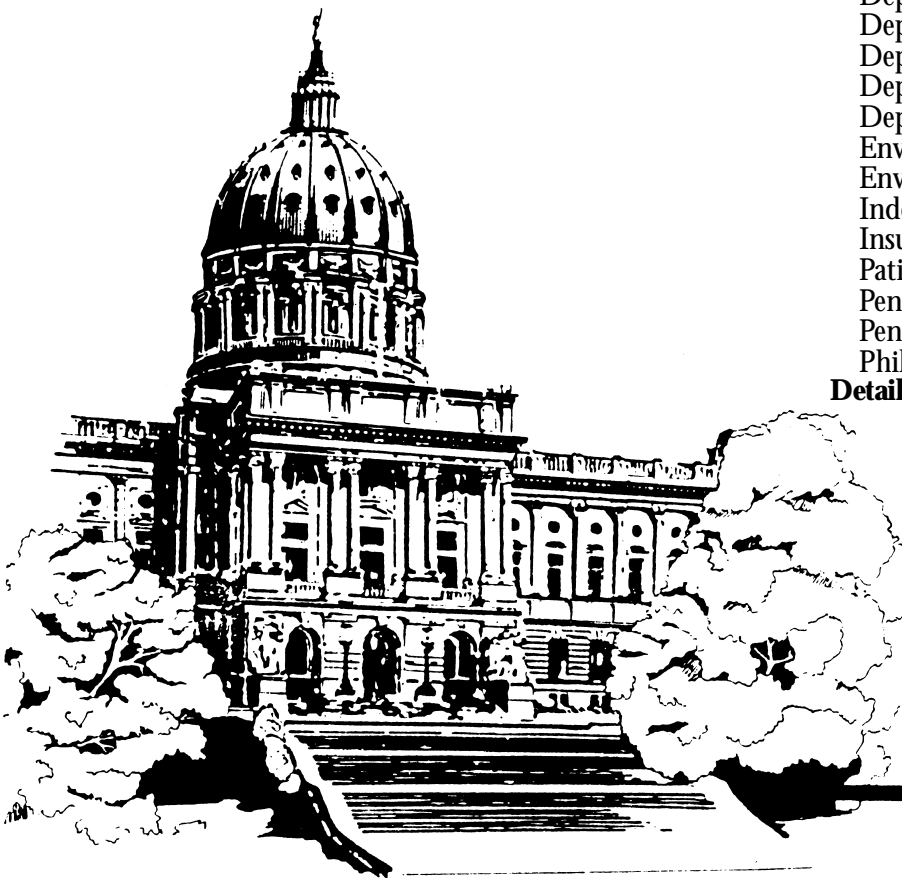
This October is brought to you for free and open access by the Pennsylvania Bulletin Repository at Villanova University Charles Widger School of Law Digital Repository. It has been accepted for inclusion in Volume 38 (2008) by an authorized administrator of Villanova University Charles Widger School of Law Digital Repository.

PENNSYLVANIA BULLETIN

Volume 38
Saturday, October 11, 2008 • Harrisburg, PA
Number 41
Pages 5579—5728

Agencies in this issue

The Courts
Capital Preservation Committee
Department of Agriculture
Department of Conservation and Natural Resources
Department of Corrections
Department of Education
Department of Environmental Protection
Department of Health
Department of Revenue
Department of State
Department of Transportation
Environmental Hearing Board
Environmental Quality Board
Independent Regulatory Review Commission
Insurance Department
Patient Safety Authority
Pennsylvania Gaming Control Board
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority
Detailed list of contents appears inside.



PRINTED ON 100% RECYCLED PAPER



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

No. 407, October 2008

CUT ON DOTTED LINES AND ENCLOSE IN AN ENVELOPE

CHANGE NOTICE

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

**FRY COMMUNICATIONS, INC.
Attn: *Pennsylvania Bulletin*
800 W. Church Rd.
Mechanicsburg, PA 17055-3198**

CUSTOMER NUMBER (6 digit number above name)

NAME OF INDIVIDUAL

OFFICE NAME—TITLE

ADDRESS (Number and Street)

(City) (State) (Zip Code)

TYPE OR PRINT LEGIBLY

PENNSYLVANIA



BULLETIN

(ISSN 0162-2137)

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

Postmaster send address changes to:

FRY COMMUNICATIONS
Attn: *Pennsylvania Bulletin*
800 W. Church Rd.
Mechanicsburg, Pennsylvania 17055-3198
(717) 766-0211 ext. 2340
(800) 334-1429 ext. 2340 (toll free, out-of-State)
(800) 524-3232 ext. 2340 (toll free, in State)

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

Fry Communications, Inc.
Attn: *Pennsylvania Bulletin*
800 W. Church Rd.
Mechanicsburg, PA 17055-3198

Copyright © 2008 Commonwealth of Pennsylvania

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

CONTENTS

THE COURTS

APPELLATE PROCEDURE

Order amending Pa.R.A.P. 1115; no. 196; appellate procedural rules; doc. no. 1 5589

CIVIL PROCEDURAL RULES

Proposed amendment of rule 234.2 governing the issuance and service of subpoenas; proposed recommendation no. 235 5589

Proposed promulgation of new rule 233.1 governing frivolous litigation by pro se plaintiffs; proposed recommendation no. 234 5590

Proposed amendment of rule 1012.1 governing motions for admission pro hac vice; proposed recommendation no. 236 5591

Proposed amendment of rule 3111.1 et seq. governing exemption from levy and attachment; proposed recommendation no. 237 5591

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of disbarment (2 documents) 5597

JUVENILE RULES

Proposed modifications to rule 1613 5592

Proposed modifications to rules 120, 515 and 520 . . . 5594

LOCAL COURT RULES

Montgomery County

Rescission and adoption of new rule 205.4*—
electronic filing and service of legal papers 5595

Westmoreland County

Adoption of rule W1312; civil procedure; no. 3 of
2008 5596

EXECUTIVE AGENCIES

CAPITOL PRESERVATION COMMITTEE

Notices

Request for proposals 5669

DEPARTMENT OF AGRICULTURE

Notices

Order of guidelines for destruction of animals by
drug overdose 5669

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Notices

Conservation and Natural Resources Advisory
Council meeting 5670

DEPARTMENT OF CORRECTIONS

Rules and Regulations

County correctional institutions 5627

DEPARTMENT OF EDUCATION

Notices

Application of Ann Bartolomeo for reinstatement of
teaching certificates; doc. no. re-08-02 5670

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Rules and Regulations

Consumer products; and architectural and industrial maintenance coatings 5598

Notices

Agricultural Advisory Board; meeting cancellation . . 5718

Alternative disposal of radioactive material request . 5718

Applications, actions and special notices 5670

Availability of technical guidance 5718

Consumer and small business solar energy projects;
stakeholder meeting 5719

Oil and gas well permit application modifications . . 5720

Processing and beneficial use of gypsum wallboard;
general permit WMGM038 5720

Residential consumer energy conservation projects;
stakeholder meeting 5720

DEPARTMENT OF HEALTH

Notices

Application of Eynon Surgery Center for exception . . 5720

Healthcare associated infection prevention section
infection control training fund 2008-2009 nursing
home mini-grant award guidelines for infection
control and surveillance training 5721

DEPARTMENT OF REVENUE

Notices

Pennsylvania Snow Dough '08 instant lottery game . 5721

DEPARTMENT OF STATE

Notices

Interstate compact for juveniles 5724

DEPARTMENT OF TRANSPORTATION

Notices

Application for lease of right-of-way 5724

ENVIRONMENTAL HEARING BOARD

Notices

Ronald C. Kamzelski v. DEP and AES Armenia
Mountain Wind, LLC, permittee; EHB doc. no.
2008-288-L 5724

ENVIRONMENTAL QUALITY BOARD

Notices

Meeting cancellation 5724

INDEPENDENT REGULATORY REVIEW

COMMISSION

Notices

Notice of filing of final rulemakings 5725

INSURANCE DEPARTMENT

Notices

Applications for approval of the consolidation of
Highmark, Inc. and Independence Blue Cross and
to acquire control of the Pennsylvania domiciled
insurance subsidiaries of Highmark, Inc. and In-
dependence Blue Cross; amended notice of
closing of public comment period 5725

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

PATIENT SAFETY AUTHORITY

Notices

Public meeting 5726

PENNSYLVANIA GAMING CONTROL BOARD

Rules and Regulations

Preliminary provisions; employees; junket enterprises; slot machine licenses; slot machine testing and control; technical standards; possession of slot machines; accounting and internal controls; and self-exclusion and persons required to be excluded 5652

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Proposed Rulemaking

Household goods in use carrier 5665

Notice

Authorization to sell accounts receivable (3 documents) 5726
Local exchange carrier service 5727
Service of notice of motor carrier applications 5727
Telecommunications 5728

PHILADELPHIA REGIONAL PORT AUTHORITY

Notices

Request for bids (2 documents) 5728

READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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

Printing Format

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

Fiscal Notes

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

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

Reproduction, Dissemination or Publication of Information

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

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

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

List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2008.

4 Pa. Code (Administration)

Adopted Rules

6 741, 2146, 2148, 2231, 2234, 2236, 2647
7 474, 2230

Proposed Rules

191 4628
241 613, 614
247 612, 615, 2062, 4396
255 2268

Statements of Policy

9 2659, 2660, 2661, 3360, 3660, 4528
Unclassified 5155

7 Pa. Code (Agriculture)

Adopted Rules

145 2654
146 2654
147 2654

Proposed Rules

21 2268
23 2268
25 2268
27 2268
111 2256
113 2253
115 2262
139 1830
143 3819

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

Statements of Policy

31 5449
123 4915

19 Pa. Code (Corporations and Business Associations)

Notices 2199

22 Pa. Code (Education)

Adopted Rules

4 872, 1148
14 3575
36 339
201 4083
211 4083
213 4083
215 4083
338 76
339 2485
711 3593

Proposed Rules

4 2270
42 1961
171 2052

Statements of Policy

52 1727

25 Pa. Code (Environmental Protection)

Adopted Rules

77 4355
86 4742
87 4355

88 4355
89 4355
93 1357, 4364
121 1705
127 2365
129 1705
130 5598
145 1705
209 4368
209a 4368
210 4355
215 2243
221 2243
225 2243
230 2243
240 2243
271 1357
279 1357
287 1357
293 1357
806 610
808 610
901 5107

Proposed Rules

85 4617
85 (correction) 4776
86 80
93 (correction) 236, 612, 976
121 229, 1831, 1838
126 229
129 1831, 1838
130 (correction) 1150
145 1838
218 1246
240 1246
806 5446
901 4373

Statements of Policy

16 258
83 889

28 Pa. Code (Health and Safety)

Adopted Rules

101 573
117 573

Proposed Rules

11 4767
23 750, 1150
27 750, 1150

31 Pa. Code (Insurance)

Adopted Rules

133 5434

Proposed Rules

84b 1949
139 1960
146d 4101

34 Pa. Code (Labor and Industry)

Proposed Rules

111 4902
 131 4902

37 Pa. Code (Law)

Adopted Rules

23 1587
 95 5627

Proposed Rules

221 1486

Statements of Policy

200 4632

40 Pa. Code (Liquor)

Adopted Rules

3 2250
 5 2250
 7 2250
 13 2250

Proposed Rules

5 499
 13 4629

43 Pa. Code (Military Affairs)

Adopted Rules

9 1823

49 Pa. Code (Professional and Vocational Standards)

Adopted Rules

9 4764
 13 3794
 21 3656, 3796, 3806
 27 4895
 39 3811
 40 1829, 3658
 43b 3654
 47 484, 4509
 49 484

Proposed Rules

18 2059
 21 344, 3246
 27 350, 351, 4784
 33 4777
 39 1168
 47 3253
 48 3253
 49 3253

Statements of Policy

16 2661

51 Pa. Code (Public Officers)

Proposed Rules

31 435, 1253
 33 435, 1253
 35 435, 1253
 37 435, 1253
 39 435, 1253
 41 435, 1253
 43 435, 1253
 45 435, 1253
 51 435, 1253
 53 435, 1253
 55 435, 1253
 57 435, 1253
 59 435, 1253
 61 435

63 435
 65 435, 1253

52 Pa. Code (Public Utilities)

Adopted Rules

1 5303
 5 4608, 5303
 57 5273
 63 488
 102 4608

Proposed Rules

21 5665
 54 776, 1843
 62 776, 1843
 63 758, 2056
 64 2658
 76 776, 1843
 Unclassified 3245, 3246

Statements of Policy

69 4107

55 Pa. Code (Public Welfare)

Adopted Rules

20 5435
 1150 4898
 1181 5435
 1243 4898
 2380 5435
 2390 5435
 3130 5435
 3140 5435
 3270 2437, 5435
 3280 2437, 5435
 3290 2437, 5435
 3300 2437
 3680 5435
 3700 5435
 6400 5435
 6500 5435

Proposed Rules

108 4514
 187 4514
 2380 1937
 2390 1937
 2800 4459, 4514
 6400 1937
 6500 1937

Statements of Policy

3270 2469
 3280 2469
 3290 2469

58 Pa. Code (Recreation)

Adopted Rules

21 5033
 53 1584
 63 1584, 4900
 65 1468
 69 4765
 91 1725
 111 1468
 137 3490, 3499
 139 3490, 3491, 4615
 141 1471, 1472, 3489, 4511, 4615
 143 1469, 1470, 3489
 147 1472, 1473, 3497, 4512
 401a 5662
 405a 1474

421a 1585, 1965
 423a 1585
 435a 5662
 437a 2251
 441a 3978, 5652
 461a 1474, 5316, 5652
 461b 5652
 463a 5652
 465a 5652

Proposed Rules

29 2155
 51 4909
 63 3241, 4776, 4910
 65 1588
 69 1589, 4910
 71 4910
 73 4910
 75 5035
 101 4909
 137 1484
 139 1591, 1597, 3243
 141 1482, 1590, 3242, 3243
 143 1477, 1482, 4520
 147 1477, 1483, 3244, 4521, 4523, 4526
 401a 1151, 2053, 3980
 403a 5441
 405a 2054
 421a 2054
 433a 2054
 434a 3980
 435a 1151, 2054, 3505
 438a 3980
 439a 1151
 441a 1039, 1041, 1151, 2269, 3505, 3980
 443a 3820
 461a 343, 1151, 3507
 461b 1151
 463a 1151, 3507
 465a 1151, 3505, 3507
 467a 3507
 491a 5441
 493a 5441
 494a 5441
 495a 5441
 497a 5441
 499a 5441
 511a 5441

Statements of Policy

57 1965, 5038
 421b 977
 436b 2279
 461b 354

61 Pa. Code (Revenue)

Adopted Rules

32 1148
 113 1476

Proposed Rules

73 4624
 74 4624

Statements of Policy

60 977

67 Pa. Code (Transportation)

Proposed Rules

71 3501
 83 3503
 471 4375
 473 4375
 479 4375

201 Pa. Code (Judicial Administration)

Adopted Rules

2 220
 5 3613
 7 220

Proposed Rules

30 1924

204 Pa. Code (Judicial System General Provisions)

Adopted Rules

29 5421
 81 5157
 83 1701, 5157
 85 1812
 87 1812
 91 1812
 93 1812
 211 5422
 303 4971

Proposed Rules

83 4504
 213 1438
 303 9

207 Pa. Code (Judicial Conduct)

Adopted Rules

1 5163
 33 1445
 51 4353
 61 1445

Proposed Rules

1 4353
 61 865, 1037

210 Pa. Code (Judicial Conduct)

Adopted Rules

1 5257
 9 5257
 11 5257, 5589
 13 5257
 15 2359, 5257
 17 2359, 5257
 19 4728, 5257, 5422
 21 3355, 3970, 5257
 25 5257
 27 5257
 31 5257
 33 5257

Proposed Rules

1 4723
 3 2480
 9 4723
 11 4723
 17 1445
 19 4723
 21 1446, 4723
 25 4723

225 Pa. Code (Rules of Evidence)

Adopted Rules
 ART. IV 5423

Proposed Rules
 803 3789

231 Pa. Code (Rules of Civil Procedure)

Adopted Rules
 200 1349, 3970
 1000 3481
 1900 4729
 1910 4735, 4736
 1915 1815
 1920 4738

Proposed Rules
 200 337, 3236, 3650, 5589, 5590
 1000 1701, 5591
 1910 1447, 3617, 5591
 1915 3614
 2950 3236
 3000 3650, 5591
 4000 1814

234 Pa. Code (Rules of Criminal Procedure)

Adopted Rules
 1 745, 3971, 5425
 2 3651
 4 5425
 5 3971, 5425, 5429
 6 4506, 4606
 8 5429
 9 5425

Proposed Rules
 1 61, 865
 6 1816

237 Pa. Code (Juvenile Rules)

Adopted Rules
 1 2360
 2 2360

5 3238
 11 2360
 13 2360
 100 1142
 150 1146
 300 1142
 600 1146
 800 1142

Proposed Rules
 1 1349, 5592, 5594
 5 63, 5594
 11 477, 1349
 13 477
 16 5594
 18 477

246 Pa. Code (Minor Court Civil Rules)

Adopted Rules
 200 5163
 300 5164
 400 3356
 500 3239, 3355
 1000 2040

Proposed Rules
 200 1817, 2046, 2151

249 Pa. Code (Philadelphia Rules)

Unclassified 223, 868, 1241, 2046, 2049, 2481, 3896,
 4071, 4072, 4077

252 Pa. Code (Allegheny Rules)

Unclassified 64, 3483, 3488

255 Pa. Code (Local Court Rules)

Unclassified 72, 223, 225, 338, 481, 482, 596, 748,
 975, 1037, 1241, 1354, 1449, 1458, 1466, 1583, 1702,
 1704, 1819, 1931, 2050, 2152, 2240, 2242, 2363, 2364,
 2483, 2484, 2652, 3240, 3652, 3790, 3791, 3793, 4082,
 4354, 4506, 4507, 4739, 4740, 4741, 5032, 5165, 5267,
 5431, 5432, 5432, 5595, 5596

THE COURTS

Title 210—APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

[210 PA. CODE CH. 11]

Order Amending PA.R.A.P. 1115; No. 196 Appellate
Procedural Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 25th day of September, 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 1115 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 as to all petitions for allowance of appeal filed more than 30 days after entry of the order.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 11. APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT

Rule 1115. Content of the Petition for Allowance of Appeal.

(a) *General rule.*—The petition for allowance of appeal need not be set forth in numbered paragraphs in the manner of a pleading, and shall contain the following (which shall, insofar as practicable, be set forth in the order stated):

* * * * *

(6) There shall be appended to the petition a copy of any opinions delivered relating to the order sought to be reviewed, as well as all opinions of government units or lower courts in the case, and, if reference thereto is necessary to ascertain the grounds of the order, opinions in companion cases. **If an application for reargument was filed in the Superior Court or Commonwealth Court, there also shall be appended to the petition a copy of any order granting or denying the application for reargument.** If whatever is required by this paragraph to be appended to the petition is voluminous, it may, if more convenient, be separately presented.

(7) There shall be appended to the petition the verbatim texts of the pertinent provisions of constitutional provisions, statutes, ordinances, regulations or other similar enactments which the case involves, and the citation to the volume and page where they are published, including the official edition, if any.

* * * * *
Explanatory Comment 2008

The purpose of the requirement in Subsection (a)(6) requiring the attachment of any order granting or denying an application for reargument (which also includes applications for “reconsideration” and “rehearing”, see Pa.R.A.P. 102) filed in the Superior Court or Commonwealth Court is to allow the Prothonotary of the Supreme Court to confirm compliance with the time requirements for filing a petition for allowance of appeal under Pa.R.A.P. 1113(a).

[Pa.B. Doc. No. 08-1832. Filed for public inspection October 10, 2008, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Proposed Amendment of Rule 234.2 Governing the Issuance and Service of Subpoenas; Proposed Recommendation No. 235

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 234.2 governing the issuance and service of subpoenas be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than November 26, 2008 to:

Karla M. Shultz, Esquire
Counsel
Civil Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, Pennsylvania 17055
or E-Mail to
civil.rules@pacourts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 234.2. Subpoena. Issuance. Service. Compliance. Fees. Prisoners.

* * * * *

(c) The fee for one day’s attendance and round trip mileage shall be tendered upon demand at the time the person is served with a subpoena. If a subpoena is served

by mail, a check in the amount of one day's attendance and round trip mileage shall be enclosed with the subpoena.

Official Note: See 42 [Pa.C.S.A.] Pa.C.S. § 5903 for the compensation and expenses of witnesses. See also *Evans v. Otis Elevator Co.*, 403 Pa. 13, 168 A.2d 573 (1961), regarding the right of an expert witness to refuse to testify on behalf of an adverse party.

* * * * *

(e)(1) For the purposes of this subdivision, "guardian" shall mean any parent, custodian, or other person who has legal custody of a minor, or person designated by the court to be a temporary guardian for purposes of a proceeding.

(2)(i) A subpoena shall be served on a minor only with prior court approval and good cause shown.

(ii) The guardian of a witness who is a minor shall be served with a copy of the subpoena in the same manner as prescribed in subdivision (b).

Official Note: See Rule 76 for definition of "minor."

Explanatory Comment

To provide greater protection to minors, the Civil Procedural Rules Committee proposes the amendment of Rule 234.2 governing the issuance and service of subpoenas on a witness who is a minor. The amendment provides two specific requirements for the issuance and service of a subpoena on a witness who is a minor: (1) a court must review and grant permission before a subpoena may be issued to a witness who is a minor, and (2) the subpoena must also be served on the legal guardian of the witness.

By the Civil Procedural Rules Committee

STEWART L. KURTZ,
Chair

[Pa.B. Doc. No. 08-1833. Filed for public inspection October 10, 2008, 9:00 a.m.]

PART I. GENERAL

[231 PA.CODE CH. 200]

Proposed Promulgation of New Rule 233.1 Governing Frivolous Litigation by Pro Se Plaintiffs; Proposed Recommendation No. 234

The Civil Procedural Rules Committee proposes that new Rule of Civil Procedure 233.1 governing frivolous litigation by pro se plaintiffs be promulgated as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than November 26, 2008 to:

Karla M. Shultz, Esquire
Counsel
Civil Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, Pennsylvania 17055

or E-Mail to
civil.rules@pacourts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 233.1. Frivolous Litigation. Pro Se Plaintiff. Motion to Dismiss.

(a) Upon the commencement of any action filed by a pro se plaintiff in the court of common pleas, a defendant may file a motion to dismiss the action on the basis that

(1) the pro se plaintiff is alleging the same or related claims against the same or related defendants, and

(2) these claims have already been resolved pursuant to a settlement agreement or a court proceeding.

(b) The court shall stay the action while the motion is pending.

(c) Upon granting the motion to dismiss, the court shall enter an order dismissing the action and may bar the pro se plaintiff from pursuing additional pro se litigation against the same defendant or related defendants raising the same or related claims without leave of court.

(d) If litigation is filed in violation of a court order entered pursuant to subdivision (c), the court may sua sponte or in an ex parte proceeding dismiss an action that is filed in violation of a court order entered under this rule.

Official Note: A pro se party is not barred from raising counterclaims or claims against other parties in litigation that the pro se plaintiff did not institute.

Explanatory Comment

It has come to the attention of the Civil Procedural Rules Committee that some pro se litigants are abusing the legal system by filing large numbers of frivolous motions or by repeatedly filing new litigation raising the same claims against the same defendant even though the claims have been previously adjudicated either through settlement or court proceedings, all of which is done for the purpose of harassing the defendant. New Rule 233.1 is intended to provide relief to a defendant who has been subjected to this type of harassment. Upon the filing of an action by a pro se plaintiff, a defendant may file a motion to dismiss a pending action provided that (1) the pro se plaintiff is alleging the same or related claims against the same or related defendants, and (2) the claims have already been resolved pursuant to a settlement agreement or a court proceeding. The new rule also gives the trial court discretion to bar the pro se litigant from filing further litigation against the same or related defendants raising the same or related claims without leave of court.

By the Civil Procedural Rules Committee

STEWART L. KURTZ,
Chair

[Pa.B. Doc. No. 08-1834. Filed for public inspection October 10, 2008, 9:00 a.m.]

PART I. GENERAL
[231 PA. CODE CH. 1000]

Proposed Amendment of Rule 1012.1 Governing Motions for Admission Pro Hac Vice; Proposed Recommendation No. 236

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 1012.1 governing motions for admission pro hac vice be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than November 26, 2008 to:

Karla M. Shultz, Esquire
Counsel
Civil Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, Pennsylvania 17055

or E-Mail to
civil.rulespa@courts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1000. ACTIONS

Subchapter A. CIVIL ACTION

VENUE AND PROCESS

Rule 1012.1. Admission Pro Hac Vice. Motion. Content.

* * * * *

(b)(1) The sponsor shall file a written motion for admission pro hac vice in the action for which admission is sought. **The motion shall aver that (i) the information required by Section 81.504 of the IOLTA regulations has been provided to the IOLTA Board, and (ii) the motion shall either aver that the fee required by Section 81.505(a) of the IOLTA regulations has been paid, or shall include as an attachment a copy of a fee payment certification from the IOLTA Board, or shall aver that the payment of the fee is not required pursuant to Section 81.505(c) of the IOLTA regulations,**

(2) The verifications required by subdivisions (c) and (d)(2) shall be attached to the motion.

* * * * *

Explanatory Comment

In 2007, the Supreme Court promulgated Rule 1012.1 governing motions for admission pro hac vice. In conjunction with this, the Supreme Court also amended Pa.B.A.R. 301 and promulgated new IOLTA regulations, both of which also govern admission pro hac vice. Pa.B.A.R. 301 requires that the motion for admission pro hac vice to aver that the fee required by the IOLTA regulations has been paid, or include as an attachment a copy of a fee payment certification from the IOLTA Board,

unless payment of the fee is not required pursuant to Section 81.505(c) of the IOLTA regulations, and the information required by Section 81.504 of the IOLTA regulations has been provided to the IOLTA Board. The requirements of Pa.B.A.R. 301 and the IOLTA regulations have been incorporated into Rule 1012.1 to aid the practitioner in satisfying the requirements for admission pro hac vice in civil cases.

By the Civil Procedural Rules Committee

STEWART L. KURTZ,
Chair

[Pa.B. Doc. No. 08-1835. Filed for public inspection October 10, 2008, 9:00 a.m.]

PART I. GENERAL
[231 PA. CODE CH. 3000]

Proposed Amendment of Rule 3111.1 et seq. Governing Exemption from Levy and Attachment; Proposed Recommendation No. 237

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 3111.1 et seq. governing exemption from levy and attachment be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than November 26, 2008 to:

Karla M. Shultz, Esquire
Counsel
Civil Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, Pennsylvania 17055

or E-Mail to
civil.rules@pacourts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 3000. JUDGMENTS

Subchapter D. ENFORCEMENT OF MONEY JUDGMENTS FOR THE PAYMENT OF MONEY

Rule 3111.1. Exemptions from levy and attachment.

In the absence of a court order, service of the writ upon a bank or other financial institution as garnishee shall not attach

(1) [any of the defendant's funds on deposit with the bank or other financial institution in an account in which (1)] the first \$10,000 of each account of the defendant containing any funds which are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law, [or]

Official Note: See Rule 3146(b)(2) governing judgment against a bank or other financial institution as garnishee upon admission in answer to interrogatory.

(2) each account in which funds on deposit exceed \$10,000 at any time if all funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law, and

(3) the funds on deposit, not including any otherwise exempt funds, that do not exceed the amount of the general monetary exemption under 42 Pa.C.S. § 8123. The plaintiff shall have the right to file an objection if the plaintiff believes that the defendant has exhausted the statutory exemptions.

Rule 3140. Notice by garnishee.

(a)(1) Upon being served with the writ, the garnishee shall [promptly] within two business days forward a copy to the defendant.

(2) In addition to compliance with the requirements of Rule 3144, a garnishee which is a bank or other financial institution shall within two business days forward to the defendant and to the plaintiff a copy of the statement of accounts attached showing

(i) each account of the defendant having funds which have been attached and the amount of the funds in each account, and

(ii) each account of the defendant having funds which have not been attached because the account contains funds which are exempt under Rule 3111.1(1), the basis for the exemption of those funds, and the total amount of funds in each account.

Official Note: A garnishee which is a bank will send to the defendant copies of both the writ and the statement of accounts attached, but to the plaintiff only a copy of the statement of accounts attached.

(b) Upon filing his answer to interrogatories pursuant to Rule 3144 the garnishee shall promptly forward a copy to the defendant.

* * * * *

Rule 3141. Garnishee's duty to defend; venue of proceedings.

(a) [A] Except as provided in Rule 3111.1, a garnishee who forwards copies of the writ and answers to interrogatories to the defendant shall thereafter be under no duty to resist the attachment or defend the action against the defendant in any manner but may do so as provided by these rules.

* * * * *

Subchapter E. ENFORCEMENT OF JUDGMENTS IN SPECIAL ACTIONS

FORMS

Rule 3253. Interrogatories in attachment.

Interrogatories of the plaintiff to the garnishee shall be substantially in the following form:

[Caption]
Interrogatories to Garnishee

"To _____ :
(Garnishee)

"You are required to file answers to the following interrogatories within twenty (20) days after service upon you. Failure to do so may result in judgment against you:

* * * * *

7. If you are a bank or other financial institution, at the time you were served or at any subsequent time did the defendant have funds on deposit in an account in which funds are deposited electronically on a recurring basis and which are identified as being funds that upon deposit are exempt from execution, levy or attachment under Pennsylvania or federal law? If so, identify each account and state **the amount of funds in each account**, the reason for the exemption, **[the amount being withheld under each exemption]** and the entity electronically depositing those funds on a recurring basis.

* * * * *

Explanatory Comment

New Rule 3111.1 was promulgated in 2007 to address the failure of the rules of civil procedure to protect funds held in accounts of banks and other financial institutions that are exempt from execution, levy, and attachment pursuant to federal and state legislation. The current rule protects from attachment all funds in an account in which any funds are deposited electronically on a recurring basis and are identified as being funds that upon deposit are exempt from execution, levy, or attachment. The amendment to subdivision (1) of Rule 3111.1 provides that only the first \$10,000 held in an account may not be attached whenever the account includes any funds that are identified as being exempt from execution, levy, or attachment. If an account holder believes the remainder is also exempt, he or she may petition the court for relief. Under new subdivision (2) any funds that exceed \$10,000 in an account may be attached unless all funds in the account are identified as exempt funds.

By the Civil Procedural Rules Committee

STEWART L. KURTZ,
Chair

[Pa.B. Doc. No. 08-1836. Filed for public inspection October 10, 2008, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CH. 16]

Proposed Modifications to Rule 1613

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modification of Rule 1613 be adopted and prescribed. The proposed modified Rule 1613 provides each method for terminating court supervision in dependency cases. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the intent of the rule. Please note that the Committee's 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 explanatory Reports.

We request that interested persons submit suggestions, comments or objections concerning this proposal to the Committee through counsel,

A. Christine Riscili, Esq.
 Staff Counsel
 Supreme Court of Pennsylvania
 Juvenile Court Procedural Rules Committee
 5035 Ritter Road, Suite 700
 Mechanicsburg, PA 17055

no later than Thursday, November 6, 2008.

*By the Juvenile Court
 Procedural Rules Committee:*

FRANCIS BARRY MCCARTHY,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart B. DEPENDENCY MATTERS

CHAPTER 16. POST-DISPOSITIONAL PROCEDURES

PART B. PERMANENCY HEARING

Rule 1613. Termination of Court Supervision.

A. *Concluding Supervision.* Any party, or the court on its own motion, may move for the termination of supervision when court-ordered services from the county agency are no longer needed and:

- 1) **the child has remained with the guardian and the circumstances which necessitated the dependency adjudication have been alleviated;**
- 2) **the child has been reunified with the guardian and the circumstances which necessitated the dependency adjudication and placement have been alleviated;**
- 3) **the child has been placed with a ready, willing, and able parent [has come forward] who was not previously identified by the county agency;**
- [2] **4) the child has been adopted and services from the county agency are no longer needed;**
- [3) the court has transferred jurisdiction to another court;]
- 5) **the child has been placed in the custody of a permanent legal custodian and services from the county agency are no longer needed;**
- 6) **the child has been placed in the custody of a fit and willing relative and services from the county agency are no longer needed;**
- 7) **the child has been placed in another living arrangement intended to be permanent and services from the county agency are no longer needed;**
- 8) **the child has been adjudicated delinquent and services from the county agency are no longer needed;**
- 9) **the child has been emancipated by the court;**

[4] **10) the child is eighteen years old and [no longer wants service] refusing further services from the county agency;**

11) the child has died;

12) a court in another county of this Commonwealth has accepted jurisdiction; or

13) a court in another state has accepted jurisdiction.

[5) the court has found other reasons for termination of court supervision; or

6)a) the family has completed the terms of the family service plan or permanency plan; and

b) the child is returned to the guardian.]

B. *Ready, willing, and able parent.* When services from the county agency are no longer necessary because the court has determined that the child is not dependent pursuant to paragraph (A)([2] 3) because a non-custodial parent has been found by the court to be able and available, the court shall enter an order awarding custody to that parent and the court order shall have the effect and be docketed as a decision entered pursuant to Pa.R.C.P.

* * * * *

Comment

For procedures on motions, see Rule 1344. For procedures on the dispositional order, see Rule 1515.

[See also,] For guidelines under paragraph (A), see 42 Pa.C.S. §§ 6301(b) & 6351(f.1).

Pursuant to paragraph (A)(8), if a child has been adjudicated delinquent, the court may terminate court supervision unless dependency is necessary for placement. *In re Deanna S.*, 422 Pa. Super. 439, 619 A.2d 758 (1993). The court may also decide to retain dependency jurisdiction regardless of the delinquency adjudication because the child still needs dependency services.

For procedures on emancipation pursuant to paragraph (A)(9), see *Berks County Children and Youth Services v. Rowan*, 428 Pa. Super. 448, 631 A.2d 615 (1993). See also, 22 Pa. Code § 11.11, 55 Pa. Code § 145.62.

Pursuant to paragraph (A)(10), a child who was adjudicated dependent prior to reaching the age of eighteen and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, may remain in the course of instruction or treatment until the age of twenty-one. 42 Pa.C.S. § 6302. See also, 55 Pa. Code §§ 3130.5 & 3130.87; *In re S.J.*, 906 A.2d 547 (Pa. Super. Ct. 2006).

The court may not terminate jurisdiction solely because the dependent child is a runaway. *In re Deanna S.*, 422 Pa. Super. 439, 619 A.2d 758 (1993).

A child whose non-custodial parent is ready, willing, and able to provide adequate care for the child may not be found dependent. *In re M.L.*, 562 Pa. 646, 757 A.2d 849 (2000). See paragraph (B).

Pursuant to 42 Pa.C.S. § 6351(a)(2.1), a court may transfer permanent legal custody to a person found by the court to be qualified to receive and care for the child. 42 Pa.C.S. § 6351(a)(2.1). See also *Justin S.*, 375 Pa. Super. 88, 543 A.2d 1192 (1988).

* * * * *

EXPLANATORY REPORT**Rule 1613—Termination of Court Supervision.**

The proposed modified Rule 1613 provides each method for terminating a case. This change will eliminate any confusion as to how a dependency case can be terminated. This will also enable a more efficient tracking of the dependency cases and the reasons for their termination.

Paragraphs (A)(1) and (2) are preferred permanency choices under the Juvenile Act. 42 Pa.C.S. §§ 6301(b) and 6351(f.1)(1).

Paragraph (A)(3) is addressed by *In re M.L.*, 562 Pa.646, 757 A.2d 849 (2000). A child whose non-custodial parent is ready, willing, and able to provide adequate care for the child may not be found dependent. If this parent comes forward after the commencement of dependency proceedings, the court may terminate the dependency supervision and enter an order awarding custody to the parent. See paragraph (B).

Paragraphs (A)(4)—(7) are other permanency options provided for in the Juvenile Act. 42 Pa.C.S. § 6351(F.1)(2)—(5).

Pursuant to paragraph (A)(8), if a child has been adjudicated delinquent, the court may terminate court supervision unless dependency is necessary for placement. *In re Deanna S.*, 422 Pa. Super. 439, 619 A.2d 758 (1993). The court may also decide to retain dependency jurisdiction regardless of the delinquency adjudication so the child can obtain dependency services from the county agency.

The court may also decide to emancipate the child under paragraph (A)(9). See *Berks County Children and Youth Services v. Rowan*, 428 Pa. Super. 448, 631 A.2d 615 (1993). See also, 22 Pa. Code § 11.11, 55 Pa. Code § 145.62.

Pursuant to paragraph (A)(10), a child who was adjudicated dependent prior to reaching the age of eighteen and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, may remain in the course of instruction or treatment until the age of twenty-one. 42 Pa.C.S. § 6302. See also, 55 Pa. Code §§ 3130.5 and 3130.87; *In re S.J.*, 906 A.2d 547 (Pa. Super. Ct. 2006).

The court may also transfer the case to another court. See paragraphs (A)(12) and (13).

The court may not terminate jurisdiction solely because the dependent child is a runaway. *In re Deanna S.*, 422 Pa. Super. 439, 619 A.2d 758 (1993).

[Pa.B. Doc. No. 08-1837. Filed for public inspection October 10, 2008, 9:00 a.m.]

PART I. RULES**[237 PA. CODE CHS. 1 AND 5]****Proposed Modifications to Rules 120, 515 and 520**

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modification of Rules 120, 515 and 520 be adopted and prescribed. The proposed modified Rule 120 sets forth a new definition for "disposition." The proposed modified Rule 515 clarifies when the court enters a dispositional order. The proposed modified Rule 520 adds

a Comment referencing the new definition of disposition because the disposition is the triggering point for the filing of a post-dispositional motion. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the intent of the rules. Please note that the Committee's 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 explanatory Reports.

We request that interested persons submit suggestions, comments or objections concerning this proposal to the Committee through counsel,

A. Christine Riscili, Esq.
Staff Counsel
Supreme Court of Pennsylvania
Juvenile Court Procedural Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055

no later than Thursday, November 6, 2008.

*By the Juvenile Court
Procedural Rules Committee:*

FRANCIS BARRY MCCARTHY,
Chair

Annex A**TITLE 237. JUVENILE RULES****PART I. RULES****Subpart A. DELINQUENCY MATTERS****CHAPTER 1. GENERAL PROVISIONS****PART A. BUSINESS OF COURTS****Rule 120. Definitions.**

* * * * *

DETENTION FACILITY is any facility, privately or publicly owned and operated, designated by the court and approved by the Department of Public Welfare to detain a juvenile temporarily. The term detention facility, when used in these rules, shall include shelter-care.

DISPOSITION is a final determination made by the court after an adjudication of delinquency or any determination that ceases court action on a case.

* * * * *

Comment

Under the term "court," to determine if masters are permitted to hear cases, see Rule 187. See Rule 210 for the power of magisterial district judges to issue arrest warrants.

The term "disposition" includes all final determinations made by the court. A disposition includes a response to an adjudication of delinquency, such as sending the juvenile to a placement facility or placing the juvenile on probation. It also includes other types of final determinations made by the court. Other final determinations include a finding that the juvenile did not commit a delinquent act pursuant to Rule 408 (B), a finding that the juvenile is not in need of treatment, rehabilitation, or supervision pursuant to Rule 409 (A)(1), dismissing the charges "with prejudice" prior to an adjudicatory hearing, or any other final action by the court that closes or terminates the case.

* * * * *

CHAPTER 5. DISPOSITIONAL HEARING**PART B. DISPOSITIONAL HEARING AND AIDS****Rule 515. Dispositional Order.**

A. *Generally.* When the court enters a disposition **after an adjudication of delinquency pursuant to Rule 409(A)(2)**, the court shall issue a written order, which provides balanced attention to the protection of the community, accountability for the offenses committed, and development of the juvenile's competencies to enable the juvenile to become a responsible and productive member of the community. The order shall include:

* * * * *

PART C. POST-DISPOSITIONAL MOTIONS**Rule 520. Post-Dispositional Motions.**

* * * * *

Comment

The purpose of this rule is to promote the fair and prompt disposition of all issues relating to admissions, adjudication, and disposition by consolidating all possible motions to be submitted for court review, and by setting reasonable but firm time limits within which the motion is to be decided. Because the post-dispositional motion is optional, a party may choose to raise any or all properly preserved issues in the trial court, in the appellate court, or both.

For the definition of "disposition," see Rule 120 and its *Comment*.

* * * * *

EXPLANATORY REPORT**Rule 120—Definitions.**

The Committee is proposing a new definition for "disposition." It has come to the Committee's attention that there are several instances in which a case is terminated in juvenile court and the guidelines for the timing of appeals in those cases are unclear. The new definition clearly sets forth which cases could be included in a post-dispositional motion pursuant to Rule 520, which affects the timing of appeals.

A disposition includes all final determinations made by the court. The common interpretation of a disposition is when the court adjudicates the juvenile delinquent and finds the juvenile in need of treatment, supervision, and rehabilitation, and makes a decision to place the juvenile in a placement facility, on alternative care, or on probation. However, disposition also includes: 1) a finding that the juvenile did not commit a delinquent act; 2) a finding that the juvenile is not in need of treatment, supervision, or rehabilitation; 3) dismissal of the case "with prejudice" prior to the commencement of an adjudicatory hearing; or 4) any other action that terminates or closes the juvenile case.

Rule 515—Dispositional Order.

The addition of "after an adjudication of delinquency pursuant to paragraph (A)(2)" indicates when a dispositional order will be entered under this rule. This rule is designed to address cases when the court has found the juvenile to have committed a delinquent act and that the juvenile is in need of treatment, supervision, or rehabilitation.

If the court finds that a juvenile did not commit the alleged delinquent acts pursuant to Rule 408 (B), it will

enter an order releasing the juvenile under Rule 408. If the court finds that the juvenile is not in need of treatment, supervision, or rehabilitation pursuant to Rule 409(A)(1), it will enter an order releasing the juvenile pursuant to Rule 409. If the court dismisses the case "with prejudice" prior to the commencement of an adjudicatory hearing or terminates the case for any other reason, the court will enter an order to that effect.

Rule 520—Post-Dispositional Motions.

This proposed addition to the Comment of this Rule is a reference to the new definition of "disposition." All scenarios included under this definition trigger when a post-dispositional motion may be filed.

[Pa.B. Doc. No. 08-1838. Filed for public inspection October 10, 2008, 9:00 a.m.]

Title 255—LOCAL COURT RULES

MONTGOMERY COUNTY**Rescission and Adoption of New Rule 205.4*—
Electronic Filing and Service of Legal Papers****Order**

And Now, this 29th day of September, 2008, the Court rescinds Montgomery County Local Rule of Civil Procedure 205.4*—Electronic Filing and Service of Legal Papers, and approves and adopts the following Montgomery County Local Rule of Civil Procedure 205.4*—Electronic Filing and Service of Legal Papers. This new Rule shall become effective thirty days after publication in the *Pennsylvania Bulletin*.

The Court Administrator is directed to publish this Order once in the Montgomery County Law Reporter and in *The Legal Intelligencer*. In further conformity with Pa.R.C.P. 239, seven (7) certified copies of the within Order shall be filed by the Court Administrator with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) certified copy shall be filed with the Civil Procedural Rules Committee. One (1) copy shall be filed with the Prothonotary, one (1) copy with the Clerk of Courts, and (1) copy with the Court Administrator of Montgomery County, one (1) copy with the Law Library of Montgomery County and one (1) copy with each Judge of this Court.

By the Court:

RICHARD J. HODGSON,
President Judge

Rule 205.4*. Electronic Filing and Service of Legal Papers.

Rescinded.

Note—version of Local Rule originally adopted on January 18, 2002.

Rule 205.4*. Electronic Filing and Service of Legal Papers.

(a)(1) The Montgomery County Court of Common Pleas hereby permits the electronic filing of legal papers and the electronic service of such papers, under the terms described in this Local Rule.

(b)(1) All legal papers shall be presented for electronic filing in portable document format ("pdf"). As authorized by Pa.R.C.P. No. 205.4(b)(1), in the event any legal paper is submitted to the Prothonotary in a hard-copy format, the Prothonotary shall convert such legal paper to pdf and maintain it in that format. The Prothonotary shall return the hard-copy legal paper to the filing party for retention as required by Pa.R.C.P. No. 205.4(b)(4).

(c)(2) All legal papers that are filed electronically shall be filed through the Prothonotary's Electronic Filing System ("Electronic Filing System") which shall be accessible through the Montgomery County Prothonotary's web site, www.montcopa.org/prothy. To obtain access to the Electronic Filing System, counsel and any unrepresented party must apply to the Prothonotary's Office for a User Name and Password.

(d)(1) The Prothonotary will accept for payment of all filing fees the following credit and debit cards: American Express, Discover, MasterCard and Visa. The Prothonotary will not accept advance deposit on account of future filing fees.

(f)(1) Upon receipt of the legal paper, the Prothonotary shall provide the filing party with an acknowledgment, which includes the date and time the legal paper was received by the Electronic Filing System. The Prothonotary shall also provide the filing party with notice that the legal paper was accepted for filing. If a legal paper is not accepted upon presentation for filing or is refused for filing by the Electronic Filing System, the Prothonotary shall immediately notify the party presenting the legal paper for filing of the date of presentation, the fact that the document was not accepted or refused for filing by the system, and the reason therefor.

(2) Neither the Court nor the Prothonotary shall be required to maintain a hard copy of any legal paper, notice or order filed or maintained electronically under this rule.

[Pa.B. Doc. No. 08-1839. Filed for public inspection October 10, 2008, 9:00 a.m.]

WESTMORELAND COUNTY

Adoption of Rule W1312; Civil Procedure; No. 3 of 2008

And Now this 24th day of September, 2008, it is *Hereby Ordered* that Westmoreland County Rule of Civil Procedure W1312 is rescinded, and new Rule W1312 is adopted. New Form W1312, Oath and Award of Arbitrators, is hereby adopted and replaces the current Form.

Rule W1312 Award

(a) The oath or affirmation shall be administered by the court administrator.

(b) The Report and Award shall be in the form set forth in Pa.R.C.P. 1312.

(c) Arbitrators may not award punitive damages.

Note: A copy of the Form of Oath, Award and Notice of Entry of Award form is provided in the Forms section of the Westmoreland County Rules of Court.

By the Court

JOHN E. BLAHOVEC,
President Judge

IN THE COURT OF COMMON PLEAS OF
WESTMORELAND COUNTY, PENNSYLVANIA

CIVIL ACTION — LAW

)
)
)
)
)
)
)
)
)
)
)
)

NO: _____

OATH OF ARBITRATORS

We, the undersigned Arbitrators, do solemnly wear (or affirm) that we will support obey and defend the Constitution of the United States and the Constitution of this Commonwealth and that we will discharge the duties of our office with fidelity.

Chairperson

Arbitrators

AWARD OF ARBITRATORS

We, the undersigned Arbitrators, having been duly appointed and sworn, make the following award:

WE FIND IN FAVOR OF:

AND AGAINST:

AWARD REGARDING ADDITIONAL DEFENDANT:

AWARD REGARDING COUNTERCLAIM

WE FIND IN FAVOR OF:

AND AGAINST:

DATE OF HEARING:_____ DATE OF AWARD:_____

Chairperson Name (print) Chairperson Signature

Arbitrator Name (print) Arbitrator Signature

Arbitrator Name (print) Arbitrator Signature

Name of Arbitrator Dissenting:

NOTICE OF ENTRY OF AWARD

Now, this ___ day of _____, _____, at _____, ___ M., the above award was entered upon the docket and notice thereof was given by mail to the parties or their attorneys.

Arbitrators' compensation to be paid upon appeal:
 \$ _____

ATTEST:

 Prothonotary
 JOHN E. BLAHOVEC,
President Judge

[Pa.B. Doc. No. 08-1840. Filed for public inspection October 10, 2008, 9:00 a.m.]

**DISCIPLINARY BOARD OF
 THE SUPREME COURT**

Notice of Disbarment

Notice is hereby given that Arthur D. Machado having been resigned from the practice law in the State of Connecticut by Acceptance of Resignation and Waiver of the Connecticut Superior Court, Judicial District of New Haven, entered on November 6, 2007, by Order dated September 25, 2008, the Supreme Court of Pennsylvania disbarred Arthur D. Machado from the practice of law in this Commonwealth, effective October 25, 2008. In accordance with Rule 217(f), Pa.R.D.E., since this formerly

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

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

[Pa.B. Doc. No. 08-1841. Filed for public inspection October 10, 2008, 9:00 a.m.]

Notice of Disbarment

Notice is hereby given that Robert W. Rhoades having been disbarred by consent from the practice of law in the State of New Jersey by Order of the Supreme Court of New Jersey date October 9, 2007, by Order dated September 25, 2008, the Supreme Court of Pennsylvania disbarred Robert W. Rhoades from the practice of law in this Commonwealth, effective October 25, 2008. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 08-1842. Filed for public inspection October 10, 2008, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 130]

Consumer Products; and Architectural and Industrial Maintenance Coatings

The Environmental Quality Board (Board) by this order amends Chapter 130, Subchapters B and C (relating to consumer products; and architectural and industrial maintenance coatings), to read as set forth in Annex A. The amendments to Subchapter B will amend the Table of Standards to add volatile organic compound (VOC) content limits for an additional 11 categories of consumer products and revise the VOC content limits for one category of consumer products currently regulated. The amendments to Subchapter B also include definitions for approximately 30 new terms, including terms that relate to the new regulated product categories, and revised definitions for approximately 75 existing terms to provide clarity. The amendments add the term "VOC—volatile organic compound" to Subchapter B and revise the definition of the term in Subchapter C to mirror the definition of the term in § 121.1 (relating to definitions). The definition of the term "VOC—volatile organic compound" in § 121.1 refers to the Federal definition of VOC.

This order was adopted by the Board at its meeting of June 17, 2008.

A. *Effective Date*

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

B. *Contact Persons*

For further information contact Susan Hoyle, Division of Air Resource Management, P. O. Box 8468, Rachel Carson State Office Building, Harrisburg, PA 17105-8468 (717) 772-2329; or Kristen Campfield Furlan, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Pennsylvania Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This rulemaking is available electronically through the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us.

C. *Statutory Authority*

This final-form rulemaking is authorized under section 5 of the Air Pollution Control Act (APCA) (35 P.S. § 4005), which grants the Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth.

D. *Background of the Amendments*

When ground-level ozone is present in concentrations in excess of the Federal health-based standard, public health and welfare are adversely affected. The United States Environmental Protection Agency (EPA) has concluded that there is an association between high levels of ambient ozone and increased hospital admissions for respiratory ailments, such as asthma. While children, the elderly and those with respiratory problems are most at

risk, even healthy individuals may experience increased respiratory ailments and other symptoms when they are exposed to high levels of ambient ozone while engaged in activities that involve physical exertion. Though these symptoms are often temporary, repeated exposure could result in permanent lung damage. High levels of ground-level ozone also cause damage to crops and vegetation, buildings and synthetic fibers, including nylon, and reduce visibility on roadways and in natural areas.

On March 12, 2008, the EPA announced a revised primary and secondary 8-hour ozone standard from 0.08 ppm to 0.075 ppm. The EPA selected the new levels for the final standards after reviewing more than 1,700 peer-reviewed scientific studies about the effects of ozone on public health and welfare, and after considering advice from the agency's external scientific advisors and staff, along with extensive public comment. The EPA held five public hearings and received nearly 90,000 written comments. The EPA's projections indicate that without additional State or local controls, there will still be areas not meeting this more protective standard.

The purpose of the amendments is to reduce the VOCs emitted from consumer products. Ozone is not directly emitted by consumer products, but is created as a result of the chemical reaction of oxides of nitrogen and VOCs in the presence of light and heat. The amendments are part of the Commonwealth's strategy to achieve and maintain the 8-hour ozone National Ambient Air Quality Standard (NAAQS) throughout this Commonwealth. The amendments expand upon the consumer products regulation adopted by the Board at its meeting of July 16, 2002. See 32 Pa.B. 4824 (October 5, 2002).

The amendments also revise the definition of the term "VOC—volatile organic compound" in Subchapter C to mirror the definition of the term in § 121.1. The definition of the term "VOC—volatile organic compound" in § 121.1 refers to the Federal definition of VOC. This revision will harmonize the VOC definitions in Chapters 121 and 130 and in Subchapters B and C of Chapter 130, and will make the most currently VOC exempt compounds available as tools to reduce ozone and particulate matter (PM) formation.

While there are Federal VOC content limits codified at 40 CFR Part 59, Subpart C (relating to national volatile organic compound emission standards for consumer products) for certain consumer products already regulated by Chapter 130, Subchapter B, there are no Federal limits for the additional products that will be regulated by this final-form rulemaking.

These amendments are consistent with regulatory initiatives that are being undertaken by other jurisdictions in the Ozone Transport Region (OTR) to address regional transport of ozone precursor emissions. The Ozone Transport Commission (OTC) Member States and the District of Columbia and OTC staff formed a workgroup to discuss additional control measures for consumer products during a series of conference calls and workshops held from the spring of 2004 through the autumn of 2006. Representatives of the major consumer products trade associations, including the Consumer Specialty Products Association (CSPA), the American Solvents Council and the Cosmetic, Toiletry and Fragrance Association (now the Personal Care Products Council or PCPC), participated in several of the conference calls or meetings and are generally supportive of the initiative. The OTC workgroup collected

and evaluated information regarding emission reduction benefits, cost-effectiveness and implementation issues.

Consistent with section 7.4 of the APCA (35 P.S. § 4007.4), the Department held three public meetings regarding control measures under consideration for adoption by the OTC on May 22, 23 and 25, 2006. The control measures reviewed at these meetings included the OTC Consumer Products Model Rule. Notice of these meetings was published at 36 Pa.B. 2071 (April 29, 2006).

Based on the analysis performed by the OTC workgroup, the OTC Commissioners at the OTC Commissioners' meetings of June and November, 2006, made recommendations to the OTC Member Jurisdictions to consider additional emission reductions from consumer products. The resulting 2006 OTC Model Rule for Consumer Products is similar to the California Air Resources Board (CARB) consumer products regulation amended in September 2005. The Department used the OTC Model Rule and background material as a starting point and reviewed those documents, including specific emission reductions, for applicability in this Commonwealth.

Because the Commonwealth, in conjunction with other OTC Member Jurisdictions, has had discussions with representatives of the various National consumer product manufacturers in related industries, and gathered their support for the amendments to the proposed rulemaking stage, it is important that the amendments of the consumer product regulation be implemented consistently and uniformly in the OTR.

The Department consulted with the Air Quality Technical Advisory Committee (AQTAC) on the final-form rulemaking on March 27, 2008. The AQTAC concurred unanimously with the Department's recommendation to present the final-form rulemaking to the Board for consideration as final-form rulemaking at the Board's June 17, 2008, meeting. The Department discussed the final-form rulemaking with the Citizens Advisory Council on March 18, 2008, and the SBCAC on April 23, 2008. The CAC and SBCAC had no comments or concerns with the final-form rulemaking.

E. Summary of Regulatory Requirements and Major Changes to the Proposed Rulemaking

This final-form rulemaking amends the definitions in § 130.202 (relating to definitions) of the following terms, for clarity, style and format: "ACP emissions," "ACP limit," "ACP product," "ACP VOC standard," "ASTM," "adhesive," "adhesive remover," "aerosol adhesive," "aerosol product," "agricultural use," "air freshener," "all other forms," "astringent/toner," "automotive wax, polish, sealant or glaze," "bathroom and tile cleaner," "bug and tar remover," "carburetor or fuel-injection air intake cleaners," "carpet and upholstery cleaner," "compliance period," "construction, panel and floor covering adhesive," "consumer product," "contact adhesive," "deodorant," "device," "dry cleaning fluid," "dusting aid," "electronic cleaner," "enforceable sales record," "fabric protectant," "facial cleaner or soap," "floor polish or wax," "floor wax stripper," "flying bug insecticide," "fragrance," "furniture coating," "furniture maintenance product," "general purpose adhesive," "general purpose cleaner," "general purpose degreaser," "general-use hand or body cleaner or soap," "hair shine," "hair spray," "hair styling gel," "heavy-duty hand cleaner or soap," "institutional product or industrial and institutional (I&I) product," "LVP content or lower vapor pressure content," "LVP-VOC or lower vapor pressure-VOC," "lawn and garden insecticide," "liquid," "lubricant," "medicated astringent/medicated toner," "mul-

tipurpose lubricant," "multipurpose solvent," "nonresilient flooring," "paint remover or stripper," "penetrant," "Pennsylvania sales," "plasticizer," "pre-ACP VOC content," "principal display panel or panels," "product category," "sealant and caulking compound," "shaving cream," "shortfall," "solid," "special purpose spray adhesive," "spot remover," "structural waterproof adhesive," "surplus reduction," "TMHE-Total maximum historical emissions," "type B propellant," "type C propellant," "undercoating," "VOC content," "waterproofer" and "wax."

Thirty-five of the definitions that were revised in the proposed rulemaking have been returned to their original language in the final-form rulemaking, in response to public comment expressing concern that replacement of the term "designed" with "formulated or labeled" would be inconsistent with the OTC Model Rule. The defined terms that have been returned to their existing regulatory language are the following: "aerosol cooking spray," "antimicrobial hand or body cleaner or soap," "automotive brake cleaner," "automotive hard paste wax," "automotive instant detailer," "automotive rubbing or polishing compound," "automotive windshield washer fluid," "charcoal lighter material," "container/packaging," "crawling bug insecticide," "disinfectant," "engine degreaser," "flea and tick insecticide," "floor seam sealer," "glass cleaner," "hair mousse," "herbicide," "household product," "insecticide," "insecticide fogger," "laundry prewash," "laundry starch product," "metal polish/cleanser," "multipurpose dry lubricant," "nail polish," "nail polish remover," "oven cleaner," "paint," "pesticide," "rubber and vinyl protectant," "silicone-based multipurpose lubricant," "spray buff product," "tire sealant and inflation," "wasp and hornet insecticide" and "wood floor wax."

This final-form rulemaking adds definitions in § 130.202 for the following terms to improve clarity or explain new product categories: "aerosol coating product," "antistatic product," "certified emissions," "certified use rate," "contact adhesive-general purpose," "contact adhesive-special purpose," "deodorant body spray," "electrical cleaner," "energized electrical cleaner," "existing product," "fabric refresher," "floor and wall covering adhesive remover," "floor coating," "footwear or leather care product," "gasket adhesive or thread locking adhesive remover," "general purpose adhesive remover," "graffiti remover," "hair styling product," "high pressure laminate," "highest sales," "highest VOC content," "personal fragrance product," "pressurized gas duster," "product form," "shaving gel," "specialty adhesive remover," "toilet/urinal care product," "vinyl/fabric/leather/polycarbonate coating" and "wood cleaner."

This final-form rulemaking also adds a definition in § 130.202 for the term "VOC—volatile organic compound," to mirror the definition of this term in § 121.1. This term in Subchapter C was not included in the proposed rulemaking and is amended in the final-form rulemaking in response to public comment. The definition of the term "VOC—volatile organic compound" in § 121.1 refers to the Federal definition of VOC. This reference to the Federal definition will allow the "VOC—volatile organic compound" definition in the Department's rules to be updated automatically whenever the EPA revises its definition to exclude a negligibly reactive compound from the definition of VOC.

The final-form rulemaking amends § 130.211 (relating to table of standards) by adding VOC content limits for 11 new categories of consumer products and revising the VOC content limits for one category of product currently regulated (contact adhesive). This section sets forth the

percentage of VOC by weight that cannot be exceeded for consumer products that are sold, supplied, offered for sale or manufactured for sale in this Commonwealth. The 11 new categories are: adhesive remover (floor and wall covering, gasket or thread locking, general purpose and specialty); antistatic product; electrical cleaner; electronic cleaner; fabric refresher; footwear or leather care product; graffiti remover; hair styling product; shaving gel; toilet/urinal care product; and wood cleaner.

The final-form rulemaking amends §§ 130.201, 130.202, 130.211, 130.213 and 130.215 (relating to products registered under FIFRA; requirements for charcoal lighter materials; and requirements for aerosol adhesives) for clarity and format. In addition, the final-form rulemaking amends § 130.214 to incorporate future changes in test procedures and deletes from § 130.215(a) an unnecessary reference to a California regulatory provision.

The final-form rulemaking adds § 130.217 (relating to sell-through of products) to allow for sell-through of product manufactured prior to applicable effective dates.

The final-form rulemaking amends §§ 130.331, 130.332, 130.334, 130.335 and 130.338 for clarity and format. The proposed rulemaking had proposed deleting "air fresheners" from the exemption in § 130.335(b) (relating to air fresheners) for consistency with the OTC Model Rule, because these air fresheners will be regulated in the new category "toilet/urinal care product." That left an exemption for insecticides containing at least 98% paradichlorobenzene in § 130.335(b), which in the final-form rulemaking has been moved to new § 130.334(b) (relating to products registered under FIFRA). Section 130.335(b) is deleted in the final-form rulemaking.

The final-form rulemaking amends § 130.371 (relating to product dating) by updating the product dating requirements and explaining the format and location for the date code. The final-form rulemaking also requires that a manufacturer submit an explanation of its modified codes to the Department before products displaying the modified code can be sold. The proposed rulemaking had required that the product date or code be displayed on each consumer product container or package, and an explanation of it filed with the Department, no later than 12 months prior to the effective date of the applicable standard. The final-form rulemaking amends this section to require that the date or date-code be displayed, and an explanation of it filed with the Department, before the consumer product is sold, supplied or offered for sale in this Commonwealth.

The final-form rulemaking amends § 130.372 (relating to most restrictive limit) to add new subsections (a) and (b). Section 130.372(a) establishes the lowest applicable VOC limit requirements for products manufactured before January 1, 2009, and Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) registered insecticides manufactured before January 1, 2010. Subsection 130.372(b) establishes the lowest applicable VOC limit requirements for products manufactured on or after January 1, 2009, and FIFRA-registered insecticides manufactured on or after January 1, 2010.

The final-form rulemaking requires additional information on product containers for products in § 130.373 (relating to additional labeling requirements for aerosol adhesive, adhesive remover, electrical cleaner, electronic cleaner, energized electrical cleaner and contact adhesive products).

The final-form rulemaking amends §§ 130.411, 130.412 and 130.414 (relating to application for variance; variance orders; and modification of variance) for format.

The final-form rulemaking amends § 130.431 (relating to testing for compliance) to update the reference date for several test protocols and standards and to incorporate future amendments of test protocols and standards.

The final-form rulemaking amends §§ 130.452—130.455, 130.457, 130.458, 130.460, 130.462 and 130.465 for clarity.

The final-form rulemaking amends § 130.471 (relating to public hearings) to require the applicant for a variance or alternative control plan to publish the notice for the three public hearings in newspapers of general circulation not less than 30 days prior to the hearings. The Department will publish notice in the *Pennsylvania Bulletin*.

The final-form rulemaking amends the definition of the term "VOC—volatile organic compound" in the definitions pertaining to architectural and industrial maintenance coatings in Subchapter C, to mirror the definition of this term in § 121.1. The definition of the term "VOC—volatile organic compound" in § 121.1 refers to the Federal definition of VOC. This reference to the Federal definition will allow the Department's rules to be updated automatically whenever EPA revises its definition to exclude a negligibly reactive compound from the definition of VOC. Specifically, this will allow for the use of tertiary butyl acetate as a VOC-exempt compound in architectural and industrial maintenance coatings, providing improved ozone air pollution reduction benefits to the citizens of this Commonwealth. Amendments to Subchapter C were not included in the proposed rulemaking, but this amendment is included in the final-form rulemaking in response to public comment on the proposed rulemaking. The requested revision is within the scope of this rulemaking. It will harmonize the VOC definitions in Chapters 121 and 130 and in Subchapters B and C of Chapter 130, and will make the most currently VOC exempt compounds available as tools to reduce ozone and PM formation.

The final-form rulemaking will be submitted to the EPA as an amendment to the State Implementation Plan.

F. *Summary of Major Comments and Responses on the Proposed Rulemaking*

The Board approved publication of the proposed rulemaking at its meeting of June 19, 2007. The proposed rulemaking was published at 37 Pa.B. 5117 (September 15, 2007), with a 60-day public comment period. Revised dates for the public comment period and public hearings were published at 37 Pa.B. 5379 (October 7, 2007) and at 37 Pa.B. 5799 (October 27, 2007). Three public hearings were held on November 26, 2007, in Pittsburgh, Harrisburg and Norristown, PA. The public comment period closed on December 26, 2007.

General Support; Promulgation of Uniform Consumer Products Regulations Throughout the OTR

The CSPA supported the Department's proposed amendments. Despite noting that some of the standards may pose challenges for some CSPA members, especially small businesses, CSPA commented that adoption of uniform regional regulations is a practical necessity for small businesses and that CSPA's members support the promulgation of uniform regulations throughout the OTR.

The members of the PCPC commended the Department on substantially adhering to the revised OTC Model Rule in the proposed regulation. The Council worked closely

with the OTC on the adoption of both its original regulation and the 2006 updated version. The Council's support for these efforts stems from what it described as the critical need of Council members to have State regulations that are both technologically and commercially feasible for compliance and that permit the sale of uniform products across state lines.

The Department thanks the CSPA, the PCPC and their members for their efforts in promoting regulatory standards needed by this Commonwealth and other member jurisdictions of the OTR to achieve and maintain the 8-hour ozone NAAQS throughout the region. The Department recognizes that promulgating consistent regulations across the OTC will assist companies in complying with these measures. The final-form rulemaking is consistent with regulatory initiatives recommended by the OTC to address transport of ozone precursors throughout the OTR. The measures recommended by the OTC are reasonably necessary to achieve and maintain the health-based 8-hour ozone NAAQS in this Commonwealth. Additionally, on March 12, 2008, EPA issued a revised 8-hour ozone standard that could require additional emission reductions.

The Independent Regulatory Review Commission (IRRC) commended the Board for the promulgation of a regulation that is consistent with other regulations being implemented throughout the OTR, but noted that the EQB is not in control of the actions taken in the other OTR jurisdictions. IRRC requested that the Board explain the status of the implementation in other OTR jurisdictions, saying that if other jurisdictions were to implement different regulations or do their regulations on a different timetable, businesses and consumers in this Commonwealth could be disadvantaged.

In response, the Department has prepared a summary of the status of the adoption of consumer product amendments consistent with the OTC Model Rule. Connecticut adopted its rule on July 26, 2007, with an effective date of January 1, 2009. Maine adopted its rule on December 15, 2007, with an effective date of January 1, 2009. Maryland adopted its rule on June 18, 2007, with an effective date of January 1, 2009. Massachusetts adopted its rule on October 19, 2007, with an effective date of January 1, 2009. New Jersey published its proposed rulemaking on November 5, 2007, and the public comment period closed January 4, 2008. New Jersey proposed an effective date of January 1, 2009. Delaware intends to hold a public hearing in June 2008, and intends to publish a final rule August 1, 2008, with an effective date of January 1, 2009. New Hampshire, New York, Rhode Island, Virginia and the District of Columbia have rules in development.

IRRC also requested that the Board provide a comparison of the content of the regulations promulgated by other OTR jurisdictions with Pennsylvania's final-form regulations.

The Department responds that each jurisdiction, with the exception of Vermont, has adopted or intends to adopt the OTC Model Rule, some with changes based on their need, discretion or regulatory procedure and formatting conventions. However, the VOC content limits of the products and the basic provisions of the rules are consistent across the jurisdictions. The minor differences between the rules are not sufficient to interfere with the development of a regional control strategy or regional market.

IRRC requested that the Board explain how Pennsylvania's final-form regulation minimize the economic impact on businesses and consumers in this Commonwealth.

The Department responds that the final-form amendments are uniform and consistent with the OTC Model Rule and the consumer product regulations promulgated by the other member jurisdictions of the OTR. Manufacturers will not need to develop a Pennsylvania-specific product to comply with the final-form rulemaking. The amendments may slightly increase costs to purchasers of consumer products, but the cost increase is expected to be negligible because much of the reformulation of products has been completed as manufacturers developed products to meet these limits in other areas of the country. CARB estimated the cost effectiveness of VOC limits with an effective date (in California) of December 31, 2006, to be about \$4,000 per ton of VOC reduced. CARB further estimated the average increase in cost per unit to the manufacturer to be about \$0.16 per unit. Assuming CARB's estimates for the OTR provides a conservative estimate, because some of the one-time research and reformulation costs incurred for products sold in California will not have to be incurred again for products sold in the OTR.

Using the OTR's conservative estimate, it is estimated that for Pennsylvania, if none of the reformulation had yet been completed, the reduction of VOC content for the affected consumer products would cost approximately \$4,000 per ton of emissions reduced. The VOC emission reduction benefit for the additional regulated consumer products is estimated to be 2.1 tons per day (tpd) and 767 tons annually. It is estimated that the reductions will be approximately 0.13 pound per resident per year. Total cost to the users is estimated to be approximately \$3.1 million. This is an average of \$0.26 per resident per year.

The production of low-VOC consumer products for these additional categories may require some new product development, but much of this work has already been done because of similar regulatory efforts in California.

Definitions—Reasonableness and Clarity

IRRC noted that the definition of "construction, panel and floor covering adhesive" exempts products that "weigh more than 1 pound and consist of more than 16 fluid ounces, less packaging." IRRC noted that there are similar exemptions in the definitions of "contact adhesive" and "general purpose adhesive." IRRC asked why the EQB placed no limit on the VOC content of large containers of these products, but placed the limits in § 130.211 on the identical product in a smaller container? IRRC requested that the EQB explain why these exemptions are reasonable and will not adversely affect the stated goal to reduce VOCs emitted from consumer products.

The Department responds that the Department anticipates the larger containers of construction, panel and floor covering adhesives, contact adhesives and general purpose adhesives to be regulated by the Department's proposed Chapter 130, Subchapter D amendment, relating to adhesives, sealants and primers. The Subchapter D amendment will be consistent with the requirements of the OTC 2006 Adhesives, Sealants and Primers Model Rule and is scheduled to be proposed to the EQB in the summer of 2008.

IRRC noted that subparagraphs (i) and (ii) of the definition of "deodorant body spray" refer to a "product with 20% or less fragrance." It is not clear how to apply the 20% figure. For example, the "Table of Standards" in

§ 130.211 uses “percent VOC by weight.” IRRC recommended that the regulation specify what the 20% figure is related to, such as weight or volume.

The Department agrees and has revised the definition of the term “deodorant body spray” in the final-form rulemaking to clarify that the 20% fragrance is by weight.

Reasonable Effective Date (§ 130.211)

The CSPA commented that the proposed effective date of January 1, 2009, for the new VOC limits and related administrative and enforcement provisions would allow sufficient time for companies to comply with the technology-forcing VOC limits. IRRC requested that the EQB explain how the January 1, 2009, effective date, which requires compliance in less than a year, is reasonable and feasible for businesses and consumers.

The Department responds that the staff of the OTC and member states formed a workgroup to discuss additional control measures for consumer products during a series of conference calls and workshops held from the spring of 2004 through the autumn of 2006. Representatives of the major consumer products trade associations, including the CSPA, the American Solvents Council and the PCPC, participated in several of the conference calls with the OTC Workgroup and worked with the group to set the date of January 1, 2009, as the effective date. Hence, the members of these industry groups have been familiar with the OTC 2006 final Consumer Products Model Rule, are supportive of the initiative, and are aware that this rulemaking is being published with a January 1, 2009, compliance date.

Additionally, the majority of currently marketed products have already been reformulated to meet the California VOC limits which were adopted in July 2005. Most of these limits were effective in California by December 31, 2006. The standards in the final-form rulemaking are identical to the California standards, thus the manufacturers of the regulated products have had over 2 years to develop compliant products.

Sell-through of Products Manufactured Before the Applicable Effective Date (§ 130.217)

The CSPA support the Board’s proposal for dealing with products manufactured before the applicable effective date for the VOC limits. This provision is entirely consistent with the parallel provision in the OTC Model Rule that imposes a sell-through limitation only on products that do not display either the date of manufacture or an appropriate date code. The practical realities of industry-wide competition and prevailing retailer practices result in the overwhelming number of products being sold within 12-18 months after the date of manufacture.

The Department appreciates the commentators’ support.

Alternative Control Plan Provision (§ 130.452)

The CSPA urged the Board to consider adopting a narrowly-tailored amendment to the Commonwealth’s current ACP provision, explaining that the amendment would have the effect of producing a measurable net environmental benefit for this Commonwealth. The CSPA explained that the Commonwealth’s current regulation recognizes an ACP agreement approved by CARB, but that it is possible that there may be a very limited number of instances in which some products used in CARB’s ACP compliance calculations may not be subject to the VOC limits in the proposed rulemaking, thereby leading to the denial of a CARB-approved ACP that is still producing a net environmental benefit. The CSPA

offered a technical revision, which it asserted would make Pennsylvania’s ACP provision consistent with the corresponding provision in the Ohio EPA’s recently promulgated final regulation and the Illinois EPA’s final draft regulation.

The Department responds that the amendments to the consumer products regulation are designed to reduce emissions within this Commonwealth’s borders and in downwind areas in the OTR. The promulgation and implementation of the regulation in this Commonwealth will allow the Department to make progress in achieving and maintaining the NAAQS. The Alternative Control Plan approach outlined in the final-form regulation preserves the Commonwealth’s right and obligation to determine on a case-by-case basis if an ACP will be environmentally beneficial, prior to granting approval of a plan. Adding the phrase “used for emission credits” would allow noncomplying product to be sold in this Commonwealth that could not be sold elsewhere in the OTR. Therefore, the requested exception has not been included in the final-form rulemaking.

IRRC noted that the CSPA believes that, as written, the regulation may have the unintended effect of limiting the environmental benefits of the regulation. IRRC suggested adding the phrase “used for emission credits” to § 130.452 (relating to exemption) so that the first sentence of this section in the final regulation would end: “. . . provided that all ACP products used for emission credits within the CARB ACP agreement are contained in § 130.211.” IRRC recommended that the EQB consider including this phrase in the final-form regulation.

While the Department appreciates the point that IRRC and the CSPA make, the amendments to the consumer products regulation are consistent with the OTC’s Model Rule strategy, which is designed to reduce ozone precursors in this Commonwealth and in downwind areas. The addition of the CSPA suggested language would create inconsistency among the OTR member jurisdictions. Moreover, adding the phrase “used for emission credits” would allow noncomplying product to be sold in this Commonwealth that could not be sold in the other OTR states. The Department does not see a need to create such an exception.

Is Proposal Needed to Meet SIP Commitments?

The PCPC asked whether it is necessary to proceed with the proposal for the Commonwealth to meet its SIP commitments. On May 30, 2007, the Director of the EPA’s Office of Air Quality Planning Standards issued a memorandum to EPA Regional Offices and to all states preparing ozone State Implementation Plans. The memorandum establishes the VOC Emission Reduction Credits that states can claim due to the EPA commercial and consumer product rules to be proposed imminently, with new limits to take effect January 1, 2009. The commentator urged the Department to seriously consider suspending action on its current proposal. The commentator stated that avoiding an additional State rulemaking proceeding would substantially simplify compliance and enforcement, reduce the costs of regulation, and dispel any chance of unintended but significant differences between the regulations.

The Department responds that emission reductions from this consumer product rulemaking are necessary as they are identified in the contingency measure plan in the

Commonwealth's attainment demonstration for the 8-hour ozone NAAQS for the Philadelphia area. Additionally, emission reductions from this rulemaking will support the 8-hour ozone NAAQS attainment demonstration for the Pittsburgh-Beaver Valley Area; the original redesignation request and maintenance plan submitted to the EPA for the Pittsburgh region is no longer approvable because of a violation of the standard during the 2007 ozone season. The VOC emission reductions resulting from the adoption and implementation of the final-form regulation are reasonably necessary to achieve and maintain the 8-hour standard. The May 30, 2007, EPA memorandum stated that EPA's consumer product rule revision would be proposed in June 2007 and finalized in December 2007, with compliance being required by January 1, 2009. The EPA now expects to propose the rule in May of 2008, with compliance required by May 1, 2009. Additionally, the EPA notes on page 4 of its May 30, 2007, memorandum that, "... if the EPA rule does not provide the reduction anticipated for a particular area, any State claiming credit from the Federal rule will be responsible for developing measures to make up the shortfall." In light of that and the fact that on March 12, 2008, the EPA announced a revised 8-hour ozone standard of 0.075 parts per million, it is important for the Commonwealth to develop and implement emission reduction strategies to reduce ozone precursor emissions within its borders. Based on 2004-2006 data, at least 23 counties are monitoring nonattainment of the March 12, 2008, 8-hour ozone standard.

Proposed Language: Use of the Term 'Designed'

The PCPC noted one deviation from the OTC Model Rule that was problematic. Throughout the proposal, the term "designed" was replaced with "formulated or labeled" and the commentator believed the proposal should revert to the use of the term "designed" to promote consistency with the OTC Model Rule. The PCPC noted that the term "designed" is largely in alignment with the Federal Food and Drug Administration's intended use doctrine. The language of the proposal—"formulated or labeled"—suggested that a product could be defined solely on the basis of either: 1) its claims; or 2) what may be in the product. This would be a fundamental policy shift and would be impracticable. Therefore, the proposal should be revised to use the term "designed" wherever it originally appeared in the definitional sections of the rule, or, alternatively, "formulated and labeled"—but not "formulated or labeled."

The Department agrees with the recommendation and has reverted to the wording used by the OTC Model Rule for all of the definitions.

Definition of VOC and Exempt Solvent in Subchapters B and C

The National Paint and Coatings Association (NPCA) and Lyondell Chemical Company (Lyondell) commented that they were pleased to see that the proposed amendments were silent on the definition of a "VOC" or an "exempt solvent," which means that the general definitions in § 121.1 will apply to the amended consumer products rule. Both definitions refer to the Federal definition of a VOC, which was last amended in 2004 to exclude tertiary butyl acetate (TBAC) based on its negligible ozone-forming potential. This reference to the Federal definition was a key reason the Commonwealth was one of the first states to be able to use TBAC as a tool to reduce ozone formation from a variety of product and point source emissions. They note that the Commonwealth's VOC rules are, therefore, automatically updated

when the EPA excludes a compound from the VOC definition. This saves the Department resources and allows the quick use of negligibly reactive compounds instead of reactive ones, which helps to reduce ozone levels.

The Department appreciates the commentators' support and agrees that the general definitions of the terms "VOC—volatile organic compound" and "exempt solvent" found in § 121.1 apply to the consumer products subchapter. Additionally, the Department has added, at final, the term "VOC—volatile organic compound" to Chapter 130, Subchapter B, with the definition: "An organic compound which participates in atmospheric photochemical reactions; that is, an organic compound other than those which the Administrator of the EPA designates in 40 CFR 51.100 (relating to definitions) as having negligible photochemical reactivity."

The NPCA and Lyondell also commented that Subchapter C (relating to architectural and industrial maintenance coatings) includes definitions for the terms "VOC" and "exempt compounds" that are inconsistent with the Federal definitions, the Commonwealth's general definitions, the Commonwealth's consumer products definitions and those of all other OTC states. The commentators noted that these outdated definitions were left over from the OTC Model Rule and recommended that they be deleted from Subchapter C as part of this rulemaking. They explained that this would harmonize the Commonwealth's VOC definitions and make the latest VOC exempt compounds available as tools to reduce ozone and PM formation from architectural coating emissions statewide. They stated that this would also eliminate the need to revise Subchapter C each time the Federal VOC definition is amended, thus saving the Department resources.

The Department agrees. The requested revision is within the scope of this rulemaking. It will harmonize the VOC definitions in Chapters 121 and 130 and in Subchapters B and C of Chapter 130, and will make the most current VOC exempt compounds available as tools to reduce ozone and PM formation. The Department has revised the definition of the term "VOC—volatile organic compound" in Chapter 130, Subchapter C as part of this final-form consumer products rulemaking; the definition will read: "An organic compound which participates in atmospheric photochemical reactions; that is, an organic compound other than those which the Administrator of the EPA designates in 40 CFR 51.100 (relating to definitions) as having negligible photochemical reactivity." The term "exempt compound" and its definition in Subchapter C did not need revision.

G. Benefits, Costs and Compliance

Benefits

The final-form rulemaking will assure that the residents of this Commonwealth and the environment will continue to benefit from reduced emissions of VOCs and Hazardous Air Pollutants (HAPs) in consumer products. Although the consumer product requirements are designed primarily to reduce ozone precursors, the reformulation of products to meet the VOC content limits will also result in the reduction of HAP emissions. The amendments will result in improved indoor and outdoor air quality for all citizens of this Commonwealth by reducing ozone precursor emissions and HAP compounds. The reduced levels of HAPs will also benefit water quality through reduced loading on water treatment plants and in reduced quantities of HAP compounds in spillage on the ground.

This final-form rulemaking will also improve ozone air pollution reduction benefits to the citizens of this Commonwealth by harmonizing the definition of "VOC—volatile organic compound" in Subchapter C with that in § 121.1 and Subchapter B. This revision will allow the Department's rules to be updated automatically when the EPA revises its definition to exclude a negligibly reactive compound from the definition of VOC. This will make the most currently VOC exempt compounds, such as TBAC, available as tools to reduce ozone and PM formation.

Compliance Costs

It is estimated that the reduction of VOC content for the affected consumer products will cost approximately \$4,000 per ton of emissions reduced. The VOC emission reduction benefit for the additional regulated consumer products is estimated to be 2.1 tpd and 767 tons annually. It is estimated that the reductions will be approximately 0.13 pound per resident per year. Total cost to the users is estimated to be approximately \$3.1 million. This is an average of \$0.26 per resident per year. The final-form rulemaking includes compliance and averaging options that will allow manufacturers to formulate products in the most efficient and effective manner.

Additionally, the amendments to Chapter 130, Subchapter C, allow for the use of TBAC, an exempt VOC compound, which will provide additional cost-effective compliance options in the reformulation of architectural and industrial maintenance coating products.

Compliance Assistance Plan

The Department plans to educate and assist the public and regulated community in understanding the newly revised requirements and how to comply with them. This will be accomplished through the Department's ongoing compliance assistance program.

Paperwork Requirements

The final-form amendments revise the product dating requirements of Subchapter B to require only that the product date or date-code must be displayed on each consumer product container or package before the consumer product is sold, supplied or offered for sale in this Commonwealth. Additionally, the amendments require that a manufacturer must file an explanation of the code indicating the date of manufacture for a consumer product with the Department before the consumer product is sold, supplied or offered for sale in this Commonwealth. Prior to these revisions, the deadline for these requirements was no later than 12 months prior to the effective date of the applicable standard specified in the Table of Standards.

An applicant for an alternative control plan or variance will be required to publish notice of the time, place and purpose of the three public hearings for approval of the alternative control plan or variance in newspapers of general circulation at least 30 days prior to the hearings.

H. Pollution Prevention

The Federal Pollution Prevention Act of 1990 established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally-friendly materials, more efficient use of raw materials, and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency

because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance.

These amendments will assure that the citizens and the environment of this Commonwealth will continue to experience the benefits of reduced emissions of VOCs and HAPs from low-VOC consumer products. Although the requirements are intended to address ozone air quality by reducing emissions of ozone precursors, the reformulation of products to meet the VOC content limits will also result in the reduction of HAP emissions. The final-form regulations will result in improved indoor and outdoor air quality for all citizens of this Commonwealth by reducing ozone precursor emissions and HAP compounds. The reduced levels of HAPs will also benefit water quality through reduced loading on water treatment plants and in reduced quantities of HAP compounds in spillage on the ground.

These amendments will also improve ozone air pollution reduction benefits to the citizens of this Commonwealth by making the most currently VOC exempt compounds, such as TBAC available under Subchapter C as tools to reduce ozone and PM formation.

I. Sunset Review

These regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfill the goals for which they were intended.

J. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 29, 2007, the Department submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 5117, to IRRC and the Chairpersons of the House and Senate Environmental Resources and Energy Committees (Committees) for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on August 20, 2008, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on August 21, 2008, and approved the final-form rulemaking.

K. Findings of the Board

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and regulations promulgated thereunder in 1 Pa. Code §§ 7.1 and 7.2.

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

(3) These regulations do not enlarge the purpose of the proposal published at 37 Pa.B. 5117.

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

(5) These regulations are necessary for the Commonwealth to achieve and maintain ambient air quality standards.

L. *Order of the Board*

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

(a) The regulations of the Department, 25 Pa. Code Chapter 130, are amended by amending §§ 130.201, 130.202, 130.211, 130.213—130.215, 130.331, 130.332, 130.334, 130.335, 130.371—130.373, 130.411, 130.412, 130.414, 130.431, 130.452—130.455, 130.457, 130.458, 130.460, 130.462, 130.465, 130.471 and 130.602; and by adding §§ 130.217 and 130.338 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and

the Office of Attorney General for review and approval as to legality and form, as required by law.

(c) The Chairperson of the Board shall submit this order and Annex A to IRRC and the Senate and House Committees as required by the Regulatory Review Act.

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

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

JOHN HANGER,
Acting Chairperson

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

Fiscal Note: Fiscal Note 7-416 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION
PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION
Subpart C. PROTECTION OF NATURAL RESOURCES
ARTICLE III. AIR RESOURCES
CHAPTER 130. STANDARDS FOR PRODUCTS
Subchapter B. CONSUMER PRODUCTS
GENERAL PROVISIONS

§ 130.201. **Applicability.**

Except as provided in §§ 130.331—130.338 (relating to exemptions), this subchapter applies to a person who sells, supplies, offers for sale or manufactures a consumer product on or after the applicable effective date in § 130.211 (relating to table of standards), for use in this Commonwealth.

§ 130.202. **Definitions.**

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

* * * * *

ACP emissions—The sum of the VOC emissions from every ACP product subject to an ACP agreement, during the compliance period specified in the ACP agreement, expressed to the nearest pound of VOC and calculated according to the following equation:

$$\text{ACP Emissions} = (\text{Emissions})_1 + (\text{Emissions})_2 + \dots + (\text{Emissions})_N$$

where,

$$(i) \text{ Emissions} = \frac{(\text{VOC content}) \times (\text{Enforceable sales})}{100}$$

(ii) 1, 2, . . . N = each product in an ACP up to the maximum N.

ACP limit—The maximum allowable ACP emissions during the compliance period specified in an ACP agreement, expressed to the nearest pound of VOC and calculated according to the following equation:

$$\text{ACP limit} = (\text{Limit})_1 + (\text{Limit})_2 + \dots + (\text{Limit})_N$$

where,

$$(i) \text{ Limit} = \frac{(\text{ACP standard}) \times (\text{Enforceable sales})}{100}$$

(ii) 1, 2, . . . N = each product in an ACP up to the maximum N.

ACP product—A consumer product subject to the VOC standards specified in § 130.211 (relating to table of standards), except those products that have been exempted under §§ 130.331—130.338 (relating to exemptions), or exempted as innovative products under §§ 130.351 and 130.352 (relating to innovative products).

* * * * *

ACP VOC standard—The maximum allowable VOC content for an ACP product, determined as follows:

- (i) The applicable VOC standard specified in § 130.211 for all ACP products except charcoal lighter material products.
- (ii) For charcoal lighter material products only, the VOC standard for the purposes of this subchapter shall be calculated according to the following equation:

$$\text{VOC standard} = \frac{(0.020 \text{ pound CH}_2 \text{ per start} \times 100)}{\text{Certified use rate}}$$

where,

0.020 = the certification emissions level for the Department-approved product, as specified in § 130.214.

ASTM—ASTM International, formerly the American Society for Testing and Materials.

Adhesive—A product that is used to bond one surface to another by attachment.

(i) The term includes caulks, sealants, glues and similar substances used for the purpose of forming a bond.

(ii) The term does not include products used on humans and animals, adhesive tape, contact paper, wallpaper, shelf liners or other products with an adhesive incorporated onto or in an inert substrate.

Adhesive remover—

(i) A product designed to remove adhesive from either a specific substrate or a variety of substrates.

(ii) The term does not include products that remove adhesives intended exclusively for use on humans or animals.

Aerosol adhesive—

(i) An aerosol product in which the spray mechanism is permanently housed in a nonrefillable can designed for hand-held application without the need for ancillary hoses or spray equipment.

(ii) The term includes the following:

- (A) Special purpose spray adhesive.
- (B) Mist spray adhesive.
- (C) Web spray adhesive.

Aerosol coating product—A pressurized coating product containing pigments or resins that dispenses product ingredients by means of a propellant and is packaged in a disposable can designed for hand-held application or for use in specialized equipment for ground traffic marking applications.

Aerosol cooking spray—An aerosol product designed either to reduce sticking on cooking and baking surfaces or to be applied on food, or both.

Aerosol product—

(i) A pressurized spray system that dispenses product ingredients by means of a propellant contained in the product or the product's container or by means of a mechanically induced force.

(ii) The term does not include pump sprays.

Agricultural use—

(i) The use of a pesticide or method or device for the control of pests in connection with the commercial production, storage or processing of an animal or plant crop.

(ii) The term does not include the sale or use of pesticides in properly labeled packages or containers which are intended for the following uses:

(A) *Home use*. Use in a household or its immediate environment.

(B) *Structural pest control*. A use requiring a license under the applicable State pesticide licensing requirement.

(C) *Industrial use*. Use for or in a manufacturing, mining or chemical process or use in the operation of factories, processing plants and similar sites.

(D) *Institutional use*. Use within the lines of, or on property necessary for the operation of buildings such as hospitals, schools, libraries, auditoriums and office complexes.

Air freshener—A consumer product, including sprays, wicks, powders and crystals, designed for the purpose of masking odors, or freshening, cleaning, scenting or deodorizing the air.

(i) The term does not include the following:

- (A) Products that are used on the human body.
- (B) Products that function primarily as cleaning products, as indicated on a product label.
- (C) Disinfectant products claiming to deodorize by killing germs on surfaces.
- (D) Institutional/industrial disinfectants when offered for sale solely through institutional and industrial channels of distribution.
- (E) Toilet/urinal care products.

* * * * *

All other forms—Consumer product forms for which no form-specific VOC standard is specified in §§ 130.211—130.217 (relating to standards). Unless specified otherwise by the applicable VOC standard, the term includes solids, liquids, wicks, powders, crystals and cloth or paper wipes (towelettes).

Antimicrobial hand or body cleaner or soap—

(i) A cleaner or soap which is designed to reduce the level of microorganisms on the skin through germicidal activity. The term includes the following:

- (ii) Antimicrobial hand or body washes/cleaners.
 - (A) Foodhandler hand washes.
 - (B) Healthcare personnel hand washes.
 - (C) Preoperative skin preparations.
 - (D) Surgical scrubs.

* * * * *

Antistatic product—

(i) A product that is labeled to eliminate, prevent or inhibit the accumulation of static electricity.

(ii) The term does not include the following:

- (A) Electronic cleaner.
- (B) Floor polish or wax.
- (C) Floor coating.
- (D) Aerosol coating product.
- (E) Architectural coating.

* * * * *

Astringent/toner—A product not regulated as a drug by the United States Food and Drug Administration (FDA) that is applied to the skin for the purpose of cleaning or tightening pores. This category also includes clarifiers and substrate-impregnated products. This category does not include the following:

- (i) Hand, face or body cleaner or soap products.
- (ii) Medicated astringent/medicated toner.
- (iii) Cold cream.
- (iv) Lotion.
- (v) Antiperspirant.

Automotive brake cleaner—A cleaning product designed to remove oil, grease, brake fluid, brake pad material or dirt from motor vehicle brake mechanisms.

Automotive hard paste wax—An automotive wax or polish which is:

- (i) Designed to protect and improve the appearance of automotive paint surfaces.
- (ii) A solid at room temperature.
- (iii) 0% water by formulation.

Automotive instant detailer—A product designed for use in a pump spray that is applied to the painted surface of automobiles and wiped off prior to the product being allowed to dry.

Automotive rubbing or polishing compound—A product designed primarily to remove oxidation, old paint, scratches or swirl marks, and other defects from the painted surfaces of motor vehicles without leaving a protective barrier.

Automotive wax, polish, sealant or glaze—A product designed to seal out moisture, increase gloss or otherwise enhance a motor vehicle's painted surfaces.

- (i) The term includes products designed for:
 - (A) Use in autobody repair shops and drive-through car washes.
 - (B) Use by the general public.
- (ii) The term does not include the following:
 - (A) Automotive rubbing or polishing compounds.
 - (B) Automotive wash and wax products.
 - (C) Surfactant-containing car wash products.
 - (D) Products designed for use on unpainted surfaces such as bare metal, chrome, glass or plastic.

Automotive windshield washer fluid—

- (i) A liquid designed for use in a motor vehicle windshield washer system either as an antifreeze or for the purpose of cleaning, washing or wetting the windshield.
- (ii) The term does not include fluids placed by the manufacturer in a new vehicle.

Bathroom and tile cleaner—

- (i) A product designed to clean tile or surfaces in bathrooms.

- (ii) The term does not include products designed primarily to clean toilet bowls, toilet tanks or urinals.

Bug and tar remover—A product labeled to remove either or both of the following from painted motor vehicle surfaces without causing damage to the finish:

- (i) Biological-type residues such as insect carcasses and tree sap.
- (ii) Road grime such as road tar, roadway paint markings and asphalt.

Carburetor or fuel-injection air intake cleaners—

- (i) A product designed to remove fuel deposits, dirt or other contaminants from a carburetor, choke, throttle body of a fuel-injection system or associated linkages.
- (ii) The term does not include products designed exclusively to be introduced directly into the fuel lines or fuel storage tank prior to introduction into the carburetor or fuel injectors.

Carpet and upholstery cleaner—A cleaning product designed for the purpose of eliminating dirt and stains on rugs, carpeting and the interior of motor vehicles or on household furniture or objects upholstered or covered with fabrics such as wool, cotton, nylon or other synthetic fabrics.

- (i) The term includes products that make fabric protectant claims.
- (ii) The term does not include the following:
 - (A) General purpose cleaner.
 - (B) Spot remover.
 - (C) Vinyl or leather cleaner.
 - (D) Dry cleaning fluids.
 - (E) Products designed exclusively for use at industrial facilities engaged in furniture or carpet manufacturing.

Certified emissions—The emissions level for products approved by the Department under § 130.214 (relating to requirements for charcoal lighter material products), as determined under South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (February 27, 1991), including subsequent amendments, expressed to the nearest 0.001 pound CH₂ per start.

Certified use rate—The usage level for products approved by the Department under § 130.214, as determined under South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (February 27, 1991), including subsequent amendments, expressed to the nearest 0.001 pound certified product used per start.

Charcoal lighter material—

- (i) A combustible material designed to be applied on, incorporated in, added to or used with charcoal to enhance ignition.
- (ii) The term does not include the following:
 - (A) Electrical starters and probes.
 - (B) Metallic cylinders using paper tinder.
 - (C) Natural gas.
 - (D) Propane.
 - (E) Fat wood.

* * * * *

Compliance period—The period of time, not to exceed 1 year, for which the ACP limit and ACP emissions are calculated and for which compliance with the ACP limit is determined, as specified in the ACP agreement.

Construction, panel and floor covering adhesive—

(i) A one-component adhesive that is designed exclusively for the installation, remodeling, maintenance or repair of:

(A) Structural and building components that include the following:

(I) Beams.

(II) Trusses.

(III) Studs.

(IV) Paneling (drywall or drywall laminates, fiberglass reinforced plastic (FRP), plywood, particle board, insulation board, predecorated hardboard or tileboard, and the like).

(V) Ceiling and acoustical tile.

(VI) Molding, fixtures, countertops or countertop laminates, cove or wall bases and flooring or subflooring.

(B) Floor or wall coverings that include, but are not limited to, the following:

(I) Wood or simulated wood covering.

(II) Carpet, carpet pad or cushion, vinyl-backed carpet.

(III) Flexible flooring material.

(IV) Nonresilient flooring material.

(V) Mirror tiles and other types of tiles.

(VI) Artificial grass.

(ii) the term does not include the following:

(A) Floor seam sealer.

(B) Units of product that weigh more than 1 pound and consist of more than 16 fluid ounces, less packaging.

* * * * *

Consumer product—

(i) A chemically formulated product used by household and institutional consumers including the following:

(A) Detergents.

(B) Cleaning compounds.

(C) Polishes.

(D) Floor finishes.

(E) Cosmetics.

(F) Personal care products.

(G) Home, lawn and garden products.

(H) Disinfectants.

(I) Sanitizers.

(J) Aerosol paints.

(K) Automotive specialty products.

(L) Aerosol adhesives, including aerosol adhesives used for consumer, industrial or commercial uses.

* * * * *

Contact adhesive—

(i) An adhesive that:

(A) Is designed for application to both surfaces to be bonded together.

(B) Is allowed to dry before the two surfaces are placed in contact with each other.

(C) Forms an immediate bond that is impossible, or difficult, to reposition after both adhesive-coated surfaces are placed in contact with each other.

(D) Does not need sustained pressure or clamping of surfaces after the adhesive-coated surfaces have been brought together using sufficient momentary pressure to establish full contact between both surfaces.

(ii) The term does not include the following:

(A) Rubber cements that are primarily intended for use on paper substrates.

(B) Vulcanizing fluids that are designed and labeled for tire repair only.

(C) Units of product, less packaging, that consist of more than 1 gallon.

Contact adhesive—general purpose—A contact adhesive that is not a “contact adhesive—special purpose.”

Contact adhesive—special purpose—A contact adhesive that is used for either of the following:

(i) To bond melamine-covered board, unprimed metal, unsupported vinyl, Teflon, ultra-high molecular weight polyethylene, rubber, high pressure laminate or wood veneer 1/16 inch or less in thickness to a porous or nonporous surface, and is sold in units of product, less packaging, that contain more than 8 fluid ounces.

(ii) In automotive applications that are either of the following:

(A) Automotive under-the-hood applications requiring heat, oil or gasoline resistance.

(B) Attachment of body-side molding, automotive weatherstrip or decorative trim.

Container/packaging—

(i) The parts of the consumer or institutional product which serve only to contain, enclose, incorporate, deliver, dispense, wrap or store the chemically formulated substance or mixture of substances which is solely responsible for accomplishing the purposes for which the product was designed or intended.

(ii) The term includes an article onto or into which the principal display panel and other accompanying literature or graphics are incorporated, etched, printed or attached.

* * * * *

Crawling bug insecticide—

(i) An insecticide product that is designed for use against ants, cockroaches or other household crawling arthropods, including mites, silverfish or spiders.

(ii) The term does not include products designed to be used exclusively on humans or animals, or house dust mite product. For the purposes of this definition only:

(A) *House dust mite*. Mites which feed primarily on skin cells shed in the home by humans and pets and which belong to the phylum Arthropoda, the subphylum Chelicerata, the class Arachnida, the subclass Acari, the order Astigmata and the family Pyroglyphidae.

(B) *House dust mite product*. A product whose label, packaging or accompanying literature states that the product is suitable for use against house dust mites, but does not indicate that the product is suitable for use against ants, cockroaches or other household crawling arthropods.

* * * * *

Deodorant—For products manufactured as follows:

(i) Before January 1, 2009, a product, including aerosols, roll-ons, sticks, pumps, pads, creams and squeeze-bottles, that is intended by the manufacturer to be used to minimize odor in the human axilla by retarding the growth of bacteria which cause the decomposition of perspiration.

(ii) On or after January 1, 2009, a product, including aerosols, roll-ons, sticks, pumps, pads, creams and squeeze-bottles, that indicates or depicts on the container or packaging, or on a sticker or label affixed to the container or packaging, that the product can be used on or applied to the human axilla to provide a scent or minimize odor. The term includes a deodorant body spray product that indicates or depicts on the container or packaging, or on a sticker or label affixed to the container or packaging, that it can be used on or applied to the human axilla.

Deodorant body spray—For products manufactured as follows:

(i) Before January 1, 2009, a personal fragrance product with 20% or less fragrance by weight.

(ii) On or after January 1, 2009, a personal fragrance product with 20% or less fragrance by weight, that is designed for application all over the human body to provide a scent.

(iii) The term includes a deodorant product that indicates or depicts on the container or packaging, or on a sticker or label affixed to the container or packaging, that it can be used on or applied to the human axilla.

Device—

(i) An instrument or contrivance (other than a firearm) which is designed for trapping, destroying, repelling or mitigating a pest or other form of plant or animal life (other than humans and other than bacteria, viruses or other microorganisms on or in living humans or living animals).

(ii) The term does not include equipment used for the application of pesticides when sold separately.

Disinfectant—

(i) A product intended to destroy or irreversibly inactivate infectious or other undesirable bacteria, pathogenic fungi or viruses on surfaces or inanimate objects and whose label is registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C.A. §§ 136—136y).

(ii) The term does not include the following:

(A) Products designed solely for use on humans or animals.

(B) Products designed for agricultural use.

(C) Products designed solely for use in swimming pools, therapeutic tubs or hot tubs.

(D) Products which, as indicated on the principal display panel or label, are designed primarily for use as bathroom and tile cleaners, glass cleaners, general purpose cleaners, toilet bowl cleaners or metal polishes.

* * * * *

Dry cleaning fluid—

(i) A nonaqueous liquid product designed and labeled exclusively for use on:

(A) Fabrics which are labeled “for dry clean only,” such as clothing or drapery.

(B) “S-coded” fabrics.

(ii) The term includes those products used by commercial dry cleaners and commercial businesses that clean fabrics such as draperies at the customer’s residence or work place.

* * * * *

Dusting aid—

(i) A product designed to assist in removing dust and other soils from floors and other surfaces without leaving a wax or silicone based coating.

(ii) The term does not include pressurized gas duster.

Electrical cleaner—

(i) A product labeled to remove heavy soils like grease, grime or oil from electrical equipment, including electric motors, armatures, relays, electric panels and generators.

(ii) The term does not include the following:

(A) General purpose cleaner.

(B) General purpose degreaser.

(C) Dusting aid.

(D) Electronic cleaner.

(E) Energized electrical cleaner.

(F) Pressurized gas duster.

(G) Engine degreaser.

(H) Antistatic product.

(I) Products designed to clean the casings or housings of electrical equipment.

Electronic cleaner—

(i) A product labeled for the removal of dirt, moisture, dust, flux or oxides from the internal components of electronic or precision equipment, including circuit boards and the internal components of electronic devices, including the following:

(A) Radios.

(B) Compact disc (CD) players.

(C) Digital video disc (DVD) players.

(D) Computers.

(ii) The term does not include the following:

(A) General purpose cleaner.

(B) General purpose degreaser.

(C) Dusting aid.

(D) Pressurized gas duster.

(E) Engine degreaser.

(F) Electrical cleaner.

(G) Energized electrical cleaner.

(H) Antistatic product.

(I) Products designed to clean the casings or housings of electronic equipment.

Energized electrical cleaner—

(i) A product that meets both of the following:

(A) The product is labeled to clean or degrease electrical equipment, where cleaning or degreasing is accomplished when electrical current exists, or when there is a residual electrical potential from a component, such as a capacitor.

(B) The product label clearly states that the product is for energized equipment use only and is not to be used for motorized vehicle maintenance or maintenance of motorized vehicle parts.

(ii) The term does not include electronic cleaners.

* * * * *

Enforceable sales record—A written, point-of-sale record or other Department-approved system of documentation from which the mass, in pounds (less product container and packaging), of an ACP product sold to the end user in this Commonwealth during the applicable compliance period can be accurately documented. For the purposes of this subchapter, the term includes the following types of records:

(i) Accurate records of direct retail or other outlet sales to the end user during the applicable compliance period.

(ii) Accurate compilations, made by independent market surveying services, of direct retail or other outlet sales to the end users for the applicable compliance period, provided that a detailed method which can be used to verify data comprising the summaries is submitted by the responsible ACP party and approved by the Department.

(iii) Other accurate product sales records approved by the Department as meeting the criteria specified in this definition.

Engine degreaser—A cleaning product designed to remove grease, grime, oil and other contaminants from the external surfaces of engines and other mechanical parts.

Existing product—A formulation of the same product category and form sold, supplied, manufactured or offered for sale in this Commonwealth prior to January 1, 2005, or a subsequently introduced identical formulation.

Fabric protectant—

(i) A product designed to be applied to fabric substrates to protect the surface from soiling by dirt and other impurities or to reduce absorption of liquid into the fabric's fibers.

(ii) The term does not include the following:

(A) Waterproofers.

(B) Products designed for use solely on leather.

(C) Products designed for use solely on fabrics which are labeled "dry clean only" and sold in containers of 10 fluid ounces or less.

Fabric refresher—

(i) A product labeled to neutralize or eliminate odors on nonlaundered fabric, including the following fabrics:

(A) Soft household surfaces.

(B) Rugs.

(C) Carpeting.

(D) Draperies.

(E) Bedding.

(F) Automotive interiors.

(G) Footwear.

(H) Athletic equipment.

(I) Clothing.

(J) Household furniture or objects upholstered or covered with fabrics including wool, cotton or nylon.

(ii) The term does not include the following:

(A) Antistatic product.

(B) Carpet and upholstery cleaner.

(C) Soft household surface sanitizer.

(D) Footwear or leather care product.

(E) Spot remover.

(F) Disinfectant.

(G) Products labeled for application to both fabric and human skin.

(iii) For the purposes of this definition, "soft household surface sanitizer" means a product labeled to neutralize or eliminate odors on surfaces listed in subparagraph (i) and the label for which is registered as a sanitizer under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

Facial cleaner or soap—A cleaner or soap designed primarily to clean the face.

(i) The term includes the following:

(A) Facial cleansing cream.

(B) Semisolid.

(C) Liquid.

(D) Lotion.

(E) Substrate-impregnated forms.

(ii) The term does not include the following:

(A) Prescription drug products.

(B) Antimicrobial hand or body cleaner or soap.

(C) Astringent/toner.

(D) General-use hand or body cleaner or soap.

(E) Medicated astringent/medicated toner.

(F) Rubbing alcohol.

* * * * *

Flea and tick insecticide—

(i) An insecticide product that is designed for use against fleas, ticks, their larvae or their eggs.

(ii) The term does not include products that are designed to be used exclusively on humans or animals and their bedding.

* * * * *

Floor and wall covering adhesive remover—A product designed or labeled to remove floor or wall covering and associated adhesive from the underlying substrate.

Floor coating—An opaque coating that is designed and labeled for application to flooring, including the following:

(i) Decks.

(ii) Porches.

(iii) Steps.

(iv) Other horizontal surfaces which may be subject to foot traffic.

Floor polish or wax—

(i) A wax, polish or other product designed to polish, protect or enhance floor surfaces by leaving a protective coating that is designed to be periodically replenished.

(ii) The term does not include the following:

(A) Spray buff products.

(B) Products designed solely for the purpose of cleaning floors.

(C) Floor finish strippers.

(D) Products designed for unfinished wood floors.

(E) Coatings subject to architectural coatings regulations in this chapter.

Floor seam sealer—A product designed and labeled exclusively for bonding, fusing or sealing (coating) seams between adjoining rolls of installed flexible sheet flooring.

Floor wax stripper—

(i) A product designed to remove natural or synthetic floor polishes or waxes through breakdown of the polish or wax polymers, or by dissolving or emulsifying the polish or wax.

(ii) The term does not include the following:

(A) Aerosol floor wax stripper.

(B) Products designed to remove floor wax solely through abrasion.

Flying bug insecticide—An insecticide product that is designed for use against flying insects or other flying arthropods, including mosquitoes, moths or gnats.

(i) The term does not include the following:

(A) Wasp and hornet insecticide.

(B) Products that are designed to be used exclusively on humans or animals.

(C) A moth-proofing product.

(ii) For the purposes of this definition, “moth-proofing product” means a product whose label, packaging or accompanying literature indicates that the product is designed to protect fabrics from damage by moths, but does not indicate that the product is suitable for use against flying insects or other flying arthropods.

Footwear or leather care product—

(i) A product designed or labeled to be applied to footwear or to other leather articles or components, to maintain, enhance, clean, protect or modify the appearance, durability, fit or flexibility of the footwear or leather article or component. Footwear includes both leather and nonleather foot apparel.

(ii) The term does not include the following:

(A) Fabric protectant.

(B) General purpose adhesive.

(C) Contact adhesive.

(D) Vinyl/fabric/leather/polycarbonate coating.

(E) Rubber and vinyl protectant.

(F) Fabric refresher.

(G) Products used solely for deodorizing.

(H) Sealant products with adhesive properties used to create external protective layers greater than 2 millimeters thick.

Fragrance—A substance or complex mixture of aroma chemicals, natural essential oils and other functional components with a combined vapor pressure not in excess of 2 mm of Mercury at 20° C, the sole purpose of which is to impart an odor or scent, or to counteract a malodor.

Furniture coating—A paint designed for application to room furnishings, including cabinets (kitchen, bath and vanity), tables, chairs, beds and sofas.

Furniture maintenance product—

(i) A wax, polish, conditioner or other product designed for the purpose of polishing, protecting or enhancing finished wood surfaces other than floors.

(ii) The term does not include the following:

(A) Dusting aids.

(B) Wood cleaner.

(C) Products designed solely for the purpose of cleaning.

(D) Products designed to leave a permanent finish, including stains, sanding sealers and lacquers.

Gasket adhesive or thread locking adhesive remover—

(i) A product designed or labeled to remove gasket or thread locking adhesives.

(ii) The term includes products labeled for dual use as a paint stripper and gasket adhesive remover or thread locking adhesive remover.

* * * * *

General purpose adhesive—

(i) A nonaerosol adhesive designed for use on a variety of substrates.

(ii) The term does not include the following:

(A) Contact adhesive.

(B) Construction, panel and floor covering adhesive.

(C) Adhesives designed exclusively for application on one specific category of substrates (that is, substrates that are composed of similar materials, such as different types of metals, paper products, ceramics, plastics, rubbers or vinyls).

(D) Adhesives designed exclusively for use on one specific category of articles (that is, articles that may be composed of different materials but perform a specific function, such as gaskets, automotive trim, weatherstripping or carpets).

(E) Units of product that weigh more than 1 pound and consist of more than 16 fluid ounces, less packaging.

General purpose adhesive remover—A product designed or labeled to remove cyanoacrylate adhesives as well as nonreactive adhesives or residue from a variety of substrates.

(i) The term includes products that remove the following:

(A) Thermoplastic adhesives.

(B) Pressure sensitive adhesives.

(C) Dextrine or starchbased adhesives.

(D) Casein glues.

(E) Rubber or latex-based adhesives.

(F) Stickers, decals, stencils or similar materials.

(ii) The term does not include floor and wall covering adhesive remover.

General purpose cleaner—A product designed for general all-purpose cleaning, in contrast to cleaning products designed to clean specific substrates in certain situations.

(i) The term includes products designed for general floor cleaning or kitchen or countertop cleaning and cleaners designed to be used on a variety of hard surfaces.

(ii) The term does not include general purpose degreaser and electronic cleaner.

General purpose degreaser—A product labeled to remove or dissolve grease, grime, oil and other oil-based contaminants from a variety of substrates, including automotive or miscellaneous metallic parts.

(i) The term does not include the following:

- (A) Engine degreaser.
- (B) General purpose cleaner.
- (C) Adhesive remover.
- (D) Electrical cleaner.
- (E) Electronic cleaner.
- (F) Energized electrical cleaner.
- (G) Metal polish/cleanser.
- (H) Products used exclusively in solvent cleaning tanks or related equipment.

(I) Products that are labeled “not for retail sale” and are sold exclusively to establishments that manufacture or construct goods or commodities.

(ii) For the purposes of this definition, the term “solvent cleaning tanks or related equipment” includes the following:

- (A) Cold cleaners.
- (B) Vapor degreasers.
- (C) Conveyorized degreasers.
- (D) Film cleaning machines.
- (E) Products designed to clean miscellaneous metallic parts by immersion in a container.

General-use hand or body cleaner or soap—A cleaner or soap designed to be used routinely on the skin to clean or remove typical or common dirt and soils.

(i) The term includes the following:

- (A) Hand or body washes.
 - (B) Dual-purpose shampoo-body cleaners.
 - (C) Shower or bath gels.
 - (D) Moisturizing cleaners or soaps.
- (ii) The term does not include the following:
- (A) Prescription drug products.
 - (B) Antimicrobial hand or body cleaner or soap.
 - (C) Astringent/toner.
 - (D) Facial cleaner or soap.
 - (E) Hand dishwashing detergent, including antimicrobial.
 - (F) Heavy-duty hand cleaner or soap.
 - (G) Medicated astringent/medicated toner.
 - (H) Rubbing alcohol.

Glass cleaner—

(i) A cleaning product designed primarily for cleaning surfaces made of glass.

(ii) The term does not include products designed solely for the purpose of cleaning optical materials used in eyeglasses, photographic equipment, scientific equipment and photocopying machines.

Graffiti remover—A product labeled to remove spray paint, ink, marker, crayon, lipstick, nail polish or shoe polish from a variety of noncloth or nonfabric substrates.

(i) The term does not include the following:

- (A) Paint remover or stripper.
- (B) Nail polish remover.
- (C) Spot remover.

(ii) Products labeled for dual use as both a paint stripper and graffiti remover are considered “graffiti removers.”

* * * * *

Hair mousse—A hairstyling foam designed to facilitate styling of a coiffure and provide limited holding power.

Hair shine—A product designed for the primary purpose of creating a shine when applied to the hair.

(i) The term includes dual-use products designed primarily to impart a sheen to the hair.

(ii) The term does not include the following:

- (A) Hair spray.
- (B) Hair mousse.
- (C) Hair styling product.
- (D) Hair styling gel.
- (E) Products whose primary purpose is to condition or hold the hair.

Hair spray—

(i) For products manufactured before January 1, 2009, a consumer product designed primarily for the purpose of dispensing droplets of a resin on and into a hair coiffure which will impart sufficient rigidity to the coiffure to establish or retain the style for a period of time.

(ii) For products manufactured on or after January 1, 2009, a consumer product that is applied to styled hair, and is designed or labeled to provide sufficient rigidity, to hold, retain or finish the style of the hair for a period of time.

(iii) The term includes the following:

- (A) Aerosol hair sprays.
- (B) Pump hair sprays.
- (C) Spray waxes.
- (D) Color, glitter or sparkle hair sprays that make finishing claims.
- (E) Products that are both a styling and finishing product.

(iv) The term does not include spray products that are intended to aid in styling but do not provide finishing of a hairstyle.

(v) For the purposes of this subchapter, the terms:

(A) “Finish” and “finishing” mean the maintaining or holding of previously styled hair for a period of time.

(B) “Style” and “styling” mean the forming, sculpting or manipulating of the hair to temporarily alter the hair’s shape.

Hair styling gel—A consumer product manufactured before January 1, 2009, that is a high viscosity, often gelatinous, product that contains a resin and is designed for the application to hair to aid in styling and sculpting of the hair coiffure.

Hair styling product—A consumer product manufactured on or after January 1, 2009, that is designed or labeled for the application to wet, damp or dry hair to aid in defining, shaping, lifting, styling or sculpting of the hair.

(i) The term includes the following:

- (A) Hair balm.
- (B) Clay.
- (C) Cream.
- (D) Creme.
- (E) Curl straightener.
- (F) Gel.
- (G) Liquid.
- (H) Lotion.
- (I) Paste.
- (J) Pomade.
- (K) Putty.
- (L) Root lifter.
- (M) Serum.
- (N) Spray gel.
- (O) Stick.
- (P) Temporary hair straightener.
- (Q) Wax.

(R) Spray products that aid in styling but do not provide finishing of a hairstyle.

(S) Leave-in volumizers, detanglers or conditioners that make styling claims.

(ii) The term does not include the following:

- (A) Hair mousse.
- (B) Hair shine.
- (C) Hair spray.
- (D) Shampoos or conditioners that are rinsed from the hair prior to styling.

(iii) For the purposes of this subchapter, the terms:

(A) “Finish” and “finishing” mean the maintaining or holding of previously styled hair for a period of time.

(B) “Style” and “styling” mean the forming, sculpting or manipulating of the hair to temporarily alter the hair’s shape.

Heavy-duty hand cleaner or soap—

(i) A product designed to clean or remove difficult dirt and soils, including oil, grease, grime, tar, shellac, putty, printer’s ink, paint, graphite, cement, carbon, asphalt or adhesives from the hand with or without the use of water.

(ii) The term does not include the following:

- (A) Prescription drug products.
- (B) Antimicrobial hand or body cleaner or soap.
- (C) Astringent/toner.
- (D) Facial cleaner or soap.
- (E) General-use hand or body cleaner or soap.
- (F) Medicated astringent/medicated toner.
- (G) Rubbing alcohol.

Herbicide—A pesticide product designed to kill or retard a plant’s growth, but excludes products that are:

(i) For agricultural use.

(ii) Restricted materials that require a permit for use and possession.

High pressure laminate—Sheet materials which consist of paper, fabric or other core material that have been laminated at temperatures exceeding 265° F, and at pressures between 1,000 and 1,400 psi.

Highest sales—The maximum 1-year gross Pennsylvania sales of the ACP product in the previous 5 years, if the responsible ACP party has failed to meet the requirements for reporting enforceable sales records (for a portion of the compliance period), as specified in the ACP agreement, or the current actual 1-year enforceable sales for the product, if the responsible ACP party has provided all required enforceable sales records (for the entire compliance period), as specified in the ACP agreement.

Highest VOC content—The maximum VOC content which the ACP product has contained in the previous 5 years, if the responsible ACP party has failed to meet the requirements for reporting VOC content data (for a portion of the compliance period), as specified in the ACP agreement, or the current actual VOC content, if the responsible ACP party has provided all required VOC content data (for the entire compliance period), as specified in the ACP agreement, expressed as a percentage by weight.

Household product—A consumer product that is primarily designed to be used inside or outside of living quarters or residences that are occupied or intended for occupation by individuals, including the immediate surroundings.

Insecticide—A pesticide product that is designed for use against insects or other arthropods, but excluding products that are:

(i) For agricultural use.

(ii) For a use which requires a structural pest control license under applicable laws or regulations of the Commonwealth.

(iii) Restricted materials that require a permit for use and possession.

Insecticide fogger—An insecticide product designed to release all or most of its content, as a fog or mist, into indoor areas during a single application.

Institutional product or industrial and institutional (I&I) product—

(i) A consumer product that is designed for use in the maintenance or operation of an establishment that:

(A) Manufactures, transports or sells goods or commodities, or provides services for profit.

(B) Is engaged in the nonprofit promotion of a particular public, educational or charitable cause.

(ii) The term does not include household products and products that are incorporated into or used exclusively in the manufacture or construction of the goods or commodities at the site of the establishment.

(iii) For the purposes of this definition, the term “establishment” includes the following:

- (A) Government agencies.
- (B) Factories.
- (C) Schools.
- (D) Hospitals.

- (E) Sanitariums.
- (F) Prisons.
- (G) Restaurants.
- (H) Hotels.
- (I) Stores.
- (J) Automobile service and parts centers.
- (K) Health clubs.
- (L) Theaters.
- (M) Transportation companies.

LVP content or lower vapor pressure content—The total weight, in pounds, of LVP compounds in an ACP product multiplied by 100 and divided by the product's total net weight (in pounds, excluding container and packaging), expressed as a percentage to the nearest 0.1.

LVP-VOC or lower vapor pressure VOC—

(i) A chemical compound or mixture that contains at least one carbon atom and meets one of the following:

(A) Has a vapor pressure less than 0.1 mm Hg at 20° C, as determined by CARB Method 310.

(B) Is a chemical compound with more than 12 carbon atoms, or a chemical mixture comprised solely of compounds with more than 12 carbon atoms as verified by formulation data, and the vapor pressure and boiling point are unknown.

(C) Is a chemical compound with a boiling point greater than 216° C, as determined by CARB Method 310.

(D) Is the weight percent of a chemical mixture that boils above 216° C, as determined by CARB Method 310.

(ii) For the purposes of this definition, "chemical compound" means a molecule of definite chemical formula and isomeric structure, and "chemical mixture" means a substance comprised of two or more chemical compounds.

* * * * *

Laundry prewash—A product that is designed for application to a fabric prior to laundering and that supplements and contributes to the effectiveness of laundry detergents or provides specialized performance, or both.

Laundry starch product—

(i) A product that is designed for application to a fabric, either during or after laundering, to impart and prolong a crisp, fresh look and which may also act to help ease ironing of the fabric.

(ii) The term includes fabric finish, sizing and starch.

Lawn and garden insecticide—An insecticide product labeled primarily to be used in household lawn and garden areas to protect plants from insects or other arthropods. Notwithstanding the requirements of § 130.372 (relating to most restrictive limit), aerosol lawn and garden insecticides may claim to kill insects or other arthropods.

Liquid—

(i) A substance or mixture of substances that is capable of a visually detectable flow as determined under ASTM D-4359-90(2000)e1, including subsequent amendments.

(ii) The term does not include powders or other materials that are composed entirely of solid particles.

Lubricant—

(i) A product designed to reduce friction, heat, noise or wear between moving parts, or to loosen rusted or immovable parts or mechanisms.

(ii) The term does not include the following:

(A) Automotive power steering fluids.

(B) Products for use inside power generating motors, engines and turbines, and their associated power-transfer gearboxes.

(C) Two cycle oils or other products designed to be added to fuels.

(D) Products for use on the human body or animals.

(E) Products that are sold exclusively to establishments which manufacture or construct goods or commodities, and are labeled "not for retail sale."

* * * * *

Medicated astringent/medicated toner—A product regulated as a drug by the FDA which is applied to the skin for the purpose of cleaning or tightening pores.

(i) The term includes the following:

(A) Clarifiers.

(B) Substrate-impregnated products.

(ii) The term does not include the following:

(A) Hand, face or body cleaner or soap products.

(B) Astringent/toner.

(C) Cold cream.

(D) Lotion.

(E) Antiperspirants.

(F) Products that must be purchased with a doctor's prescription.

Metal polish/cleanser—A product designed primarily to improve the appearance of finished metal, metallic or metallized surfaces by physical or chemical action by removing or reducing stains, impurities or oxidation from surfaces or by making surfaces smooth and shiny.

(i) The term includes metal polishes used on:

(A) Brass.

(B) Silver.

(C) Chrome.

(D) Copper.

(E) Stainless steel.

(F) Ornamental metals.

(ii) The term does not include the following:

(A) Automotive wax, polish, sealant or glaze.

(B) Wheel cleaner.

(C) Paint remover or stripper.

(D) Products designed and labeled exclusively for automotive and marine detailing.

(E) Products designed for use in degreasing tanks.

* * * * *

Multipurpose dry lubricant—A lubricant which is:

(i) Designed and labeled to provide lubricity by depositing a thin film of graphite, molybdenum disulfide (moly) or polytetrafluoroethylene or closely related fluoropolymer (Teflon) on surfaces.

(ii) Designed for general purpose lubrication or for use in a wide variety of applications.

Multipurpose lubricant—

(i) A lubricant designed for general purpose lubrication or for use in a wide variety of applications.

(ii) The term does not include the following:

- (A) Multipurpose dry lubricant.
- (B) Penetrant.
- (C) Silicone-based multipurpose lubricant.

*Multipurpose solvent—*An organic liquid designed to be used for a variety of purposes, including cleaning or degreasing of a variety of substrates, or thinning, dispersing or dissolving other organic materials.

(i) The term includes solvents used in institutional facilities, except for laboratory reagents used in analytical, educational, research, scientific or other laboratories.

(ii) The term does not include the following:

- (A) Solvents used in:
 - (I) Cold cleaners.
 - (II) Vapor degreasers.
 - (III) Conveyorized degreasers.
 - (IV) Film cleaning machines.

(B) Solvents that are incorporated into or used exclusively in the manufacture or construction of the goods or commodities at the site of the establishment.

*Nail polish—*A clear or colored coating designed for application to the fingernails or toenails and including lacquers, enamels, acrylics, base coats and top coats.

*Nail polish remover—*A product designed to remove nail polish and coatings from fingernails or toenails.

* * * * *

*Nonresilient flooring—*Flooring of a mineral content that is not flexible, including the following:

- (i) Terrazzo.
- (ii) Marble.
- (iii) Slate.
- (iv) Granite.
- (v) Brick.
- (vi) Stone.
- (vii) Ceramic tile.
- (viii) Concrete.

* * * * *

*Oven cleaner—*A cleaning product designed to clean and to remove dried food deposits from oven walls.

*Paint—*A pigmented liquid or liquefiable or mastic composition designed for application to a substrate in a thin layer which is converted to an opaque solid film after application and is used for protection, decoration or identification, or to serve some functional purpose such as the filling or concealing of surface irregularities or the modification of light and heat radiation characteristics.

Paint remover or stripper—

(i) A product designed to strip or remove paints or other related coatings, by chemical action, from a substrate without markedly affecting the substrate.

(ii) The term does not include the following:

- (A) Multipurpose solvent.
- (B) Paint brush cleaners.
- (C) Products designed and labeled exclusively as graffiti removers.
- (D) Hand cleaner products that claim to remove paints and other related coatings from skin.

*Penetrant—*A lubricant designed and labeled primarily to loosen metal parts that have bonded together due to rusting, oxidation or other causes. The term does not include multipurpose lubricants that claim to have penetrating qualities, but are not labeled primarily to loosen bonded parts.

*Pennsylvania sales—*The sales (net pounds of product, less packaging and container, per year) in this Commonwealth for either the calendar year immediately prior to the year that the registration is due or, if that data is not available, a consecutive 12-month period commencing no earlier than 2 years prior to the due date of the registration. If direct sales data for this Commonwealth are not available, sales may be estimated by prorating National or regional sales data by population.

*Personal fragrance product—*A product which is applied to the human body or clothing for the primary purpose of adding a scent or masking a malodor.

(i) The term includes the following:

- (A) Cologne.
- (B) Perfume.
- (C) Aftershave.
- (D) Toilet water.

(ii) The term does not include the following:

- (A) Deodorant.
- (B) Medicated products designed primarily to alleviate fungal or bacterial growth on feet or other areas of the body.
- (C) Mouthwashes, breath fresheners or deodorizers.
- (D) Lotions, moisturizers, powders or other skin care products used primarily to alleviate skin conditions such as dryness and irritations.
- (E) Products designed exclusively for use on human genitalia.
- (F) Soaps, shampoos and products primarily used to clean the human body.
- (G) Fragrance products designed to be used exclusively on animals.

Pesticide—

(i) A substance or mixture of substances labeled designed or intended for use in preventing, destroying, repelling or mitigating a pest, or a substance or mixture of substances labeled, designed or intended for use as a defoliant, desiccant or plant regulator.

(ii) The term does not include a substance, mixture of substances or device which the EPA does not consider to be a pesticide.

*Plasticizer—*A material, such as a high boiling point organic solvent, that is incorporated into a plastic to increase its flexibility, workability or distensibility, and may be determined by using ASTM E260-91, including subsequent amendments, or from product formulation data.

Pre-ACP VOC content—The lowest VOC content of an ACP product between January 1, 1990, and the date on which the application for a proposed ACP is submitted to the Department based on either the data on the product obtained from the March 12, 1991, CARB Consumer Products Survey or other accurate records available to the Department, whichever yields the lowest VOC content for the product, expressed as a percentage.

Pressurized gas duster—

(i) A pressurized product labeled to remove dust from a surface solely by means of mass air or gas flow, including surfaces like photographs, photographic film negatives, computer keyboards and other types of surfaces that cannot be cleaned with solvents.

(ii) The term does not include dusting aids.

Principal display panel or panels—The parts of a label that are so designed as to most likely be displayed, presented, shown or examined under normal and customary conditions of display or purchase. Whenever a principal display panel appears more than once, all requirements pertaining to the principal display panel shall pertain to all of the principal display panels.

* * * * *

Product category—The applicable category that best describes the product as listed in this section and in § 130.211.

Product form—For the purposes of complying with § 130.391 (relating to required reporting of information to the Department), the applicable form which most accurately describes the product's dispensing form, as follows:

- (i) A = Aerosol product.
- (ii) S = Solid.
- (iii) P = Pump spray.
- (iv) L = Liquid.
- (v) SS = Semisolid.
- (vi) O = Other.

* * * * *

Rubber and vinyl protectant—

(i) A product designed to protect, preserve or renew vinyl, rubber and plastic on vehicles, tires, luggage, furniture and household products such as vinyl covers, clothing and accessories.

(ii) The term does not include products primarily designed to clean the wheel rim, such as aluminum or magnesium wheel cleaners, and tire cleaners that do not leave an appearance-enhancing or protective substance on the tire.

* * * * *

Sealant and caulking compound—A product with adhesive properties that is designed to fill, seal, waterproof or weatherproof gaps or joints between two surfaces.

(i) The term does not include the following:

- (A) Roof cements and roof sealants.
- (B) Insulating foams.
- (C) Removable caulking compounds.
- (D) Clear/paintable/water resistant caulking compounds.
- (E) Floor seam sealer.
- (F) Products designed exclusively for automotive uses.

- (G) Sealers that are applied as continuous coatings.
- (H) Units of product, less packaging, which weigh more than 1 pound and consist of more than 16 fluid ounces.

(ii) For the purposes of this definition only:

(A) "Removable caulking compounds" means a compound which temporarily seals windows or doors for 3 to 6 month time intervals.

(B) "Clear/paintable/water resistant caulking compounds" means a compound which contains no appreciable level of opaque fillers or pigments; transmits most or all visible light through the caulk when cured; is paintable; and is immediately resistant to precipitation upon application.

* * * * *

Shaving cream—

(i) An aerosol product which dispenses a foam lather intended to be used with a blade or cartridge razor, or other wet-shaving system, in the removal of facial or other bodily hair.

(ii) The term does not include shaving gel.

Shaving gel—

(i) An aerosol product which dispenses a postfoaming semisolid designed to be used with a blade, cartridge razor or other shaving system in the removal of facial or other bodily hair.

(ii) The term does not include shaving cream.

Shortfall—

(i) The ACP emissions minus the ACP limit when the ACP emissions were greater than the ACP limit during a specified compliance period, expressed to the nearest pound of VOC.

(ii) The term does not include emissions occurring prior to the date that the ACP agreement is signed by the Department.

Silicone-based multipurpose lubricant—

(i) A lubricant which is:

(A) Designed and labeled to provide lubricity primarily through the use of silicone compounds, including polydimethylsiloxane.

(B) Designed and labeled for general purpose lubrication, or for use in a wide variety of applications.

(ii) The term does not include products designed and labeled exclusively to release manufactured products from molds.

* * * * *

Solid—A substance or mixture of substances which, either whole or subdivided (such as the particles comprising a powder), is not capable of visually detectable flow as determined under ASTM D-4359-90(2000)e1, including subsequent amendments.

Special purpose spray adhesive—An aerosol adhesive that meets one or more of the following definitions:

(i) *Mounting adhesive*. An aerosol adhesive designed to permanently mount photographs, artwork and other drawn or printed media to a backing (paper, board, cloth, and the like) without causing discoloration to the artwork.

(ii) *Flexible vinyl adhesive*. An aerosol adhesive designed to bond flexible vinyl to substrates. Flexible vinyl

means a nonrigid polyvinyl chloride plastic with at least 5%, by weight, of plasticizer content.

(iii) *Polystyrene foam adhesive*. An aerosol adhesive designed to bond polystyrene foam to substrates.

(iv) *Automobile headliner adhesive*. An aerosol adhesive designed to bond together layers in motor vehicle headliners.

(v) *Polyolefin adhesive*. An aerosol adhesive designed to bond polyolefins to substrates.

(vi) *Laminate repair/edgebanding adhesive*. An aerosol adhesive designed for:

(A) The touch-up or repair of items laminated with high pressure laminates (for example-lifted edges, delaminates, and the like).

(B) The touch-up, repair or attachment of edge banding materials, including other laminates, synthetic marble, veneers, wood molding and decorative metals.

(vii) *Automotive engine compartment adhesive*. An aerosol adhesive designed for use in motor vehicle under-the-hood applications which require oil and plasticizer resistance, as well as high shear strength, at temperatures of 200–275° F.

Specialty adhesive remover—A product designed to remove reactive adhesives from a variety of substrates.

(i) Reactive adhesives include adhesives that require a hardener or catalyst for the bond to occur. Reactive adhesives include the following:

- (A) Epoxies.
- (B) Urethanes.
- (C) Silicones.

(ii) The term does not include gasket adhesive remover or thread locking adhesive remover.

Spot remover—

(i) A product designed to clean localized areas, or remove localized spots or stains on cloth or fabric such as drapes, carpets, upholstery and clothing, that does not require subsequent laundering to achieve stain removal.

(ii) The term does not include the following:

- (A) Dry cleaning fluid.
- (B) Laundry prewash.
- (C) Multipurpose solvent.

Spray buff product—A product designed to restore a worn floor finish in conjunction with a floor buffing machine and special pad.

* * * * *

Structural waterproof adhesive—An adhesive whose bond lines are resistant to conditions of continuous immersion in fresh or salt water, and that conforms with Federal Specification MMM-A-181D (Type 1, Grade A).

Surplus reduction—The ACP limit minus the ACP emissions when the ACP limit was greater than the ACP emissions during a given compliance period, expressed to the nearest pound of VOC. Except as provided in § 130.457 (relating to limited-use surplus reduction credits for early reformulations of ACP products), the term does not include emissions occurring prior to the date that the ACP agreement is signed by the Department.

* * * * *

TMHE—Total maximum historical emissions—The total VOC emissions from all ACP products for which the responsible ACP party has failed to submit the required VOC content or enforceable sales records. The TMHE shall be calculated for each ACP product during each portion of a compliance period for which the responsible ACP has failed to provide the required VOC content or enforceable sales records. The TMHE shall be expressed to the nearest pound and calculated according to the following calculation:

$$TMHE = (MHE)_1 + (MHE)_2 + \dots + (MHE)_N$$

where,

(i) MHE =

$$\frac{(Highest\ VOC\ content \times Highest\ sales)}{100 \times 365} \times Missing\ data\ days$$

(ii) 1, 2, . . . , N = each product in an ACP, up to the maximum N, for which the responsible ACP party has failed to submit the required enforceable sales or VOC content data as specified in the ACP agreement.

* * * * *

Tire sealant and inflation—A pressurized product that is designed to temporarily inflate and seal a leaking tire.

Toilet/urinal care product—A product designed to clean or to deodorize toilet bowls, toilet tanks or urinals.

(i) The term does not include the following:

- (A) Bathroom and tile cleaner.
- (B) General purpose cleaner.

(ii) For the purposes of this definition, the term “toilet bowls, toilet tanks or urinals” includes toilets or urinals connected to permanent plumbing in buildings and other structures, portable toilets or urinals placed at temporary

or remote locations and toilets or urinals in vehicles like buses, recreational motor homes, boats, ships and aircraft.

* * * * *

Type B propellant—A halocarbon which is used as a propellant, including the following:

- (i) Chlorofluorocarbons (CFCs).
- (ii) Hydrochlorofluorocarbons (HCFCs).
- (iii) Hydrofluorocarbons (HFCs).

Type C propellant—A propellant which is not a Type A or Type B propellant, including the following:

- (i) Propane.
- (ii) Isobutane.
- (iii) N-butane.
- (iv) Dimethyl ether (also known as dimethyl oxide).

Undercoating—

(i) An aerosol product designed to impart a protective, nonpaint layer to the undercarriage, trunk interior or firewall of motor vehicles to prevent the formation of rust or to deaden sound.

(ii) The term includes rubberized, mastic or asphaltic products.

* * * * *

*Vinyl/fabric/leather/polycarbonate coating—*A coating designed and labeled exclusively to coat vinyl, fabric, leather or polycarbonate substrates.

*VOC—Volatile organic compound—*An organic compound which participates in atmospheric photochemical reactions; that is, an organic compound other than those which the Administrator of the EPA designates in 40 CFR 51.100 (relating to definitions) as having negligible photochemical reactivity.

VOC content—

(i) Except for charcoal lighter material products, the total weight of VOC in a product expressed as a percentage of the product weight (exclusive of the container or packaging), as determined under § 130.431 (relating to testing for compliance).

(ii) For charcoal lighter material products only,

$$\text{VOC content (percent)} = \frac{(\text{Certified emissions} \times 100)}{\text{Certified use rate}}$$

*Wasp and hornet insecticide—*An insecticide product that is designed for use against wasps, hornets, yellow jackets or bees by allowing the user to spray from a distance a directed stream or burst at the intended insects or their hiding place.

Waterproofer—

(i) A product designed and labeled exclusively to repel water from fabric or leather substrates.

(ii) The term does not include fabric protectant.

Wax—

(i) A material or synthetic thermoplastic substance generally of high molecular weight hydrocarbons or high

molecular weight esters of fatty acids or alcohols, except glycerol and high molecular weight polymers (plastics). The term includes the following:

(i) Substances derived from the secretions of plants and animals such as carnuba wax and beeswax.

(ii) Substances of a mineral origin such as ozocerite and paraffin.

(iii) Synthetic polymers such as polyethylene.

* * * * *

Wood cleaner—

(i) A product labeled to clean wooden materials including the following:

- (A) Decking.
- (B) Fences.
- (C) Flooring.
- (D) Logs.
- (E) Cabinetry.
- (F) Furniture.

(ii) The term does not include the following:

- (A) Dusting aid.
- (B) General purpose cleaner.
- (C) Furniture maintenance product.
- (D) Floor wax stripper.
- (E) Floor polish or wax.

(F) Products designed and labeled exclusively to preserve or color wood.

*Wood floor wax—*Wax-based products for use solely on wood floors.

* * * * *

STANDARDS

§ 130.211. Table of standards.

Except as provided in §§ 130.331—130.338, 130.351, 130.352, 130.411—130.414 and 130.451—130.464, a person may not sell, supply, offer for sale or manufacture for sale in this Commonwealth a consumer product manufactured on or after the applicable effective date in the following table of standards which contains VOCs in excess of the limits specified in the following table of standards:

*Table of Standards
(percent VOC by weight)*

<i>Product Category</i>	<i>Effective Date 1/1/2005</i>	<i>Effective Date 1/1/2009</i>
Adhesive		
Aerosol:		
Mist Spray	65	
Web Spray	55	
Special Purpose Spray Adhesive:		
Mounting, Automotive Engine Compartment and Flexible Vinyl	70	
Polystyrene Foam and Automotive Headliner	65	
Polyolefin and Laminate Repair/Edgebanding	60	
Construction, Panel and Floor Covering	15	
Contact	80	
Contact Adhesive—General Purpose		55
Contact Adhesive—Special Purpose		80

RULES AND REGULATIONS

5619

<i>Product Category</i>	<i>Effective Date</i> <i>1/1/2005</i>	<i>Effective Date</i> <i>1/1/2009</i>
General Purpose	10	
Structural Waterproof	15	
Adhesive Remover		
Floor and Wall Covering		5
Gasket or Thread Locking		50
General Purpose		20
Specialty		70
Aerosol Cooking Spray	18	
Air Freshener		
Single-Phase Aerosol	30	
Double-Phase Aerosol	25	
Liquid/Pump Spray	18	
SOLID /Semisolid	3	
Antiperspirant		
Aerosol	40 HVOC 10 MVOC	
Nonaerosol	0 HVOC 0 MVOC	
Antistatic Product		
Nonaerosol		11
Automotive Brake Cleaner	45	
Automotive Rubbing or Polishing Compound	17	
Automotive Wax, Polish, Sealant or Glaze		
Hard Paste Wax	45	
Instant Detailer	3	
All Other Forms	15	
Automotive Windshield Washer Fluids	35	
Bathroom and Tile Cleaner		
Aerosol	7	
All Other Forms	5	
Bug and Tar Remover	40	
Carburetor or Fuel-Injection Air Intake Cleaner	45	
Carpet and Upholstery Cleaner		
Aerosol	7	
Nonaerosol (Dilutables)	0.1	
Nonaerosol (Ready-to-Use)	3.0	
Charcoal Lighter Material	See § 130.214	
Deodorant		
Aerosol	0 HVOC 10 MVOC	
Nonaerosol	0 HVOC 0 MVOC	
Dusting Aid		
Aerosol	25	
All Other Forms	7	
Electrical Cleaner		45
Electronic Cleaner		75
Engine Degreaser		
Aerosol	35	
Nonaerosol	4	
Fabric Protectant	60	
Fabric Refresher		
Aerosol		15
Nonaerosol		6
Floor Polish or Wax		
Products for Flexible Flooring Material	7	
Products for Nonresilient Flooring	10	
Wood Floor Wax	90	
Floor Wax Stripper		
Nonaerosol	See § 130.216	
Footwear or Leather Care Product		
Aerosol		75
All Other Forms		15
Solid		55
Furniture Maintenance Product		
Aerosol	17	
All Other Forms Except Solid or Paste	7	

<i>Product Category</i>	<i>Effective Date 1/1/2005</i>	<i>Effective Date 1/1/2009</i>
General Purpose Cleaner		
Aerosol	10	
Nonaerosol	4	
General Purpose Degreaser		
Aerosol	50	
Nonaerosol	4	
Glass Cleaner		
Aerosol	12	
Nonaerosol	4	
Graffiti Remover		
Aerosol		50
Nonaerosol		30
Hair Mousse	6	
Hair Shine	55	
Hair Spray	55	
Hair Styling Gel	6	
Hair Styling Product		
Aerosol and Pump Spray		6
All Other Forms		2
Heavy-Duty Hand Cleaner or Soap	8	
Insecticide		
Crawling Bug		
Aerosol	15	
All Other Forms	20	
Flea and Tick	25	
Flying Bug		
Aerosol	25	
All Other Forms	35	
Fogger	45	
Lawn and Garden		
All Other Forms	20	
Nonaerosol	3	
Wasp and Hornet	40	
Laundry Prewash		
Aerosol/Solid	22	
All Other Forms	5	
Laundry Starch Product	5	
Metal Polish/Cleanser	30	
Multipurpose Lubricant (Excluding Solid or Semisolid Products)	50	
Nail Polish Remover	75	
Nonselective Terrestrial Herbicide		
Nonaerosol	3	
Oven Cleaner		
Aerosol/Pump Spray	8	
Liquid	5	
Paint Remover or Stripper	50	
Penetrant	50	
Rubber and Vinyl Protectant		
Aerosol	10	
Nonaerosol	3	
Sealant and Caulking Compound	4	
Shaving Cream	5	
Shaving Gel		7
Silicone-Based Multipurpose Lubricant (Excluding Solid or Semisolid Products)	60	
Spot Remover		
Aerosol	25	
Nonaerosol	8	
Tire Sealant and Inflation	20	
Toilet/Urinal Care		
Aerosol		10
Nonaerosol		3
Undercoating		
Aerosol	40	
Wood Cleaner		
Aerosol		17
Nonaerosol		4

Notes: NA = Not applicable on or after January 1, 2009.

§ 130.213. Products registered under FIFRA.

For those consumer products that are registered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (7 U.S.C.A. §§ 136—136y), the applicable effective date of the VOC standards specified in the Table of Standards is 1 year after the date specified in § 130.211 (relating to table of standards).

§ 130.214. Requirements for charcoal lighter material products.

The following requirements apply to charcoal lighter material products as defined in § 130.202 (relating to definitions).

(1) *Regulatory standards.* A person may not sell, supply or offer for sale after January 1, 2005, a charcoal lighter material product unless at the time of the transaction:

(i) The manufacturer can demonstrate that the manufacturer has been issued a currently effective certification by the CARB under the Consumer Products provisions under Subchapter 8.5, Article 2, Section 94509(h), of Title 17 of the CCR. This certification remains in effect for as long as the CARB certification remains in effect. A manufacturer claiming a certification on this basis shall submit to the Department a copy of the certification decision (that is, the Executive Order), including all conditions established by CARB applicable to the certification.

(ii) The manufacturer or distributor of the charcoal lighter material product has been issued a currently effective certification under paragraph (2).

(iii) The charcoal lighter material product meets the formulation criteria and other conditions specified in the applicable ACP agreement issued under paragraph (2).

(iv) The product usage directions for the charcoal lighter material product are the same as those provided to the Commonwealth under paragraph (2)(iii).

(2) *Certification requirements.*

(i) A charcoal lighter material product formulation will not be certified under this paragraph unless the applicant for certification demonstrates to the Department's satisfaction that the VOC emissions from the ignition of charcoal with the charcoal lighter material product are less than or equal to 0.020 pound of VOC per start, using the procedures specified in the South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol, dated February 27, 1991 (South Coast Air Quality Management District Rule 1174 Testing Protocol), including subsequent amendments. The provisions relating to LVP-VOC in § 130.333 (relating to LVP-VOC) do not apply to a charcoal lighter material product subject to the requirements of this section and § 130.211 (relating to table of standards).

(ii) The Department may approve alternative test procedures which are shown to provide equivalent results to those obtained using the South Coast Air Quality Management District Rule 1174 Test Protocol.

(iii) A manufacturer or distributor of charcoal lighter material products may apply to the Department for certification of a charcoal lighter material product formulation.

(3) *Notice of modifications.* For a charcoal lighter material product for which certification has been granted, the applicant for certification shall notify the Department in writing within 30 days of:

(i) A change in the usage directions.

(ii) A change in product formulation, test results or other information submitted under paragraph (2) which may result in VOC emissions greater than 0.020 pound of VOC per start.

(4) *Revocation of certification.* If the Department determines that a certified charcoal lighter material product formulation results in VOC emissions from the ignition of charcoal which are greater than 0.020 pound of VOC per start, as determined by the South Coast Air Quality Management District Rule 1174 Testing Protocol and the statistical analysis procedures contained therein, the Department will revoke or modify the certification as is necessary to assure that the charcoal lighter material product will result in VOC emissions of less than or equal to 0.020 pound of VOC per start.

§ 130.215. Requirements for aerosol adhesives.

(a) The standards for aerosol adhesives apply to all uses of aerosol adhesives, including consumer, industrial and commercial uses. Except as otherwise provided in §§ 130.331—130.338, 130.351 and 130.352 and 130.411—130.414, a person may not sell, supply, offer for sale, use or manufacture for sale in this Commonwealth an aerosol adhesive which, at the time of sale, use or manufacture, contains VOCs in excess of the specified standard.

(b) For a special purpose spray adhesive:

(1) To qualify as a special purpose spray adhesive, the product must meet the definition of the term "special purpose spray adhesive" in § 130.202 (relating to definitions), but if the product label indicates that the product is suitable for use on a substrate or application not listed in the definition of the term "special purpose spray adhesive," the product will be classified as either a "web spray adhesive" or a "mist spray adhesive."

(2) If a product meets more than one of the definitions specified in § 130.202 for special purpose spray adhesive, and is not classified as a web spray adhesive or mist spray adhesive, the VOC limit for the product shall be the lowest applicable VOC limit specified in § 130.211 (relating to table of standards).

(c) Aerosol adhesives must comply with the labeling requirements specified in § 130.373 (relating to additional labeling requirements for aerosol adhesives).

§ 130.217. Sell-through of products.

(a) *Sell-through period.* Notwithstanding the provisions of § 130.211 or § 130.215 (relating to table of standards; and requirements for aerosol adhesives), a consumer product manufactured prior to the applicable effective date in § 130.211 may be sold, supplied or offered for sale after the applicable effective date.

(b) This section does not apply to a consumer product that does not display on the product container or package the date on which the product was manufactured, or a code indicating the date, in accordance with § 130.371 (relating to product dating requirements).

EXEMPTIONS

§ 130.331. Products for shipment and use outside this Commonwealth.

(a) This subchapter does not apply to a consumer product manufactured in this Commonwealth for shipment and use outside of this Commonwealth.

(b) This subchapter does not apply to a consumer product that does not comply with the VOC standards specified in § 130.211 (relating to table of standards), as

long as the manufacturer or distributor of the noncomplying consumer product can demonstrate both that the noncomplying consumer product is intended for shipment and use outside of this Commonwealth, and that the manufacturer or distributor has taken reasonably prudent precautions to assure that the noncomplying consumer product is not distributed in this Commonwealth.

§ 130.332. Antiperspirants and deodorants.

(a) The MVOC content standards in § 130.211 (relating to table of standards) for antiperspirants and deodorants do not apply to ethanol.

(b) The VOC limits specified in § 130.211 do not apply to colorants up to a combined level of 2% by weight contained in an antiperspirant or deodorant.

(c) The requirements of § 130.211 for antiperspirants and deodorants do not apply to those VOCs that contain more than 10 carbon atoms per molecule and for which the vapor pressure is unknown, or that have a vapor pressure of 2 mm Hg or less at 20° C.

§ 130.334. Products registered under FIFRA.

(a) The requirements of § 130.371 (relating to product dating) do not apply to consumer products registered under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (7 U.S.C.A. §§ 136—136y).

(b) The VOC limits specified in § 130.211 (relating to table of standards) do not apply to insecticides containing at least 98% paradichlorobenzene.

§ 130.335. Air fresheners.

The VOC limits specified in § 130.211 (relating to table of standards) do not apply to air fresheners that are comprised entirely of fragrance, less compounds not defined as VOCs or exempted under § 130.333 (relating to LVP-VOC).

§ 130.338. Fragrances.

The VOC limits specified in § 130.211 (relating to table of standards) do not apply to fragrances up to a combined level of 2% by weight contained in a consumer product.

ADMINISTRATIVE REQUIREMENTS

§ 130.371. Product dating.

(a) *Product dating requirements.*

(1) Each manufacturer of a consumer product subject to §§ 130.211—130.217 (relating to standards) shall clearly display on each consumer product container or package, the day, month and year on which the product was manufactured, or a code indicating that date.

(2) A manufacturer who uses the following code to indicate the date of manufacture will not be subject to the requirements of subsection (b)(1), if the code is represented separately from other codes on the product container so that it is easily recognizable:

YY DDD = year year day day day

where,

YY = two digits representing the year in which the product was manufactured

DDD = three digits representing the day of the year on which the product was manufactured, with "001" representing the first day of the year, "002" representing the second day of the year, and so forth (that is, the "Julian date").

(3) The product date or date-code required by this section must be displayed on each consumer product container or package before the consumer product is sold, supplied or offered for sale in this Commonwealth.

(4) The date or date-code information must be located on the container or inside the cover/cap so that it is readily observable or obtainable (by simply removing the cap/cover) without irreversibly disassembling a part of the container or packaging.

(5) For the purposes of this subsection, information may be displayed on the bottom of a container as long as it is clearly legible without removing any product packaging.

(6) The requirements of this subsection do not apply to products containing either of the following:

(i) No VOCs.

(ii) VOCs at 0.10% by weight or less.

(b) *Additional product dating requirements.*

(1) If a manufacturer uses a code indicating the date of manufacture for a consumer product subject to §§ 130.211—130.217, an explanation of the date portion of the code must be filed with the Department before the consumer product is sold, supplied or offered for sale in this Commonwealth.

(2) If a manufacturer changes a code indicating the date of manufacture for a consumer product subject to paragraph (1), an explanation of the modified code must be submitted to the Department before products displaying the modified code are sold, supplied or offered for sale in this Commonwealth.

(3) A person may not erase, alter, deface or otherwise remove or make illegible a date or code indicating the date of manufacture from a regulated product container without the express authorization of the manufacturer.

(4) Date code explanations for codes indicating the date of manufacture are public information and may not be claimed as confidential.

§ 130.372. Most restrictive limit.

(a) *Products manufactured before January 1, 2009, and FIFRA-registered insecticides manufactured before January 1, 2010.*

(1) Notwithstanding the definition of "product category" in § 130.202 (relating to definitions), if on the principal display panel of a consumer product manufactured before January 1, 2009, or a FIFRA-registered insecticide manufactured before January 1, 2010, a representation is made that the product may be used, or is suitable for use, as a consumer product for which a lower VOC limit is specified in § 130.211 (relating to table of standards), the lowest VOC limit applies.

(2) The requirement of paragraph (1) does not apply to general purpose cleaners, antiperspirant/deodorant products or insecticide foggers.

(b) *Products manufactured on or after January 1, 2009, and FIFRA-registered insecticides manufactured on or after January 1, 2010.*

(1) Notwithstanding the definition of "product category" in § 130.202, if on the container or packaging of a consumer product manufactured on or after January 1, 2009, or a FIFRA-registered insecticide manufactured on or after January 1, 2010, or on a sticker or label affixed to the container or packaging, a representation is made that the product may be used, or is suitable for use, as a

consumer product for which a lower VOC limit is specified in § 130.211, the lowest VOC limit applies.

(2) The requirement of paragraph (1) does not apply to general purpose cleaners, antiperspirant/deodorant products or insecticide foggers.

§ 130.373. Additional labeling requirements for aerosol adhesive, adhesive remover, electrical cleaner, electronic cleaner, energized electrical cleaner and contact adhesive products.

(a) In addition to the requirements specified in §§ 130.371, 130.372, 130.391 and 130.392, both the manufacturer and responsible party for each aerosol adhesive, electrical cleaner, electronic cleaner, energized electrical cleaner and contact adhesive product subject to this subchapter shall ensure that all products clearly display the following information on each product container which is manufactured on or after the applicable effective date for the category specified in § 130.211 (relating to table of standards):

(1) The product category as specified in § 130.211 or an abbreviation of the category shall be displayed.

(2) The applicable VOC standard for the product that is specified in § 130.211, except for energized electrical cleaner products, expressed as a percentage by weight, shall be displayed unless the product is included in an alternative control plan approved by the Department, as provided in §§ 130.451—130.465 (relating to ACP for consumer products).

(3) If the product is included in an alternative control plan approved by the Department, and the product exceeds the applicable VOC standard specified in § 130.211, the product shall be labeled with the term “ACP” or “ACP product.”

(4) If the product is classified as a special purpose spray adhesive, the applicable substrate or application or an abbreviation of the substrate or application that qualifies the product as special purpose shall be displayed.

(5) If the manufacturer or responsible party uses an abbreviation as allowed by this section, an explanation of the abbreviation shall be filed with the Department before the abbreviation is used.

(b) The information required in § 130.371(a) (relating to product dating requirements) shall be displayed on the product container so that it is readily observable without removing or disassembling a portion of the product container or packaging. For the purposes of this subsection, information may be displayed on the bottom of a container as long as it is clearly legible without removing product packaging.

VARIANCES

§ 130.411. Application for variance.

(a) A person who cannot comply with §§ 130.211—130.217 (relating to standards), because of extraordinary reasons beyond the person’s control, may apply in writing to the Department for a variance. The variance application must set forth:

(1) The specific grounds upon which the variance is sought.

(2) The proposed dates by which compliance with § 130.211 (relating to table of standards) will be achieved.

(3) A compliance report reasonably detailing the methods by which compliance will be achieved.

(b) No later than 75 days after receipt of a complete variance application containing the information required in subsection (a), the Department will hold a public hearing in accordance with § 130.471 (relating to public hearings) to determine:

(1) Whether a variance from the requirements in §§ 130.211—130.217 is necessary.

(2) Under what conditions a variance from the requirements in §§ 130.211—130.217 is necessary.

(3) To what extent a variance from the requirements in §§ 130.211—130.217 is necessary.

(c) The Department will not grant a variance unless the applicant demonstrates in writing the following to the Department’s satisfaction:

(1) That because of reasons beyond the reasonable control of the applicant, requiring compliance with §§ 130.211—130.217 would result in extraordinary economic hardship.

(2) That the public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding increased emissions of air contaminants that would result from issuing the variance.

(3) That the compliance program proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

§ 130.412. Variance orders.

A variance order will specify a final compliance date by which the requirements of §§ 130.211—130.217 (relating to standards) will be achieved. A variance order will contain a condition that specifies increments of progress necessary to assure timely compliance, and other conditions that the Department, in consideration of the testimony received at the hearing, finds necessary.

§ 130.414. Modification of variance.

Upon the application of a person, the Department may review, and for good cause, modify or revoke a variance from requirements of §§ 130.211—130.217 (relating to standards) after holding a public hearing in accordance with § 130.471 (relating to public hearings).

TEST METHODS

§ 130.431. Testing for compliance.

(a) Testing to determine compliance with this subchapter shall be performed by one of the following:

(1) Using CARB Method 310, “*Determination of Volatile Organic Compounds (VOC) in Consumer Products*,” adopted September 25, 1997, and as last amended on May 5, 2005, including subsequent amendments.

(2) Alternative methods which are shown to accurately determine the concentration of VOCs in a subject product or its emissions may be used upon written approval of the Department.

(3) Calculation of the VOC content from records of the amounts of constituents used to make the product under the following criteria:

(i) Compliance determinations based on these records may not be used unless the manufacturer of a consumer product keeps accurate records for each day of production of the amount and chemical composition of the individual product constituents. These records shall be kept for at least 3 years and be made available to the Department on request.

(ii) For the purposes of this section, the VOC content (expressed as a percentage) shall be calculated according to the following equation:

$$\text{VOC content} = \frac{(B - C) \times 100}{A}$$

where,

A = total net weight of unit (excluding container and packaging)

B = total weight of all VOCs per unit

C = total weight of VOCs exempted under §§ 130.331—130.338, 130.351 and 130.352 per unit

(iii) If product records appear to demonstrate compliance with the VOC limits, but these records are contradicted by product testing performed using CARB Method 310, the results of CARB Method 310 shall take precedence over the product records and may be used to establish a violation of the requirements of this section.

(b) Testing to determine whether a product is a liquid or solid shall be performed using ASTM D4359-90 (2000)e1, including subsequent amendments.

(c) Testing to determine compliance with the certification requirements for charcoal lighter material products shall be performed using the procedures specified in the South Coast Air Quality Management District Rule 1174 Ignition Method Compliance Certification Protocol (February 28, 1991), including subsequent amendments.

(d) Testing to determine distillation points of petroleum distillate-based charcoal lighter material products shall be performed using ASTM D86-04b, including subsequent amendments.

(e) A person may not create, alter, falsify or otherwise modify records so that the records do not accurately reflect the constituents used to manufacture a product, the chemical composition of the individual product, and other tests, processes or records used in connection with product manufacture.

ACP FOR CONSUMER PRODUCTS

§ 130.452. Exemption.

A manufacturer of consumer products which has been granted an ACP agreement by the CARB under the ACP provision in Subchapter 8.5, Article 4, Sections 94540-94555, of Title 17 of the CCR shall be exempt from § 130.211 (relating to table of standards) for the period of time that the CARB ACP agreement remains in effect provided that all ACP products within the CARB ACP agreement are contained in § 130.211. A manufacturer claiming such an ACP agreement on this basis shall submit to the Department a copy of the CARB ACP decision (that is, the Executive Order), including the conditions established by CARB applicable to the exemption.

§ 130.453. Request for exemption.

(a) Manufacturers of consumer products that have been granted an ACP agreement by the CARB under the ACP provision in Subchapter 8.5, Article 4, sections 94540—94555, of Title 17 of the CCR based on California specific data, or that have not been granted an exemption by the CARB may seek an ACP agreement with the Department.

(b) The Department will not approve an ACP submitted by a responsible ACP party if the Department determines, upon review of the responsible ACP party's compliance history with past or current ACPs or the requirements for

consumer products in this subchapter, that the responsible ACP party has a recurring pattern of violations and has consistently refused to take the necessary steps to correct those violations.

§ 130.454. Application for an ACP.

A manufacturer of consumer products that has been granted an ACP agreement by the CARB under the ACP provision in Subchapter 8.5, Article 4, sections 94540—94555, of Title 17 of the CCR based on California specific data, or that has not been granted an exemption by the CARB may seek an ACP agreement by submitting an application. The application must:

(1) Identify the responsible ACP party including names, telephone numbers and addresses of the representative of the manufacturer who will be responsible for implementing the ACP requirements specified in the ACP agreement.

(2) Contain a statement of whether the responsible ACP party is a small business or a one-product business.

(3) Contain a listing of the exact product brand name, form, available variations (flavors, scents, colors, sizes, and the like), and applicable product category for each distinct ACP product that is proposed for inclusion in the ACP.

(4) Demonstrate in writing to the satisfaction of the Department that the enforceable sales records to be used by the responsible ACP party for tracking product sales provide the following information:

(i) The names, telephone numbers, street and mail addresses of all persons and businesses who will provide information that will be used to determine the enforceable sales.

(ii) The enforceable sales of each ACP product.

(iii) A written demonstration to the satisfaction of the Department regarding the validity of the enforceable sales.

(iv) The percentage of the gross Pennsylvania sales which is comprised of enforceable sales.

(v) That the ACP products have enforceable sales that are 75% or more of the gross Pennsylvania sales. Only ACP products meeting this criteria will be allowed to be sold in this Commonwealth under an ACP.

(5) Include legible copies of the existing labels for each ACP product specifying the VOC and LVP content.

(6) Report for each of the ACP products:

(i) The VOC and LVP-VOC contents of the product at the time the application for an ACP is submitted.

(ii) Changes in VOC and LVP contents of the product that have occurred within the 4 years prior to the date of submittal of the application for an ACP, if either the VOC or LVP contents have varied by more than 10.0% of the VOC or LVP contents reported in subparagraph (i).

(7) Contain a written commitment obligating the responsible ACP party to date-code every unit of each ACP product approved for inclusion in the ACP and to display the date-code on each ACP product container or package no later than 5 working days after the date an ACP agreement is signed by the Department.

(8) Contain an operational plan covering the products identified under this section for each compliance period that the ACP will be in effect. This plan must:

(i) Identify the compliance periods and dates for the responsible ACP party to report the information required by the Department in the ACP agreement. The length of the compliance period chosen by the responsible ACP party may be no longer than 365 days.

(ii) Identify the specific enforceable sales records to be provided to the Department for enforcing this chapter and the ACP agreement. The enforceable sales records shall be provided to the Department no later than the compliance period reporting dates specified in subparagraph (i).

(iii) For a small business or a one-product business that will be relying on surplus trading to meet the ACP limits, contain a written commitment from the responsible ACP parties that they will transfer the surplus reductions to the small business or one-product business upon approval of the ACP.

(iv) Specify the VOC content levels for each ACP product that will be applicable for the ACP product during each compliance period and identify the specific methods by which the VOC content will be determined and the statistical accuracy and precision (repeatability and reproducibility) calculated for each specified method.

(v) Estimate the projected enforceable sales for each ACP product at each different VOC content for every compliance period that the ACP will be in effect.

(vi) Contain a detailed demonstration showing the combination of specific ACP reformulations or surplus trading reductions (if applicable) that is sufficient to ensure that the ACP emissions will not exceed the ACP limit for each compliance period that the ACP will be in effect, the approximate date within each compliance period that reformulations or surplus trading reductions are expected to occur, and the extent to which the VOC contents of the ACP products will be reduced (that is, by ACP reformulation). This demonstration must also include all VOC content levels and projected enforceable sales for all ACP products to be sold in this Commonwealth during each compliance period.

(vii) Contain a written explanation of the date-codes that will be displayed on each ACP product container or packaging.

(viii) Contain a statement of the approximate dates by which the responsible ACP party plans to meet the applicable ACP VOC standards for each product in the ACP.

(ix) Contain an operational plan ("reconciliation of shortfalls plan") which commits the responsible ACP party to completely reconcile shortfalls, even, to the extent permitted by law, if the responsible ACP party files for bankruptcy protection. The plan for reconciliation of shortfalls must demonstrate how shortfalls will be reconciled within 90 working days from the date the shortfall is determined, listing the records and other information that will be used to verify that the shortfalls were reconciled.

(9) Contain a declaration, signed by a legal representative for the responsible ACP party, that states that all information and operational plans submitted with the ACP application are true and correct under penalty of law. This declaration must certify that all reductions in the VOC content of a product will be real and actual reductions that do not result from changing product names, mischaracterizing ACP product reformulations that have occurred in the past, or any other attempts to circumvent this chapter.

§ 130.455. Recordkeeping and availability of requested information.

(a) Information specified in the ACP agreement shall be maintained by the responsible ACP party for at least 3 years after the records are generated. The records must be clearly legible and maintained in good condition during this period.

(b) The records specified in this section shall be made available to the Department:

(1) Immediately upon request during an onsite visit to a responsible ACP party.

(2) Within 15 working days after receipt of a written request from the Department.

(3) Within a time period mutually agreed upon by both the Department and the responsible ACP party.

§ 130.457. Limited-use surplus reduction credits for early reformulations of ACP products.

(a) For the purposes of this section, "early reformulation" means an ACP product which is reformulated to result in a reduction in the product's VOC content, and which is sold, supplied or offered for sale in this Commonwealth for the first time during the 1 year (365-day) period immediately prior to the date on which the application for a proposed ACP is submitted to the Department. "Early reformulation" does not include reformulated ACP products which are sold, supplied or offered for sale in this Commonwealth more than 1 year prior to the date on which the ACP application is submitted to the Department.

(b) If requested in the application for a proposed ACP, the Department will, upon approval of the ACP, issue surplus reduction credits for early reformulations of ACP products, provided that the following documentation has been provided by the responsible ACP party to the satisfaction of the Department:

(1) Accurate documentation showing that the early reformulation reduced the VOC content of the ACP product to a level which is below the pre-ACP VOC content of the product, or below the applicable VOC standards in § 130.211 (relating to table of standards), whichever is the lesser of the two.

(2) Accurate documentation demonstrating that the early reformulated ACP product was sold in retail outlets in this Commonwealth within the time period specified in this section.

(3) Accurate sales records for the early reformulated ACP product which meets the definition of "enforceable sales records" in § 130.202 (relating to definitions), and which demonstrate that the enforceable sales for the ACP product are at least 75% of the gross Pennsylvania sales for the product.

(4) Accurate documentation for the early reformulated ACP product which meets the requirements specified in this section, and which identifies the specific test methods for verifying the claimed early reformulation and the statistical accuracy and precision of the test methods as specified in this section.

(c) Surplus reduction credits issued under this section shall be calculated separately for each early reformulated ACP product by the Department according to the following equation:

$$SR = \frac{\text{Enforceable sales} \times ((\text{VOC content})_{\text{initial}} - (\text{VOC content})_{\text{final}})}{100}$$

100

where,

SR = surplus reductions for the ACP product, expressed to the nearest pound

VOC content_{initial} = the Pre-ACP VOC content of the ACP product, or the applicable VOC standard specified in § 130.211, whichever is the lesser of the two, expressed to the nearest 0.1 pound of VOC per 100 pounds of ACP product.

VOC content_{final} = the VOC content of the early reformulated ACP product after the early reformulation is achieved, expressed to the nearest 0.1 pound of VOC per 100 pounds of ACP product.

(d) The use of surplus reduction credits issued under this section shall be subject to the following:

(1) Surplus reduction credits shall be used solely to reconcile the responsible ACP party's shortfalls generated during the first compliance period occurring immediately after the issuance of the ACP agreement, and may not be used for another purpose.

(2) Surplus reduction credits may not be transferred to, or used by, another responsible ACP party.

(3) Except as provided in this section, surplus reduction credits shall be subject to the requirements applicable to surplus reductions and surplus trading, as specified in this section.

§ 130.458. Reconciliation of shortfalls.

(a) At the end of each compliance period, the responsible ACP party shall make an initial calculation of shortfalls occurring in that compliance period, as specified in the ACP agreement. Upon receipt of this information, the Department will determine the amount of a shortfall that has occurred during the compliance period, and notify the responsible ACP party of this determination.

(b) The responsible ACP party shall implement the reconciliation of shortfalls plan as specified in the ACP agreement, within 30 working days from the date of written notification of a shortfall by the Department.

(c) Shortfalls shall be completely reconciled within 90 working days from the date of written notification of a shortfall by the Department, by implementing the reconciliation of shortfalls plan specified in the ACP agreement.

(d) The requirements specified in the ACP agreement, including the applicable ACP limits, shall remain in effect while shortfalls are in the process of being reconciled.

§ 130.460. Modifications that require Department preapproval.

The responsible ACP party may propose modifications to the enforceable sales records or reconciliation of shortfalls plan specified in the ACP agreement. Proposed modifications shall be fully described in writing and forwarded to the Department. The responsible ACP party shall clearly demonstrate that the proposed modifications will meet the requirements of this subchapter. The responsible ACP party shall meet all applicable requirements of the existing ACP until a proposed modification is approved in writing by the Department.

§ 130.462. Modification of an ACP by the Department.

(a) The Department will modify the ACP as necessary to ensure that the ACP meets the requirements of this subchapter and that the ACP emissions will not exceed the ACP limit if the Department determines one of the following:

(1) The enforceable sales for an ACP product are no longer at least 75% of the gross Pennsylvania sales for that product.

(2) The information submitted under the approval process in § 130.454 (relating to application for an ACP) is no longer valid.

(3) The ACP emissions are exceeding the ACP limit specified in the ACP agreement.

(b) The Department will not modify the ACP without first affording the responsible ACP party an opportunity for a public hearing in accordance with § 130.471 (relating to public hearings) to determine if the ACP should be modified.

(c) If an applicable VOC standard specified in § 130.211 (relating to table of standards) is modified by CARB in a future rulemaking, the Department will modify the ACP limit specified in the ACP agreement to reflect the modified ACP VOC standards as of its effective date.

§ 130.465. Other applicable requirements.

A responsible ACP party may transfer an ACP to another responsible ACP party, provided that the following conditions are met:

(1) The Department shall be notified, in writing, by both responsible ACP parties participating in the transfer of the ACP and its associated ACP agreement. The written notifications must be postmarked at least 5 working days prior to the effective date of the transfer and shall be signed and submitted separately by both responsible parties. The written notifications shall clearly identify the contact persons, business names, mail and street addresses, and phone numbers of the responsible parties involved in the transfer.

(2) The responsible ACP party to which the ACP is being transferred shall provide a written declaration stating that the transferee shall fully comply with the requirements of the ACP agreement and this subchapter.

PUBLIC HEARING REQUIREMENTS

§ 130.471. Public hearings.

(a) Prior to issuance, extension, modification or revocation of a variance order or an ACP, the Department will hold three public hearings to take public comment on the application for a variance or on the proposed extension, modification or revocation of a variance order. The public hearings will be held in the eastern, central and western parts of this Commonwealth.

(b) The applicant shall publish notice of the time, place and purpose of the three public hearings in newspapers of general circulation at least 30 days prior to the hearings.

(c) The Department will publish notice of the time, place and purpose of the three public hearings in the *Pennsylvania Bulletin* at least 30 days prior to the hearings.

(d) At least 30 days prior to the hearings, the Department will make available to the public the following:

(1) The application for the variance or ACP or, if the hearings are for an extension, modification or revocation, the variance or ACP order.

(2) The proposed order for issuing, extending, modifying or revoking the variance or ACP.

Subchapter C. ARCHITECTURAL AND INDUSTRIAL MAINTENANCE COATINGS

§ 130.602. Definitions.

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

* * * * *

VOC—volatile organic compound—An organic compound which participates in atmospheric photochemical reactions; that is, an organic compound other than those which the Administrator of the EPA designates in 40 CFR 51.100 (relating to definitions) as having negligible photochemical reactivity.

* * * * *

[Pa.B. Doc. No. 08-1843. Filed for public inspection October 10, 2008, 9:00 a.m.]

Title 37—LAW

DEPARTMENT OF CORRECTIONS

[37 PA. CODE CH. 95]

County Correctional Institutions

The Department of Corrections (Department) amends Chapter 95, relating to county correctional institutions, to read as set forth in Annex A.

A. Statutory Authority

The Department is acting under the authority of section 506 of The Administrative Code of 1929 (71 P. S. § 186). Under section 506 of The Administrative Code of 1929, the Department is empowered to prescribe rules and regulations for the performance of the Department's business. A portion of the Department's business includes establishing standards for county jails and prisons, including physical facilities and standards for correctional programs of treatment, education and rehabilitation of inmates. See section 3(3) of the act of December 27, 1965 (P. L. 1237, No. 502) (Act 502) (61 P. S. § 460.3(3)). The Department is also empowered by section 3(4) of Act 502 to inspect county jails and to classify them, in accordance with the standards for county jails and prisons the Department adopted, as eligible to receive prisoners sentenced to maximum terms of 6 months or more but less than 5 years.

B. Purpose of the Regulation

This final-form rulemaking represents the second phase of the Department's modernizing outdated minimum standards for county prisons with regard to the physical facilities, safety and security standards, treatment programs and other correctional practices. This final-form

rulemaking completely replaces 15 sections of minimum standards that have remained unchanged since promulgated in 1979. Those sections are replaced with standards consistent with current, recognized professional standards for adult local detention facilities. The final-form rulemaking also creates a new section regarding telephone communication (§ 95.233a (relating to visiting prisoners)) while an obsolete section of standards regarding community rescinding involvement (§ 95.244 (relating to community involvement)). Additionally, six other sections of minimum standards are amended to make those sections consistent with current, recognized professional standards for adult local detention facilities.

In addition to updating outdated standards, the final-form rulemaking also accomplishes a number of other important objectives. First, the final-form rulemaking establishes a formalized inspection and inspection report procedure. Second, the final-form rulemaking specifically identifies minimum standards considered essential to the safety and security of the county prison, prison staff, inmates and the public. Third, the final-form rulemaking allows the Secretary of the Department (Secretary) to act in circumstances that require more immediate action than the annual inspection process. The rulemaking allows the Secretary to order a vulnerability analysis of the county prison when a final inspection report finds violations of the essential safety and security standards and finds that those violations may immediately impact the safety and security of the county prison, prison staff, inmates or the public. Fourth, a hearing process is established so that the Department can fairly and clearly meet its statutory duty to determine if a county prison should be classified as ineligible to receive prisoners sentenced to maximum terms of 6 months or more but less than 5 years. The final-form rulemaking limits use of the hearing classification process to when a county prison has been in repeated violation of the same essential safety and security standards for three consecutive annual inspections or when a vulnerability analysis reports finds violations of the essential safety and security standards may present an immediate threat to the safety and security of the facility, the staff, inmates or the public. In summary, the inspection report process and the hearing procedures are intended to assist county prisons in meeting the essential minimum safety and security standards, encourage county prisons in meeting all of the minimum standards and to limit a classification of ineligibility to receive longer sentenced prisoners to only the most serious of safety and security violations.

C. Public Comment

The Department received over 30 sets of public comments. A number of the public comments submitted were from local officials directly involved in the management of county prisons such as county prison administrators, county prison boards and county commissioners, as well as Statewide organizations representing those officials that included the County Commissioners Association of Pennsylvania (CCAP), the Pennsylvania County Prison Warden's Association and the Pennsylvania Sheriff's Association. Public comments were also received from prisoner advocate organizations including the Pennsylvania Prison Society, Pennsylvania Institutional Law Project and Justice and Mercy, Inc., as well as, individuals working inside some of the county prisons. The Independent Regulatory Review Commission (IRRC) and four State legislators also submitted comments.

Through a cooperative effort between CCAP and the Department, a County-State Liaison Committee (Commit-

tee) was previously established to discuss issues of shared concern between the Department and county prisons and to foster a productive working relationship between the State and local prison officials. The Committee meets quarterly. Since the close of the public comment period, the Committee provided a venue for review of the proposed rulemaking, the public comments and suggestions for improvements to the regulations. The public comments and the Committee discussions were tremendously helpful in developing the final-form regulations.

D. Summary of Comments, Responses and Major Changes to Proposed Rulemaking

Following is a summary of the major comments received following publication of the proposed rulemaking and the Department's response to those comments. A summary of major changes from the proposed rulemaking is also included.

1. Fiscal impact of the regulations

A number of commentators disagreed with the Department's statement in the Preamble that the proposed rulemaking is not expected to have a significant fiscal impact upon the Commonwealth, its political subdivisions or the general public. The most numerous comments regarding the fiscal impact of the proposed rulemaking concerned §§ 95.241(1)(ii) and 95.243(2) and (6) (relating to security; and treatment services).

Comment—Section 95.241(1)(ii)—This subparagraph required that the county prison conduct an initial staffing analysis to determine the staffing allotment and post assignments to safely operate the prison. The proposed language further required that the “results of this annual staffing analysis must serve as the required staffing allotment designated for the prison.” The commentators objected to this language because they believed it would have a significant fiscal impact by requiring the hiring of additional staff.

Response—The Department agreed that the final determination as to the number of staff hired by the prison should ultimately be a local decision based on resources and all other relevant factors. The next to the last sentence of this subparagraph in the proposed rulemaking was therefore deleted. The prison administrator, or a designee, is free to conduct that analysis in the manner deemed most appropriate to the local prison provided relief factors for each classification of staff are considered.

Comment—Section 95.243(2)—Numerous comments were received regarding the requirement in paragraph (2) that treatment services must include programming in the four areas of education, social services, alcohol and other drugs and counseling. The comments all asserted that these requirements represented an unfunded mandate for counties to provide various treatment services and that the decisions as to what services to provide should be left to the local prison authorities.

Response—The Department believes that the requirements of paragraph (2) do not represent a significant departure from the existing minimum requirements of Chapter 95 (relating to county correctional institutions) regarding treatment programming or from the current practice in virtually all of the 64 counties operating county prisons in this Commonwealth. More importantly, the Department believes these requirements allow greater flexibility to the county prison in providing treatment services than the existing standards by permitting local

prison authorities to allocate financial resources for the services most appropriate to the county prison's inmate population.

When comparing the existing standards to the final-form regulation, it must be noted that the term “counseling services” is defined very broadly in paragraph (1) of the existing standard. The third sentence of that paragraph states “[C]ounseling shall include group and individual counseling of a general nature; vocational rehabilitation counseling; social casework and group work, including self-help groups such as Alcoholic Anonymous and similar groups; testing and clinical psychological services; and psychiatric services.” That broad description of “counseling” essentially includes some aspect of the four areas of treatment services required by paragraph (2) of the final-form regulation as those four areas are defined in § 95.220a. For example, “[E]ducation” is defined as “[A]a treatment service using formal academic education or a vocational training activity designed to improve knowledge or employment capability, or both.” (emphasis added) “[S]ocial services” is defined as “[A]a treatment service designed to promote the welfare of the community and inmate, as through aid for physically and mentally handicapped, health maintenance, family development and employment opportunities.” “[A]lcohol and other drugs treatment” is defined as “[A]a treatment service designed to address the impact and ramifications of use or abuse of alcohol and other drugs so as to prevent illegal and/or destructive conduct and avoid addiction.” “[C]ounseling” is defined as “[A]a treatment service using planned interpersonal relationships to promote social adjustment and provide opportunities to express feelings verbally with the goal of resolving the individuals problems.” An element of all of these four treatment service areas is part of the definition as to what must be included in “counseling” under the existing standard.

The existing standard mandates the specific number of hours of “counseling” (again, as broadly defined) that must be provided based solely on the inmate population of the facility. The existing standard also mandates, to some degree, the treatment staff that must be available to provide the counseling services. Conversely, the final-form regulation does not mandate the number of hours these different treatment services must be provided, but only that some form of programming must be provided in these areas. Additionally, the final-form regulation does not mandate the manner in which the treatment services in these four areas must be provided. As with the existing standard, the final-form regulation allows these services to be provided by a treatment professional employed by the prison, someone under contract or a volunteer.

The Department believes that this new standard is not only consistent with the current recognized professional standards for adult local detention facilities, but also with the current practices in most all of this Commonwealth's county prisons. For example, all county prisons currently have some form of alcohol and other drug programming, at a minimum, in the form of 12 step programs for alcohol or drug, or both, addiction. All county prisons currently have some form of counseling services. Perhaps not all inmates, particularly short-term inmates, would have access to those services, but the final-form regulation does not mandate that. The final-form regulation leaves the decision as to which inmates receive what services largely up to the county prison.

Regarding education services, all county jails would currently be meeting the standard in the final-form regulation because all county jails make programming

available to inmates under 21 years of age to prepare for the general education development examination as mandated by State law.

Comment—Section 95.243(6)—A number of commentators objected to the requirement that a comprehensive treatment needs assessment be conducted on each inmate within 14 days following admission to the jail. The commentators asserted that such a requirement was inappropriate to the nature of short-term offenders housed in county jails and would necessitate the hiring of additional staff thereby significantly increasing the costs to the county without funding to pay for the additional expenses.

Response—Upon review of these comments and additional discussions with the Committee, the Department has substantially revised the minimum requirements for conducting a treatment needs assessment. The Department concurs that requiring an exhaustive treatment needs assessment for short-term inmates may strain county resources and result in the opposite of the intended purpose which is to make treatment services available to as many inmates as appropriate and possible. The final-form standard has therefore been changed so that paragraph (6) only requires that a treatment needs assessment be conducted within 90 days of an inmate's admission. Additionally, the follow-up treatment services recommended by the needs assessment must begin within 45 days of the needs assessment. The Department and members of the Committee reached a consensus that this revision will appropriately exclude short-term inmates (those with sentences under 3 months) from the requirement. The revision will substantially reduce or avoid any additional financial burden to the counties in conducting treatment needs assessments.

The Department also simplified the conducting of a treatment needs assessment by eliminating the more prescriptive requirements of what must be included in an assessment as listed in paragraph (6)(i)—(v). The elimination of the prescriptive requirements gives the counties flexibility in determining how those assessments should be conducted.

Comment—Additional paperwork requirements—Some commentators asserted generally that the proposed rule-making would cause a significant burden because of required additional paperwork.

Response—There are some new provisions in the final-form regulation that require documentation of a review, action, inspection or event. The intent of these provisions, in part, is to require that the county prison record or confirm in writing that the required action took place. In most instances, that recording or written confirmation can be done in the location, manner or form that the county prison deems appropriate. The following provisions do not require a separate report or that the documentation take any particular form. The Department believes the county prisons can comply with the following documentation requirements with a minimal investment of time or effort and without any significant, additional paperwork requirements:

Section 95.221(1)—requires documentation of the training of all corrections personnel in each employee's personnel file.

Section 95.224(6)—requires documentation of the annual review of inmate rules and staff procedures.

Section 95.223(2)—requires documentation in an inmate's file that the inmate received orientation in the prison's rules, procedures and programs listed in the paragraph (1).

Section 95.230(2)—requires documentation that the person in charge of food services on any given shift, if not certified, has been trained as to food safety and sanitation procedures established in written local policy.

Section 95.241(1)(vi)—Warden Wetzel commented that this documentation requirement would increase paperwork.

Section 95.241(3)(iii)—requires documentation of an annual review of the county prison's emergency plans.

These requirements can be met by something as simple as a notation, signature and date at the bottom of a policy or on a separate sheet following the policy stating that the required review has taken place. Regarding § 95.241(1)(vi), the documentation could be as simple as a notation and signature in a block logbook that a visit or inspection has taken place. The requirement to document the training or qualification of personnel (§§ 95.221(1), 95.230(2) and 95.241(2)(ii)(H)) and the orientation of inmates can be met by having the appropriate personnel sign a receipt, acknowledgement or certification and placing that in the employee's personnel file. A similar practice would meet the requirement to document orientation of all inmates under § 95.223(2).

The documentation provisions listed may require a greater investment of time to complete than the previous provisions.

Section 95.241(2)(ii)(E)—requires a documented monthly inventory of the stored restraints, chemical agents, stun devices, batons and firearms.

Section 95.241(4)(iv)—requires documentation of a quarterly inspection of the keys, access card or other security devices.

Section 95.248(2), (3), (8) and (9)—these provisions require documentation of the required, periodic sanitation inspections, inspections of the physical plant and equipment, testing of the emergency back-up power system, fire/smoke alarms or detectors and the conducting of fire drills.

The Department believes that any additional investment of time to complete these documentation requirements is not substantial, nor unreasonable in light of the nature of the information. It is vitally important to the safe and secure operations of the prison that prison management know whether the restraints and weapons are accounted for and in usable condition. The same consideration is true for the keys, access cards or other security devices. Again, the regulation does not mandate the manner or form of the documentation. Whether the county prison creates checklists for these inventories or requires written reports to the prison administrator or some other method is a decision left to the county prison. The Department has found that most county prisons have service contracts for the maintenance and testing of major physical plant equipment such as boilers, any emergency back-up power system or the fire/smoke alarm system. The requirement to document the testing of these systems does not represent a change from the way almost all county prisons currently operate. The outside vendor's service or testing report would be sufficient documentation to meet the requirements of § 95.248(3), (8) and (9).

Section 95.246(1)(v) and (2)(v)—requires the documentation and reporting of any death and any sexual assault

or alleged sexual assault to the United States Department of Justice. Federal law mandates these additional reporting requirements.

Section 95.242—in the final-form regulation formalizes some additional informational reporting requirements beyond the existing regulation. Paragraphs (1) and (3) will require county prisons to submit a Monthly County Prison and Jail Data report and an Annual County Prison General Information Report. These paragraphs will put into regulation the Department's long-standing practice of collecting statistical information from the county prisons. With only a few exceptions, all county prisons in this Commonwealth provide this information to the Department. The Department will provide the reporting forms. The county prisons are not responsible for creating the forms. Also, the regulation has been written so that electronic filing of the information can be implemented. In that the county prisons have this information readily available and most all of the counties have been reporting this information, this requirement will not require any additional paperwork beyond existing practices.

To relieve some reporting requirements, paragraph (2) of the final-form regulation eliminated the requirement that extraordinary occurrence reports (EOR) be submitted to the Department within 48 hours of the event. The final-form regulation now requires that a County Extraordinary Occurrence Monthly Report be submitted within 30 days of the end of the reporting month. Again, the Department will supply the report form to the county prisons. The monthly report will be more of a statistical compilation of events qualifying as extraordinary occurrences as defined in paragraph (2) requiring less detail than a single EOR. The Department believes this change in reporting practice will be substantially easier for county prisons than the current 48-hour reporting provision.

2. Reasonableness of the regulations

Comment—Noting that a number of commentators disagreed with the Department's assertion that the amendments afford county prison administrators with greater flexibility, IRRRC requested that the Department explain "how amendments to each section provide County Correctional Institutions (local prison) with greater flexibility in carrying out their duties."

Response—The Department's intent in revising the Chapter 95 regulations is first and foremost to modernize outdated standards so that the minimum requirements for county prisons in this Commonwealth are consistent with the current recognized professional standards for adult local detention facilities. In many important ways, as described, the revised standards in the final-form regulation do provide greater flexibility to county prison administrators than existing standards. As with the Phase 1 revisions promulgated in February 2000, the new standards require county prisons to develop written local policy that incorporates the minimum requirements of Chapter 95. The Department's intent is to permit county prisons maximum flexibility in establishing the details of policy and procedures most appropriate for that facility.

The Department does not assert that all of the revisions in the final-form regulations afford greater flexibility to county prison administrators than existing standards. Prison operations and administration have evolved significantly in the almost 30 years since the existing standards were promulgated. A number of the existing standards are outdated to the point of no longer providing meaningful standards for current-day prison operations.

In the process of modernizing those standards, some of the revised standards are necessarily more prescriptive than existing standards. The Department's intent is to limit the instances of somewhat more stringent requirements to those standards that directly impact on safety and security. The Department does not believe that any of the more stringent requirements are unduly burdensome either operationally or financially given the importance of this goal.

Described are instances when the revised standards in the final-form regulations provide greater flexibility to county prison administrators than the existing standard:

Section 95.241—Security. The existing language of paragraph (1) requires staffing levels for a county prison based solely on the inmate population, specifically requiring a minimum staffing ratio of one officer per shift for every 15 inmates. The revised standard in paragraph (1) of the final-form regulation contains no required, specific ratio of officers to inmates. The revised provision instead requires only that the county prison conduct an initial staffing analysis, thereafter reviewed on an annual basis, which takes into consideration the logical relief and leave factors. The revised provision does not limit this determination to only a mathematical calculation, but instead allows the county prison to consider any other factors administrators deem relevant to the analysis.

Paragraph (1)(iii) in the final-form regulation gives greater flexibility to the county prison in making male and female staff assignments generally requiring that reasonable accommodation to inmate privacy be maintained. The existing standard is more restrictive by specifically limiting the movement of male officers to enter female housing only in the presence of a "matron."

One commentator objected to the requirements of paragraph (1)(v) listing the specific job duties for staff assigned to the 24 hour control center. The Department concurs with these comments. The second sentence of the provision listing specific job duties has been deleted from the provision.

Paragraph (4) regarding *access control*, is a prime example of how the revised standards in the final-form regulation replaced seriously outdated standards (see paragraph (3) of the existing standard). The existing standards concern only keys. The revised standard recognizes that many facilities now use other means of accessing secure areas.

Paragraph (6) regarding *tool/equipment control*, is another example of how the revised standards replace outdated and inadequate existing standards (see paragraph (8) of the existing standard). The existing standard does not include any minimum requirement for a county prison to inventory and safely secure tools instead addressing those issues only under "recommended guidelines."

Two commentators submitted comments objecting to the tool control provisions of § 95.242(6)(v) in the proposed rulemaking as being cumbersome and likely to require the hiring of additional staff. Upon further discussion of the issue with the Committee, the Department concurred with this concern. Paragraph (6)(v) in the final-form regulation has therefore been revised to eliminate the text that established "how" a tool inventory and receipt system had to operate. The final-form provision now only requires that an inventory and receipt system must be established by written local policy leaving the specifics as to how to implement that system to the discretion of the county prison.

Section 95.243—Treatment services. A number of comments were received concerning this provision. Most of those are discussed in the context of the comments under Comment No. 14. With regard to the issue of whether the revised standards are overly prescriptive, the Department asserts that, taken as a whole, the provisions of § 95.243 in the final-form regulation, are consistent with the current recognized professional standards for adult local detention facilities while still allowing county officials and prison administrators sufficient flexibility to make decisions appropriate to their facility.

The Department's statutory mandate found in section 3(3) of Act 502 includes establishing standards for county jails that include "standards for correctional programs of treatment, education and rehabilitation of inmates." The Department believes the treatment services requirements in the final-form regulation provide significantly more flexibility to county jails in meeting inmate treatment needs than the existing requirements of § 95.243. The existing treatment section sets very specific requirements for the number of hours of counseling services that must be provided per week as well as specific staffing requirements based solely on the jails average daily inmate population. This numbers-only approach is in fact inflexible and fails to afford county prisons with sufficient discretion to meet the treatment needs of the inmate population based on other relevant factors.

It is important to note that the term "counseling services" as used in paragraph (1) of the existing section is defined broadly so that it "shall include group and individual counseling of a general nature; vocational rehabilitation counseling; social casework and group work, including self-help groups such as Alcoholics Anonymous and similar groups; testing and clinical psychological services; and psychiatric services." "Counseling services" in the existing regulation encompasses, in more specific terms, much of the four areas for treatment services required in § 95.243 of the final-form regulations.

Most importantly, and contrary to the concerns of the commentators, the final-form regulation does not require how these treatment services must be provided. Section 95.243 does not specify the amount of hours that must be provided in these treatment areas, which inmates must be provided which services, nor the manner in which the treatment services are to be provided. Those decisions are left to judgment of the county jail administrators and treatment staff. As with the existing standard, the final-form regulation permits a county prison to provide these services through a person employed by the prison, someone under contract with the prison, through a volunteer or any combination thereof.

The final-form regulation also provides county prisons greater flexibility in terms of who must deliver those services. Paragraph (3) allows these services to be delivered by a treatment professional (defined in § 95.220a) or a person certified, licensed or trained to provide the programming. The existing standard requires that a qualified counselor who preferably possesses a Master's Degree, but no less than a Bachelor's degree in behavioral sciences deliver the services. Furthermore, if the treatment services are delivered by a contracting agency or a professional volunteer, those persons must still meet the standards for qualified counselor. The existing standard also requires all county jails with populations over 75 inmates, but below 175, to have two full-time treatment personnel, one of whom must be a treatment supervisor. For jails with average daily populations of 175 inmates or

more, the existing standard requires providing an additional qualified counselor for every 75 inmates over the first 75. Those specific staffing mandates have all been eliminated in the final-form regulation. The Department believes the existing standards provide more of a mandate to county jails as to how to provide the required counseling services than the revised standards in the final-form regulation. The intent of the final-form treatment services provision is to establish the required areas in which treatment services must be provided, but to leave the decisions as to the level of services and how those services are provided up to the county jail administrators.

Section 95.244—Community involvement. Upon further review of this section, the Department determined that the neither the existing standards nor the requirements in the proposed rulemaking advance important interests in safety and security, programming or other operational standards and, therefore, this section is being rescinded.

Additional comments—Section 95.222(1)(iv)—Admissions. One commentator objected to the requirement that an unclothed search of an arrestee take place only when there is reasonable belief or suspicion that the arrestee be in possession of an item of contraband. The commentator stated that the requirement was impractical and unnecessary due to the unique operational considerations of that county prison system noting that all arrestees are admitted into that system postarrestment unlike other county prisons.

*Response—*The Department concurred that the new standard should not adversely impact the unique circumstances of that county prison system. For this reason, the specific requirements regarding the use of strip searches were eliminated and the final-form regulation now requires that written local policy state the type of search to be performed and any restrictions on the use of strip searches.

3. Implementation procedures.

*Comment—Effective date—*The Preamble to the proposed rulemaking stated that the regulations will be effective upon final-form publication in the *Pennsylvania Bulletin*. IRRC recommended that the Department consider an effective date that occurs 6 to 12 months after final-form publication to allow county prisons time to implement the new standards.

*Response—*The Department concurs with this recommendation. The final-form publication will establish the effective date for the new standards as 12 months after final-form publication.

*Comment—Written local policy—*IRRC stated its understanding of the Department's intent as requiring the county prisons to develop their own written policy that reflects the minimum requirements of Chapter 95. IRRC recommended that each paragraph begin with the phrase "Written local policy must provide . . .," or similar phrasing.

*Response—*The Department concurs with the recommendation. These changes have been made in the final-form regulation where necessary in §§ 95.222, 95.224, 95.229, 95.230, 95.232, 95.233, 95.233a, 95.235, 95.237, 95.239, 95.240, 95.241, 95.242, 95.243 and 95.248.

4. Section 95.220a. Definitions—reasonableness; implementation procedures; clarity.

*Comment—*IRRC listed 18 definitions that contained substantive provisions suggesting that those substantive provisions either be deleted or placed in the body of the

regulations. One commentator also objected to many of the definitions as being substantive in nature.

Response—The Department concurs with this recommendation. The following changes to definitions in the final-form regulation have been made:

Bed capacity—the substantive language “and that are only utilized in areas approved for residential occupancy by the Department of Labor and Industry or local code authority” has been deleted from the definition.

Community resources—the second sentence of the definition has been deleted.

Counseling—the second sentence and the three types of counseling have been deleted.

Financial audit—the second sentence of the definition has been placed in the body of the regulation at the end of § 95.239(3).

Health care screening—the substantive provisions in the second and third sentences of the definition have been placed in the body of the regulation in § 95.232(1).

Health care training—the second sentence of the definition has been deleted.

Major infraction—the definition has been deleted and some of the substantive language has been placed in the body of the regulation in § 95.240(2)(i).

Minor infraction—the definition has been deleted and some of the substantive language has been placed in the body of the regulation in § 95.240(2)(ii).

Noncontact visitation—the second sentence of the definition has been deleted.

Preinspection audit—the definition has been deleted. As described under Comment No. 5, the inspection process in § 95.220b has been revised so that preinspection audits have been eliminated.

Prison inspection—the second sentence of the definition has been deleted and the first sentence revised to conform to the revisions to § 95.220b.

Procedure—the second and third sentences of the definition have been deleted.

Security perimeter—the second sentence of the definition has been deleted.

Segregation—the second sentence of the definition has been deleted.

Training—the second sentence of subparagraph (i) has been placed in the body of the regulation as the second sentence in § 95.221(5). Subparagraph (ii) in the definition has been deleted.

Treatment professional—the first sentence of the definition has largely been deleted.

Treatment training—the second sentence of the definition has been deleted.

Vulnerability analysis—the second and third sentences of subparagraph (i) have been deleted and the remaining text of the definition has been combined into one sentence.

Comment—Alcohol and other drugs treatment—IRRC recommended that the phrase “or both” be deleted from the definition.

Response—The Department concurs and the phrase has been deleted.

Comment—Bed capacity—IRRC recommended that since the phrase “recognized professional standards” is

referenced in the definition, the specific standards should be referenced in the definition.

Response—The Department concurs and reference has been made to the American Correctional Association's standards for adult local detention facilities.

Comment—Building code—IRRC recommended that since the definition references “Federal, state and local regulations that dictate construction of a prison,” the definition should specifically reference the regulations that should be followed.

Response—This definition has been deleted as the term is used in only one instance and its usage is self-explanatory. Furthermore, each local prison would need to identify and comply with any applicable building codes separate from the applicability of these regulations.

Comment—Contraband—IRRC recommended that the phrase “or on prison grounds” be deleted from the definition since the “prison grounds” are by definition part of the prison.

Response—The Department concurs and the phrase has been deleted.

Comment—Force, use of—IRRC and numerous commentators stated that the use of force to effect compliance with an order is an accepted standard in correctional practice and should be included in the definition. The commentators further noted that this omission would make it difficult to maintain order in county prisons.

Response—This omission was an oversight. The phrase “to effect compliance with the rules and regulations of the facility when other methods of control are ineffective or insufficient” has been added to the definition. The definition is now consistent with accepted correctional practice and the Department's own use of force definition and policy.

Comment—Life safety code—IRRC recommended that the last sentence of the definition, which states, “Two chapters are devoted to correctional facilities.” be deleted.

Response—The Department concurs and the sentence has been deleted.

Comment—Major infraction and minor infraction—IRRC noted that a number of commentators believed that these definitions do not provide county prisons with sufficient flexibility regarding inmate misconducts. More specifically, several commentators stated that the definitions were not consistent with common jail practices that allow for some rule violations being sanctioned in an informal manner and without hearings. IRRC also requested that the Department explain the need for including major and minor rule infractions in the regulation.

Response—As a result of discussions with the Committee and review of the public comments, the Department has revised § 95.240(2) to allow county jails greater flexibility to respond to inmate rule violations. The revision allows a county jail to define a third category of rule infractions in its written local policy by defining a category of rule infractions that do not rise to the level of major or minor infractions. A new paragraph (7) has been added allowing for informal resolution of this third category of rule infractions. Paragraph (7) also requires that an inmate's participation in the informal resolution of these rule infractions be on a voluntary basis only.

The concept of breaking down inmate rule violations into major and minor infractions is consistent with the current recognized professional standards for adult local detention facilities and in fact gives county jails greater

flexibility in responding to inmate rule violations. The current standard in § 95.240 required that discipline for the violation of any prison rule could not be imposed unless the basics of due process were provided to the inmate. Those basic due process requirements found in paragraph (2) are that the inmate be informed of the offense charged in writing, has had an opportunity to present a defense and has been found guilty of the charge by an impartial party or board designated by the prison administrator. The existing standard requires these procedures regardless of the gravity of the rule violation or the level of the sanction imposed. The final-form regulation eliminates the across-the-board procedural requirements by tying the level of procedure due for a rule violation to the seriousness of the violation and the level of the sanction that can be imposed.

Comment—Prison administrator—IRRC recommended that the phrase “regardless of local title” be deleted from the definition as unnecessary.

Response—The Department concurs and the phrase has been deleted.

Comment—Restraint—Since the definition references devices as “authorized,” IRRC recommended that the term should either be deleted or the regulation specify how a device is authorized.

Response—The Department concurs. The phrase “authorized by written local policy that is” has been added to the definition to clarify that the written local policy needs to specify which restraints are authorized for use in the county jail.

Comment—Treatment services—IRRC recommended that this term be defined since it is used throughout the proposed rulemaking.

Response—The Department concurs with this recommendation. A definition of the term has been added to the final-form regulation.

5. *Section 95.220b. Scope—statutory authority; reasonableness; implementation procedures; clarity.*

The Department received extensive comments on § 95.220b from IRRC and a number of commentators. All of the comments were submitted under the three general topics discussed as follows:

Comment—Inspection and declassification process—IRRC or the commentators, or both, stated six common objections to the inspection and declassification process described in the proposed rulemaking:

(a) IRRC and a number of commentators suggested that the term “declassification” was unclear and should be defined.

(b) Commentators objected to the lack of consultation with, and an appeal process for, county prisons found to be in noncompliance of the standards. IRRC noted its agreement with the commentators and recommended that both a consultation and appeals process be included in the final-form regulation.

(c) Two commentators and IRRC objected to the proposed rulemaking because it allowed for the possibility that a county prison could be declassified for noncompliance with standards not related to security. It was recommended that “declassification” be limited to noncompliance with the same safety and security-related standards that could trigger a vulnerability analysis under paragraph (6) of the proposed rulemaking. IRRC also recommended that the final-form regulation specify that

declassification occur only in instances when there is noncompliance with security standards.

(d) IRRC recommended that the language of the final-form regulation describe who will pay for mandatory and voluntary vulnerability analyses.

(e) A number of commentators objected to the proposed rulemaking because it failed to clarify what would happen with pretrial detainees and inmates if a local prison is “declassified.”

(f) IRRC commented that this section lacked specificity regarding preinspection audits and time frames for certain actions in the inspection and declassification process.

Response—Inspection and declassification process—The Department found the public comments and the subsequent discussions with the Committee on these issues to be extremely valuable. That process resulted in important revisions to this section that the Department believes clarify the intent of the process and the procedures themselves. The Department’s overriding goal in establishing the inspection and classification procedures is to ensure that county prisons are meeting the minimum standards that it believes are essential to the safe and secure operation of those facilities. The Department is fully cognizant that these are the same goals of the county prison administrators, county prison boards and the staff working at those facilities. A second objective of the inspection and classification procedures, as revised, is to assist county prisons in complying with the minimum standards so that the common goal of safe and secure correctional facilities is achieved. To that end, § 95.220b in the final-form regulations have been revised as explained:

(a) The Department concurs with the comments that use of the term “declassification” in the proposed rulemaking has caused confusion, particularly since that specific term is not used in the authorizing statute itself. The term “declassification” is therefore not used in the final-form regulation. The Department believes the section is clarified by instead using the language of the authorizing statute. Paragraphs (11)—(13) now describe the purpose of a hearing as determining whether a county prison should be “classified as ineligible to receive prisoners with a sentence of 6 months or more but less than 5 years.”

(b) The Department agrees with the recommendations of IRRC and the commentators to include an appeal or consultation, or both, process in the final-form regulation. Paragraph (3) of the final-form regulation establishes a procedure that allows for input from the county prison before a final inspection report is issued. Specifically, the regulation requires the Department’s inspector to issue the preliminary findings of the inspection to the county prison administrator and the governing county prison authority. The governing county prison authority or designee will then have up to 30 days to submit a written reply to the preliminary findings to the Deputy Secretary for Administration. The Deputy Secretary then has preliminary findings and a response from the county prison, which may include any relevant documentation, before issuing a final inspection report. The Department agrees that allowing input from the county prison will result in a fairer and more complete process. The written response offers the county prison an opportunity to dispute the preliminary findings or to explain other policies or practices that could mitigate the preliminary findings of the inspector. The regulation does not include an appeal from the final inspection report issued by the Deputy Secre-

tary. A county prison cannot be classified as ineligible to receive certain inmates based solely on the findings in an inspection report. That classification cannot happen without a hearing and resulting order with specific findings by the Secretary. Should such an order be issued, the county prison would have the right to appeal that order to the Commonwealth Court under 42 Pa.C.S. § 5105 (relating to right to appellate review). The Department also believes that the changes permitting a response by the county prison to preliminary findings, including the submission of documentation, allows the Department to consider any unique circumstances faced by a particular county before issuing inspection report findings.

(c) The Department agrees with the recommendation of IRRC and various commentators to limit an “ineligibility” classification of a county prison to noncompliance with safety and security related standards. Paragraph (2) of the final-form regulation now lists the specific sections and paragraphs that are deemed to be essential to the safety and security of the county prison, prison staff, inmates and the public. The provisions that follow establish that only a violation of an essential standard could lead to a classification hearing by the Department. The final-form regulation limits the possibility of a classification hearing even further by requiring not only a violation of an essential safety and security standard, but a finding by that this violation constitutes an “immediate threat to the safety and security of the county prison, prison staff, inmates or the public.”

(d) The Department agrees with IRRC’s recommendation that the final-form regulation describe who is responsible for paying the costs of a mandatory or voluntary vulnerability analysis (VA). Under paragraph (8) of the final-form regulation, the Department bears the costs of the VA when the Department orders the VA. Under paragraph (10) of the final-form regulation, the county bears the costs of the VA when it is requested by the county. The Department has offered several training sessions to teach county prison officials how to conduct a VA. A number of county prison officials and staff have been participating with the Department in planning and offering additional VA training sessions.

(e) The section 3(3) of Act 502 authorizes the Department to establish standards, inspect and classify the county jails according to those standards as eligible to “receive prisoners sentenced to maximum terms of six months or more but less than five years.” The statute does not specifically address what happens to those inmates if a jail is classified as ineligible to receive these prisoners. The Department believes that the appropriate reading of the statute restricts a classification action to limiting a county prison from receiving additional prisoners with the defined sentences. The statute does not authorize that all prisoners with the defined sentences already in the prison be removed. In discussions with the Committee, the Department stated that if a county prison is classified as ineligible to receive these prisoners, that county remains responsible for arranging for incarceration of individuals sentenced by the county’s court of common pleas in another facility. Pennsylvania law (61 P.S. § 72) permits the transfer of inmates in a county prison to another county “upon such terms and conditions as the counties may determine.” It is not an uncommon practice for a one county to pay another county to house a prisoner sentenced by the initial county’s court of common pleas when there is no space in the county prison.

(f) The Department agrees with IRRC’s recommendation to provide for specific steps and time frames for the

inspection and declassification process. As described in part in subsection (b) of this response, the final-form regulation contains specific time frames that define each step of the inspection process (see paragraphs (1), (3), (4) and (9)). The inspection procedures have also been greatly simplified by eliminating the differing prison inspection cycles consisting of preinspection audits and prison inspections, which were described in paragraphs (1)–(4) of the proposed rulemaking. Each county prison is now subject to an annual prison inspection. County prisons are only subject to a biannual inspection if the county prison is in full compliance with all of the minimum requirements of Chapter 95.

Comment—(2)—Statutory authority—A number of commentators questioned the Department’s statutory authority to promulgate standards for county jails generally and to establish declassification procedures specifically. The commentators stated that the Department’s promulgating standards and a scheme to declassify county jails for violation of those standards directly conflicts with statutory provisions granting local prison boards the authority to operate county jails. Similar objections were made regarding the Department’s authority to order a vulnerability analysis.

Response—Statutory authority—The Department is empowered by section 506 of The Administrative Code of 1929 to prescribe rules and regulations for the performance of the Department’s business. The Department’s business includes establishing standards for county jails and prisons, including physical facilities and standards for correctional programs for treatment, education and rehabilitation of inmates. See section 3(3) of Act 502. Section 3, paragraph (4) of Act 502 empowers the Department to inspect county jails and to classify them, in accordance with the standards the Department adopted, as eligible to receive prisoners sentenced to maximum terms of 6 months or more but less than 5 years. The language of these statutory provisions is straightforward and unambiguous. The statute states that the Department has the duties of establishing standards, inspecting according to those standards and classifying them in accordance with those standards. The Department’s authority to classify county jails is limited to determining if the jail is eligible “to receive prisoners” with sentences within the parameters designated in the statute.

The Department disagrees with the commentators’ assertion that the Department necessarily lacks these powers because they conflict with the statutory authority granted to local prison boards to operate county jails. These various statutory provisions are not in conflict either logically or according to the rules of statutory construction. The object of statutory construction is to give effect to the intent of the General Assembly. Section 1921 of the Statutory Construction Act of 1972, 1 Pa.C.S., states that “every statute shall be construed, if possible, to give effect to all its provisions.” It is not problematic to give full meaning to the above-cited duties of the Department and the statutory provisions granting a local prison board the authority to operate and manage the county jail. Act 502 grants the Department oversight on county prisons that is limited to the establishment of standards, inspection according to those standards and classifying the jails as eligible to receive the defined class of inmates. The local prison boards are empowered with operating and managing county jails within those standards established by the Department. These differing statutory powers are not incompatible.

The Department also disagrees with the commentators’ assertion that the Department does not have the author-

ity to conduct a VA. The final-form regulation has been intentionally structured so that the VA process is an extension of the inspection process. A VA is authorized based on findings of noncompliance with the essential standards and a finding that the noncompliance may present an immediate threat to the safety and security of the facility. The Department believes the VA process provides a very important supplement to the routine inspection-classification process by allowing the Department to respond quickly to those situations when a final inspection report finds serious and immediate safety and security problems at a facility. A VA report will, in the short term, identify actions the county prison can take to mitigate or eliminate any immediate threat to safety and security. If the county prison is unable or unwilling to take those actions, the VA process allows the Department to move to a classification hearing, if necessary, far more quickly under paragraph (11) instead of proceeding through the 3-year, progressive inspection process described in paragraphs (6) and (7). More importantly, the Department believes that the issuance of a VA report is more likely to result in identifying practices and actions that can be taken by the county prison to mitigate or eliminate any immediate threats to safety and security, thus avoiding the need for a classification hearing.

Comment—(3)—Elimination of ADA/NCCHC accreditation waiver—The proposed rulemaking eliminated a waiver of the subchapter in its entirety for those counties achieving American Correctional Association (ACA) accreditation using adult local detention facilities standards. Also eliminated was a waiver of the requirements of § 95.232 (relating to medical and health services) for those counties achieving National Commission on Correctional Health Care (NCCHC) accreditation. A number of commentators objected to the elimination of these waivers claiming that the standards for both ACA and NCCHC accreditation were far more exacting than the standards of this chapter. They claimed that the standards were therefore unnecessary for those counties achieving either of these accreditations.

Response—There are several reasons for eliminating the waiver provisions. Foremost, the Department believes that its statutory duty is to establish standards and inspect according to those standards and that those duties should not be relinquished to a nongovernment entity. While the ACA and NCCHC standards are equivalent to or exceed the standards established by the Department, the accreditation process takes place every 3 years. The accreditation process may therefore not discover newer, problematic developments. Additionally, only one county prison in this Commonwealth has ever sought and received ACA accreditation. Although a number of counties are accredited by the NCCHC, the Department believes there is value to conducting a full inspection of all aspects of a county prison's operations including its health care facilities.

6. *Section 95.224. Inmate rules and staff procedures—reasonableness.*

Comment—Paragraph (2) stated that new or revised rules shall be disseminated to staff, and when appropriate, to inmates prior to implementation. IRRC recommended that the final-form regulation specify when it would not be appropriate to disseminate new or revised rules to inmates.

Response—The phrase “when appropriate” has been deleted so that new inmate rules shall be disseminated to inmates in all instances.

7. *Section 95.229. Bedding—reasonableness.*

Comment—As noted by IRRC, some commentators expressed concern that these provisions fail to recognize the need for temporary bedding when a county prison must process a large number of inmates in a short period of time. In those circumstances, the county prison may need to use temporary bedding that does not meet the requirement that the bedding be at least 12 inches off the floor. IRRC recommended that the regulation include an exception to the 12-inch requirement for a limited time to manage a dramatic increase in population.

Response—The Department concurs with this recommendation. The final-form regulation contains a new paragraph (2) that allows for an exception to the requirements of paragraph (1) in emergency circumstances. Consistent with the intent of the Chapter 95 regulation, the revised provision requires the county prison to establish written local policy that defines the emergency circumstances that would require the use of temporary bedding. As a result of discussions with the Committee, the revised regulation places two reasonable time limits on the use of the emergency exceptions to the bedding requirements. An individual inmate may not be subject to temporary bedding for a period exceeding 30 days. The regulation limits the use of any temporary bedding arrangements to no more than 90 consecutive days in recognition that long-term use of temporary bedding arrangements by a county jail may create additional operational problems.

8. *Section 95.230. Food services—clarity.*

Comment—IRRC suggested that paragraph (2) of the regulation specify what type of certification will be acceptable.

Response—The Department concurs and the regulation has been revised. The fourth sentence of paragraph (2) has been revised to specify that the certification be “in accordance with 3 Pa.C.S §§ 6501—6510 (relating to the food employee certification act).”

9. *Section 95.232. Medical and health services—clarity.*

Comment—IRRC recommended that the reference to “certifying health organization” under paragraph (8) be more specific.

Response—The Department concurs and the regulation has been revised. County jails utilize various health organizations to directly conduct basic first aid and cardiopulmonary resuscitation training to its employees or to certify county jail employees as trainers. To allow county jails the choice of obtaining these training services from different organizations, the last sentence of paragraph (2) was revised to state that all corrections personnel be certified “by the organization that conducts the training.”

Comment—IRRC also recommended that the references to State and Federal law in paragraph (9)(ii) include specific citations to the applicable laws.

Response—The Department concurs with this recommendation. The appropriate statutory reference has been added to paragraph (9)(ii).

10. *Section 95.235. Work programs—clarity.*

Comment—Paragraph (3) requires local prisons to provide “some form of compensation” to inmates participating in work programs. IRRC noted that since the term compensation is defined, the phrase “some form of” should be deleted.

Response—The Department concurs with the recommendation. The phrase “some form of” has been deleted from paragraph (3).

Comment—Paragraph (4) states that inmate working conditions comply with “all applicable federal, state or local work safety laws and regulations.” Also, paragraph (5) references “applicable law.” IRRRC recommends that the regulation should include references specific citations to those laws and regulations.

Response—Upon further review of the Department’s inspection practice, reference to inmate working conditions complying with all applicable Federal, State or local work safety laws and regulations has been deleted from the final-form regulation. The Department believes that the applicability of various Federal, State and local laws is open to interpretation and may vary from county to county. Department inspectors would not be qualified to resolve those questions of law. The Department’s interests in conducting inspections in this area is to insure that the county prison’s written local policy address that inmates be issued appropriate clothing and tools for particular work and that they are given appropriate direction on the proper use of equipment and tools.

Comment—Two commentators objected to the last sentence of paragraph (5) believing that it required county jails to have the same work programs for both male and female inmates and that it would not be possible to comply with such a requirement.

Response—The Department recognizes that county prisons housing both male and female inmates cannot practically offer identical work programs for male and female inmates. To clarify that paragraph (5) does not establish such a requirement, the Department has deleted the second sentence of paragraph (5). The remaining language requires that county prisons establish a written local policy prohibiting discrimination regarding access to a work program.

11. *Section 95.237. Religion—need; implementation procedures.*

Comment—Some commentators objected to the language in paragraph (1) of the proposed rulemaking as too broad and possibly establishing an inmate’s right to participate in any religious activities a matter of choice.

Response—The Department concurred with the commentators concerns that the previous requirement of paragraph (1) was too broadly stated. The first sentence of paragraph (1) was therefore revised to revert to the existing standard with added language requiring that the requirement be put into written local policy. This change will result in keeping the decision-making process as to accommodating religious activities requests with the local prison management.

Comment—Numerous commentators questioned the need for the paragraph (2) requirement that individuals seeking to provide religious guidance to inmates must have clinical pastoral education or equivalent specialized training and endorsement by the appropriate religious certifying body. The commentators expressed concern that these requirements would limit religious programming in some jails because religious activities are provided by volunteers without the training.

Response—The Department understands and concurs with these stated concerns. The educational, training and certification requirement have been deleted from the final-form regulation.

12. *Section 95.240. Inmate disciplinary procedures—need; implementation procedures.*

Comment—As noted in IRRRC’s comments on the definitions of major and minor infractions, IRRRC suggested that the Department explain the need for including two levels of infractions.

Response—See the Response in Comment No. 4 previous—*major infraction and minor infraction.*

13. *Section 95.241. Security—need; implementation procedures; clarity.*

Comment—Paragraph (1) Supervision of inmate—IRRC noted that subparagraph (ii) requires an initial staffing analysis to be conducted and that the results of the annual staffing analysis be available at all times. IRRRC suggested that the final-form regulation specify who conducts the staff analysis and who has access to it.

Response—The Department concurs with the recommendation. Subparagraph (ii) of the final-form regulation requires that the staffing analysis be conducted by the prison administrator or a designee and that the information on the number and type of positions filled and vacant be available for review by the Department’s inspectors.

Comment—Paragraph (1) supervision of inmates—IRRC questioned the need for the subparagraph (v) requirement that local prisons maintain a permanent log to record routine information, as well as other information.

Response—The Department recognizes this concern. To allow for the varying practices in county prisons, the specific requirement to maintain a permanent log and shift reports to record the listed information is deleted from the final-form regulation.

Comment—Paragraph (2)(i) use of force—As with IRRRC’s comment regarding the definition of “force, use of,” IRRRC recommended that paragraph (2) be amended to allow force to effect compliance with an order.

Response—The Department concurs. See the Response to Comment No. 4 for—*Force, use of.*

Comment—IRRC noted that the terms “authorized equipment” and “recognized certification period” used in paragraph (2)(ii)(H) are vague and recommended that those terms be defined.

Response—The Department concurs. Paragraph (2) in the final-form regulation clarifies the use of those terms. Paragraph (2)(ii) adds the term “authorized equipment such as” to clarify that the county prison’s written local policy must specify the equipment that prison staff may use in applying force (such as, the physical restraints, chemical agents, stun devices, batons and firearms).

Use of the term “recognized certification period” is deleted and paragraph (2)(ii)(H) is revised to clarify that all prison staff authorized to use the equipment listed in policy must demonstrate competency in use of the equipment in accordance with the training or certification standards recommended by the manufacturer of that equipment.

Comment—Paragraph (5) contraband control. Subparagraph (ii) stated that individuals “entering or leaving” the prison will be subject to search. IRRRC asked if the local prison had discretion in this area, or did the Department intend to have individuals searched before “entering and leaving.”

Response—The Department's intent in stating the individuals are "subject" to search when entering or leaving the facility is that the local prison has discretion as to when an individual entering or leaving the prison is searched.

14. *Section 95.243. Treatment services—fiscal impact; need; clarity.*

Comment—A number of commentators objected to the treatment mandates of this section. The commentators' objections were directed exclusively at the requirements of paragraphs (2) and (6).

Paragraph (2) of the proposed regulation required treatment services to include programs in education, social services, alcohol and other drugs and counseling services. The commentators all objected to these requirements as unfunded mandates. Some commentators stated the requirements actually dictated how treatment services should be delivered and that such a decision should be left to the county jail.

Response—The Department is cognizant of the concerns of the commentators. The Department believes that the requirements of paragraph (2), when read with all of the provisions of § 95.243 in the final-form regulations, are consistent with the current recognized professional standards for adult local detention facilities while allowing county officials and jail administrators flexibility to make decisions appropriate to their facility.

The Department's statutory mandate found in section 3(3) of Act 502, includes establishing standards for county jails that include "standards for correctional programs of treatment, education and rehabilitation of inmates." The Department believes these treatment services requirements provide significantly more flexibility to county jails in meeting inmate treatment needs than the existing requirements of § 95.243. The existing section sets very specific requirements for the number of hours of counseling services that must be provided by a county jail per week as well as certain staffing requirements based solely on the jails average daily inmate population.

It is important to note that the term "counseling services" as used in paragraph (1) of the existing section is defined broadly so that it "shall include group and individual counseling of a general nature; vocational rehabilitation counseling; social casework and group work, including self-help groups such as Alcoholics Anonymous and similar groups; testing and clinical psychological services; and psychiatric services." "Counseling services" in the existing regulation encompasses, in more specific terms, much of the four areas for treatment services required in § 95.243 of the final-form regulations.

Perhaps most importantly, and contrary to the concerns of the commentators, the final-form regulation does not require how these treatment services must be provided. Section 95.243 does not specify the amount of hours that must be provided in these treatment areas, which inmates must be provided which services, nor the manner in which the treatment services are to be provided. Those decisions are fully left to discretion of the county prison administrators. As with the existing regulation, the final-form regulation permits a county prison to provide these services through a person employed by the prison, someone under contract with the prison, through a volunteer or any combination thereof.

Section 95.243 in the final-form regulations also provides county prisons greater flexibility in terms of who must deliver those services. Paragraph (3) allows these

services to be delivered by a treatment professional (defined in § 95.220a) or a person certified, licensed or trained to provide the programming. The existing standard requires that the services be delivered by a qualified counselor who preferably possesses a Master's Degree, but no less than a Bachelor's degree in behavioral sciences. If the treatment services are delivered by a contracting agency or a professional volunteer, those persons must still meet the standards for qualified counselor. The existing standard also requires all county jails with populations over 75 inmates, but below 175, to have two full-time treatment personnel, one of whom must be a treatment supervisor. For jails with average daily populations of 175 inmates or more, the existing standard requires providing an additional qualified counselor for every 75 inmates over the first 75. Those specific staffing mandates have all been eliminated in the final-form regulation. While well-intentioned, the existing standards provided far more of a mandate to county jails as to how to provide the required counseling services than the new § 95.243 in the final-form regulations. The intent of the final-form treatment services provision is to establish the required areas in which treatment services must be provided, but to leave the decisions as to the level of services and how those services are provided up to county prison administrators.

As discussed previously under Comment No. 2, significant changes have been made to paragraph (6). The requirement that all inmates be given a treatment needs assessment within 14 days of admission has been significantly changed so that the assessment must be conducted within 90 days of an inmate's admission to the jail. Additionally, the treatment services recommended by the assessment must begin within 45 days of the assessment. The Department and member of the Committee believe that these changes will allow county prisons to focus treatment service resources on those inmates who are there for longer terms of incarceration.

Finally, it should be noted that the significant interest in assuring that treatment services are provided to any inmate, short term or long term, in need of immediate services is met by paragraphs (4) and (5) of this section.

Comment—IRRC noted that the terms "treatment services" and "treatment programs" are used in this section and recommended that one term be used and defined.

Response—The Department concurs with this recommendation. The provision has been revised so that all references are now to "treatment services." As explained, that term has also been defined.

15. *Section 95.244. Community involvement—clarity.*

Comment—IRRC suggested that the Department define the term "community involvement" to assist the regulated community with developing a written policy that would meet the requirements of this section.

Response—For the reasons discussed in the response in Comment No. 2, this section is rescinded in its entirety.

16. *Section 95.246. Investigations—death sexual assaults/threats—clarity.*

Comment—IRRC questioned the need for the language in subparagraph (ii) requiring written local policy to specify who is responsible for contacting the coroner and law enforcement when subparagraph (i) specifically required the prison administrator to notify the coroner and appropriate law enforcement agency in the case of a death. IRRC noted similar language in paragraph (2), pertaining to sexual assaults/threats.

Response—The Department concurs. Both paragraphs (1) and (2) were revised to state that written local policy must specify the procedure in the event of a death or an allegation of sexual assault, respectively, involving an inmate, prison employee, volunteer, contractor or visitor. Both paragraphs then list the elements that the written local policy must address.

Comment—IRRC noted an inconsistency between the language of subparagraph (ii) which requires the reporting of sexual assaults and threats and the statistical/informational reporting requirements of § 95.242. That section requires the reporting of assaults, but not the threat of sexual assaults on a monthly report filed with the Department. IRRC questioned how local prisons are to report the threat of sexual assaults.

Response—The Department concurs. Paragraph (2) of this section was revised to clarify that county prisons establish procedures, through written local policy, to address all allegations of sexual assault and not threats of assault. Additionally, § 95.242(3)(iii) was revised to include the requirement to report sexual assaults and allegations of sexual assaults on the County Extraordinary Occurrence Monthly Report to the Department.

17. *Section 95.248. Sanitation, maintenance and safety—clarity.*

Comment—IRRC recommended that paragraph (1) be revised to include a specific citation to the “applicable governmental regulations” that must be adhered.

Response—The Department does not believe it is possible or practical to list all of the applicable regulations to sanitation or safety. To add clarity, the revised paragraph references Department of Labor and Industry regulations and any applicable local code authorities. The existence of any municipal sanitation and safety codes varies from county to county.

Comment—IRRC noted that paragraphs (2), (3) and (9) required written local policy to “identify” plans or programs related to sanitation, maintenance and fire emergency/evacuation. IRRC asked if the intent was for county prisons to simply identify the plans or programs or must they be incorporated into the written local policy.

Response—The word “identify” was deleted from paragraphs (2), (3) and (9) to clarify that the county prisons must incorporate the required elements of the identified program or plan into written local policy.

18. *Miscellaneous clarity.*

Comment—IRRC recommended that the phrase “including, but not limited to,” as nonregulatory language be deleted from §§ 95.220b(1), 95.221(8), 95.232(12), 95.235(1), 95.241(1)(ii), 95.243(2), 95.243(4) and 95.243(6).

Response—The Department concurs. The phrase has been deleted in each instance.

Comment—IRRC recommended that the reference to “generally accepted accounting procedures” in § 95.239(3) be changed to “generally accepted accounting principles.”

Response—The Department concurs. The phrase has been changed as recommended.

Comment—IRRC noted that § 95.241(2)(ii)(F) appeared to be an incomplete sentence.

Response—The Department concurs. Section 95.241(2)(ii)(F) has been revised to read “Circumstances and types of force requiring specific authorization and who shall authorize the use of the force.”

Comment—IRRC recommended that the phrase “prison administration” in § 95.241(3)(ii) be revised to “prison administrator.”

Response—The Department concurs. The phrase has been changed as recommended in what is now subparagraph (iii) because of the addition of new language as subparagraph (ii).

Comment—IRRC recommended that the phrase “or designee” should be added to § 95.246(1)(i) after the word “administrator.”

Response—The Department concurs. The phrase “or a designee” has been added as recommended.

Comment—IRRC noted that the second sentence of § 95.248(9) contained a typographical error in using the word “departments” instead of the singular “department.”

Response—The Department has corrected the error.

E. *Fiscal Impact*

The amendments are not expected to have any significant negative fiscal impact upon the Commonwealth, its political subdivisions or the general public.

F. *Paperwork Requirements*

The amendments are not expected to have any significant effect on the paperwork requirements of the Commonwealth, its political subdivisions or the public.

G. *Contact Person*

Interested persons are invited to submit in writing any questions regarding the amendments to David B. Farney, Assistant Counsel, Department of Corrections, Office of Chief Counsel, 55 Utlely Drive, Camp Hill, PA 17011, (717) 731-0444.

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of its notice of proposed rulemaking, published at 36 Pa.B. 3094 (June 24, 2006), to IRRC and the Chairperson of the House Judiciary Committee and the Senate Judiciary Committee (Committees) for review and comment. In compliance with section 5(c) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of all comments received.

In preparing these final-form regulations the Department has considered all comments received from IRRC, the Committees and the public.

This final-form regulations were deemed approved by the Committee on August 6, 2008. IRRC met on August 7, 2008, and approved the final-form regulations in accordance with section 5.1(e) of the Regulatory Review Act (71 P. S. § 745.5a(e)).

I. *Effective Date*

The amendments shall take effect on October 13, 2009.

Findings

The Department finds that:

(1) Notice of proposed rulemaking was published at 36 Pa.B. 3094, as required 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) A public comment period was provided as required by law and all comments were considered.

(3) The adoption of these amendments in the manner provided by this order is necessary and appropriate for the administration and enforcement of the authorizing acts.

Order

(a) The regulations of the Department, 37 Pa. Code Chapter 95, are amended by amending §§ 95.220a, 95.220b, 95.221—95.224, 95.229, 95.230, 95.232, 95.233, 95.235, 95.237, 95.239—95.243 and 95.245—95.248; by adding § 95.233a; and by deleting § 95.244 to read as set forth in Annex A.

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

(c) The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* as required by law.

(d) This order shall take effect October 13, 2009.

JEFFREY A. BEARD, Ph.D.,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 4693 (August 23, 2008).)

Fiscal Note: Fiscal Note 19-7 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 37. LAW

PART III. AGENCIES AND OFFICES

Subpart B. DEPARTMENT OF CORRECTIONS

CHAPTER 95. COUNTY CORRECTIONAL INSTITUTIONS

Subchapter B. ADMINISTRATIVE STANDARDS, REGULATIONS AND FACILITIES

§ 95.220a. Definitions.

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

Alcohol and other drugs treatment—A treatment service designed to address the impact and ramifications of use or abuse of alcohol and other drugs so as to prevent illegal or destructive conduct and avoid addiction.

Alternative menu—Meal plans that are prepared and served as an alternative to the regular meal plan.

Bed capacity—The number of beds that a prison may utilize consistent with the American Correctional Association's "Standards for Adult Local Detention Facilities" on unencumbered space and that are only utilized in areas approved for residential occupancy by the Department of Labor and Industry or local code authority.

Classification—A process for determining an inmate's needs and requirements and for assigning the inmate to appropriate housing units and programs according to the inmate's needs and existing resources.

Code of conduct and ethics—A set of rules describing acceptable standards of conduct for all prison staff.

Community resources—Human service agencies, service clubs, citizen interest groups, self-help groups and individual citizen volunteers that offer services, facilities or other functions that assist inmates.

Compensation—Incentives such as monetary compensation, extra privileges, good time credits, credit toward applicable fines and costs or other items of value that are given for inmate participation in a work program.

Contact visitation—A program inside or outside the prison that permits inmates to visit with designated persons without obstacles or barriers to physical contact.

Contraband—An item possessed by an individual or found within the prison that is prohibited by law or expressly prohibited by those legally charged with the administration and operation of the prison.

Counseling—A treatment service using planned interpersonal relationships to promote social adjustment and provide opportunities to express feelings verbally with the goal of resolving the individual's problems.

Department—The Department of Corrections of the Commonwealth.

Education—A treatment service using formal academic education or a vocational training activity designed to improve knowledge or employment capability, or both.

Financial audit—An examination of prison records or accounts to check their accuracy conducted by persons not directly involved in the creation and maintenance of these records or accounts.

First aid—Care for a condition that requires immediate assistance from an individual trained in first aid care and the use of the prison's first aid kits.

Force, use of—Physical force used in instances of justifiable self-defense, protection of others, protection of property, prevention of escape or to effect compliance with the rules and regulations of the facility when other methods of control are ineffective or insufficient.

Force option—Actions beginning with the least amount of force necessary and progressing through the degrees of nondeadly and deadly force, as necessary.

Governing county prison authority—The individual or board, established by law, having administrative oversight and policy-setting responsibility for the county prison.

Grievance—A formal written complaint by an inmate related to a problem encountered during the course of his confinement.

Grievance process—The procedure established to review and respond to inmate grievances.

Health care professional—A medical doctor, doctor of osteopathy, physician's assistant, registered nurse or licensed practical nurse licensed by the appropriate licensing board of the Department of State, Bureau of Professional and Occupational Affairs.

Health care provider—An employee or contractor of the prison who is responsible for ensuring that adequate health care is provided to inmates.

Health care screening—A process developed by the prison's health care provider to assess inmates upon admission as set forth in written local policy.

Health care training—Training required by the county prison's health care provider as part of the prison's health care delivery system as set forth in written local policy.

Inmate—An individual who is legally confined in a county prison.

Intake interview—A process developed by the prison's treatment services provider to assess inmates upon admission as set forth in written local policy.

Life safety code—A manual published and updated by the National Fire Protection Association specifying minimum standards for fire safety necessary in the public interest.

Noncontact visitation—A program that restricts inmates from having physical contact with visitors by the use of physical barriers such as screens or glass, or both.

Preventive maintenance—A system designed to enhance the longevity and usefulness of buildings and equipment in accordance with a planned schedule.

Prison—A place, institution, building (or part thereof), set of buildings or area (whether or not enclosing a building or set of buildings) that is used for the lawful custody of individuals.

Prison administrator—The official who has the day-to-day responsibility for managing and operating the county prison.

Prison inspection—An onsite visit of a county prison by one or more Department inspectors to determine whether the county prison is in compliance with the minimum requirements of this chapter.

Procedures—The detailed and sequential actions that must be executed to ensure that a policy is implemented.

Restraints—Any device authorized by written local policy that is used to prevent escapes, prevent an inmate from injuring himself or other persons or prevent property damage.

Secretary—The Secretary of the Department.

Security devices—

(i) Locks, gates, doors, bars, fences, screens, ceilings, floors, walls and barriers used to confine and control inmates.

(ii) The term also includes electronic monitoring equipment, security alarm systems, security light units, auxiliary power supplies and other equipment used to maintain prison security.

Security perimeter—The outer portions of a prison that provide for secure confinement of prison inmates.

Segregation—The separation of an inmate from the general population for disciplinary or administrative reasons.

Social services—A treatment service designed to promote the welfare of the community and the inmate, as through aid for physically and mentally handicapped, health maintenance, family development and employment opportunities.

Training—An organized, planned and evaluated activity designed to achieve specific learning objectives and enhance the job performance of personnel.

Training plan—A set of long-range or short-range training activities that equip staff with the knowledge, skills and attitudes they need to accomplish the goals of the organization.

Treatment professional—An individual who possesses a bachelor's degree and advanced training in the social or behavioral sciences.

Treatment services—Alcohol and other drugs treatment, counseling, education or social services provided to an inmate during his confinement in the county prison.

Treatment services provider—An employee or contractor of the county prison who is responsible for providing treatment services to inmates.

Treatment training—Training required by the county prison's treatment services provider as part of the prison's treatment delivery system as set forth in local written policy.

Unclothed search—An examination of an inmate's unclothed body for weapons, contraband and physical abnormalities.

Vulnerability analysis—A systematic and measurable performance-based evaluation of a prison that includes a prison analysis, planning, prison characterization, threat definition, identification of undesirable events, performance-testing physical protection systems, generation of adversary sequence diagrams, scenario development, timeline development and determination of risk for worst-case scenarios.

Work release—An arrangement sanctioned by law that enables an inmate to be released into the community to maintain approved employment or other approved activity, or both.

Written local policy—Local policy that clearly explains practices and procedures to be followed, requires compliance therewith, and provides for enforcement thereof. The Department will review the policies when inspecting county prisons.

§ 95.220b. Scope.

Each section sets forth minimum requirements, which are mandatory.

(1) Every county prison shall be subject to an annual prison inspection, except as described in paragraph (4), to determine if the prison is in compliance with the minimum requirements established by this chapter. An immediate prison inspection may be ordered by the Secretary following an emergency situation at a county prison, including a riot or disturbance, an escape from secure detention, a fatality following a serious assault or an assault by an inmate using a deadly weapon resulting in serious injury. An immediate prison inspection ordered under these circumstances shall be conducted to determine if the county prison is in compliance with the minimum requirements.

(2) The minimum requirements in this paragraph and paragraphs (3)—(13) are deemed to be essential to the safety and security of the county prison, prison staff, inmates and the public:

- (i) Section 95.221(1)—(3) and (8) (relating to personnel).
- (ii) Section 95.222(2) (relating to admission).
- (iii) Section 95.224(1), (3)—(5) (relating to rules and regulations).
- (iv) Section 95.225(1) and (2) (relating to classification).
- (v) Section 95.226(1)—(4) (relating to housing).
- (vi) Section 95.230(1)—(5) (relating to food services).
- (vii) Section 95.232(1)—(4) and (8)—(12) (relating to medical health services).
- (viii) Section 95.240(1) and (9) (relating to inmate disciplinary procedures).
- (ix) Section 95.241 regarding security.
- (x) Section 95.243(4), (5) and (7) (relating to treatment services).

(xi) Section 95.248(2), (4), (5) and (7)—(9) (relating to treatment services).

(3) Within 20 days of completing any prison inspection under paragraph (1), the Department's inspector will issue the preliminary findings of the inspection to the county prison administrator and the governing county prison authority. The governing county prison authority or designee may submit a written response to those preliminary findings to the Deputy Secretary for Administration or designee. Any written response shall be submitted within 30 days of receipt of the preliminary findings. The county prison administrator may include documentation in support of the written response.

(4) The Deputy Secretary for Administration will issue a final inspection report within 20 days of receipt of the written response from the county prison administrator or within 30 days of issuance of the written preliminary findings if no written response thereto is submitted. The final inspection report will state findings on whether the county prison is in compliance with each of the minimum requirements. If the final inspection report finds that a minimum requirement has not been met, the report will also include reference to whether the county prison administrator disputed the preliminary finding of non-compliance.

(5) If the final inspection report concludes that the county prison is in full compliance with all of the minimum requirements of this subchapter, the subsequent annual prison inspection will be waived and the county prison will be inspected on a biannual basis.

(6) If a final inspection report finds that the county prison is in violation of any of the minimum requirements not set forth in paragraph (2), a notice of deficiency will be issued to the county prison administrator and the governing county prison authority along with the final inspection report.

(7) If a final inspection report finds that the county prison is in violation of one or more of the essential minimum requirements in paragraph (2), a citation of noncompliance will be issued to the county prison administrator and the governing county prison authority along with the final inspection report.

(i) If a final inspection report finds that the county prison remains in violation of any of the same essential minimum requirements for a second consecutive prison inspection, the county prison administrator and the governing county prison authority will be issued a second citation of noncompliance.

(ii) If a compliance report finds that the county prison remains in violation of any of the same essential minimum requirements for a third consecutive prison inspection, the county prison administrator and the governing county prison authority will be issued a third citation of noncompliance.

(8) The Secretary may authorize the conducting of a vulnerability analysis of a county prison when a final inspection report finds one or more violations of the essential minimum requirements in paragraph (2) and the report concludes that those violations may immediately impact the safety and security of the county prison, prison staff, inmates or the public. The Department will be responsible for the costs of a vulnerability analysis authorized by the Secretary.

(9) Within 15 days of completing a vulnerability analysis, a vulnerability analysis report will be issued to the governing county prison authority and the county prison

administrator. The report will present an analysis of the overall operations of the prison and an analysis of potential threats to the safety and security of the county prison, prison staff, inmates and the public.

(10) A governing county prison authority may at any time request the Department to conduct a vulnerability analysis to assist in evaluating the operations of the county prison. The county prison shall be responsible for the costs of a vulnerability analysis conducted at the request of the governing county prison authority.

(11) The Secretary may order a hearing to determine whether a county prison should be classified as ineligible to receive prisoners sentenced to a maximum term of 6 months or more but less than 5 years under the following conditions:

(i) If a vulnerability analysis report finds one or more violations of the essential minimum requirements in paragraph (2) and concludes that those violations may immediately threaten the safety and security of the county prison, prison staff, inmates or public safety.

(ii) If the county prison has been issued a third citation of noncompliance in accordance with paragraph (7)(ii).

(12) A hearing ordered under paragraph (11) will be scheduled promptly, but in no event sooner than 20 days after receipt of the hearing notice. The proceedings will be conducted in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure). The hearing will be held to determine whether the conditions at the county prison violating the essential minimum requirements constitute a significant and immediate threat to the safety and security of the county prison, prison staff, inmates or the public. The county prison shall be permitted to present evidence disputing that any significant and immediate threat exists, including evidence that measures have been taken to eliminate or minimize the threat to safety and security.

(13) The hearing will result in one of the following:

(i) Upon finding that conditions at the county prison violate the essential minimum requirements and that those violations constitute a significant and immediate threat to the safety and security of the county prison, prison staff, inmates or the public, an order will be issued classifying the county prison as ineligible to receive any additional prisoners sentenced to a maximum term of 6 months or more but less than 5 years until further order of the Department. If such an order is issued, the county prison remains responsible for arranging incarceration at another correctional facility for those inmates committed by the county's court of common pleas to a sentence of greater than 6 months but less than 5 years to a county prison under 42 Pa.C.S. § 9762 (relating to sentencing proceeding; place of confinement).

(ii) Upon finding that conditions at the county prison violate the essential minimum requirements, but that those violations do not currently constitute a significant and immediate threat to the safety and security of the county prison, prison staff, inmates or the public, an order will be issued stating that the citation of noncompliance remains in effect and that the county prison is subject to a follow-up prison inspection in a time frame deemed appropriate to determine if the county prison has corrected the instances of noncompliance with the essential minimum requirements. If the subsequent final inspection report finds the county prison to be in violation of some or all of the essential minimum requirements for which the hearing was conducted, the Secretary may order another hearing in accordance with paragraph (10).

(iii) Upon finding that the county prison is now in compliance with the minimum requirements, an order will be issued rescinding the citation of noncompliance. The county prison shall then be subject to an annual prison inspection consistent with paragraph (1).

§ 95.221. Personnel.

The following minimum requirements apply to personnel at county prisons:

(1) Before being assigned duties, all corrections personnel shall be given training as to the contents/application of this chapter and in their general and specific responsibilities, including the use of force, prohibition on the seeking and dispensing of favors to and from the inmate population and instruction in the prison's code of conduct and ethics. A record of this training shall be documented in each employee's personnel file.

(2) Full time corrections personnel shall receive basic training from a training program approved by the Department within 12 months of assuming their duties.

(3) Part-time corrections personnel shall be provided training required under paragraph (1). Part-time corrections personnel who have not completed an approved training program under paragraph (2) may not be permitted to work without close supervisory direction by a person who has received the training.

(4) Written local policy must provide for training and staff development as described in paragraphs (1)–(3).

(5) An annual training plan shall be prepared that identifies the subjects and number of hours required for preassignment, basic and staff development training. Training may occur onsite, at an academy or training center, during professional meetings, through supervised on-the-job training or computer-based training. The training plan shall be reviewed annually by the prison administrator or designee.

(6) Written local policy must provide for a personnel policy manual that is available for employee reference. This manual must include, but not be limited to:

- (i) Organizational chart.
- (ii) Recruitment and promotion.
- (iii) Job specifications and qualifications.
- (iv) Code of conduct and ethics.
- (v) Sexual harassment/sexual misconduct provisions.
- (vi) Employee evaluation.
- (vii) Staff disciplinary process.
- (viii) Grievance and appeals process.

(7) The prison administrator or a designee shall conduct a documented review of the prison personnel policy manual annually and revise as needed.

(8) Written local policy must mandate a drug-free workplace for all prison staff including the following:

- (i) Prohibition on the use of illegal drugs.
- (ii) Prohibition of possession of any illegal drug except in the performance of job duties.
- (iii) Procedures to ensure compliance.
- (iv) Availability of treatment or counseling, or both, for drug abuse.
- (v) Penalties for violation of the policy.

(9) Written local policy must specifically and strictly prohibit sexual misconduct and sexual harassment by

prison staff. Written local policy must inform prison staff that they may be subject to disciplinary action or criminal charges, or both, if found to have engaged in that conduct.

§ 95.222. Admission and release.

The following are the minimum requirements applicable to admissions and releases:

(1) *Admission.* Written local policy must provide for the following:

(i) With all admissions to the prison, commitment under proper legal authority and completeness of paperwork shall be verified.

(ii) An inmate may not be admitted into the prison when it is determined that the inmate is in need of medical treatment that cannot be provided by the prison. In those cases, a written verification of treatment from a medical doctor shall be provided by the transporting authority prior to admission.

(iii) Admission procedures relating to property disposition, notification and medical assessments and personal hygiene must be specified in written local policy.

(iv) The type of contraband search to be performed, including a restriction as to the use of an unclothed search on an arrestee.

(v) As part of the admission process, basic personal information shall be obtained for identification and classification purposes. This basic information must include:

- (A) Name of the inmate.
- (B) Date of birth.
- (C) Race.
- (D) Gender.
- (E) Social Security number.
- (F) State identification number (SID).
- (G) Country of birth.
- (H) Citizenship.
- (I) Any aliases.
- (J) Previous address of the inmate.
- (K) Physical description of the inmate, including height, weight, hair, eye color and any scars or tattoos.
- (L) Occupation of the inmate.
- (M) Education.
- (N) Offense committed and a summary of the facts of the crime committed.
- (O) Religious affiliation.
- (P) Date of commitment.
- (Q) Committing county.
- (R) Authority for the commitment.
- (S) Previous criminal record and any detainers.
- (T) Name and address of the person to be contacted in event of an emergency.
- (U) Marital status and any children.
- (V) Medical history, including any substance abuse.
- (W) Name and address of the inmate's attorney.

(vi) Upon admission, a copy of the rules of the prison shall be provided to each inmate.

(vii) How an inmate can notify a relative of the inmate's location.

(viii) When non-United States citizens are detained, the detainee shall be advised of the right to have the detainee's consular officials notified or the nearest consular officials shall be notified of the detention, if required by the Vienna Convention. Consular officials shall be given access to non-United States citizen detainees and shall be allowed to provide consular assistance. Consular officials shall also be notified in the event of the death of a non-United States citizen detainee.

(2) *Release.* Written local policy must provide for the following:

(i) With all releases from the prison, release under proper legal authority and completeness of paperwork shall be verified.

(ii) Release procedures must include the following:

- (A) Proper identification of inmate.
- (B) Review of inmate file for detainers.
- (C) Disposition of prison and personal property.
- (D) Information exchange.
- (E) Medication supply and medication instructions, as required.
- (F) Victim notification.

§ 95.223. Orientation.

The following are the minimum requirements applicable to the orientation of inmates:

(1) Written local policy must require orientation for every inmate within 14 days of admission as to the following:

- (i) Prison rules of conduct.
- (ii) Consequences for violation of the rules of conduct.
- (iii) Mail, visiting and telephone procedures.
- (iv) Access to medical care.
- (v) Fees, charges or co-payments that may apply.
- (vi) Prison grievance process.
- (vii) Available treatment programs.
- (viii) Available work programs.

(2) Written local policy must provide for the orientation of illiterate and non-English speaking inmates. Orientation of each inmate shall be documented in the inmate file. Orientation may be in written, oral, audio or video format.

(3) Written local policy must describe an inmate grievance process. The policy must include:

- (i) The methods available for submitting a grievance.
- (ii) The staff persons responsible for responding to a grievance. Grievances must have a written response for record.
- (iii) An appeal process of at least one level.
- (iv) Time frames for responses and appeals.

(4) Written local policy must permit every inmate to make a request or submit a grievance to the prison administration, the judiciary or other proper authorities without censorship as to substance.

§ 95.224. Inmate rules and staff procedures.

The following are the minimum requirements applicable to inmate rules and staff procedures:

(1) Written local policy must specify inmate rules that insure the security, control, safety and orderly administration of the county prison. These rules must indicate to both inmates and staff what inmate behavior is unacceptable and the consequences of unacceptable behavior.

(2) Written local policy must specify that inmates and staff have access to inmate rules. New or revised inmate rules shall be disseminated to staff and inmates prior to implementation.

(3) Written local policy must specify procedures that direct staff in the operation and maintenance of the county prison. The procedures must contain general and specific instructions for each duty post for the prison. The instructions must include the methods, techniques and time frames necessary to perform the duties of a particular duty post.

(4) Written local policy must specify procedures that direct staff in the event of fire emergencies, escapes and riots. These procedures must direct staff as to what actions are to be performed in a given duty assignment or duty post in these situations. These procedures must instruct staff as to the methods, techniques and time frames necessary to carry out the assigned duties.

(5) Written local policy must specify that operation and maintenance procedures and emergency procedures be disseminated to staff prior to implementation. Staff shall have ongoing access to these procedures.

(6) Written local policy must specify that inmate rules and staff procedures be reviewed by the prison administration on an annual basis. This review must determine if updates are necessary due to operational changes, changes in the law, constitutional standards or recognized professional standards. The annual review and updates shall be documented.

§ 95.229. Bedding.

The following are the minimum requirements applicable to bedding:

(1) Written local policy must specify that inmates be provided a bed, mattress (not to exclude a mattress with integrated pillow), bed sheet, pillow, pillowcase, towel and blanket. The bed must be a sleeping surface and mattress that allows the inmate to be at least 12 inches off the floor. The mattress and pillow must have a waterproof and fire retardant cover. The bed must be located in an area preapproved for residential occupancy by the Department of Labor and Industry or local code authority.

(2) Written local policy must define emergency circumstances that would require the use of temporary bedding arrangements that may not meet the requirements of paragraph (1). An inmate may not be subject to temporary bedding arrangements for a period exceeding 30 consecutive days. Temporary bedding arrangements may not be utilized by the county prison for a period exceeding 90 consecutive days.

(3) Written local policy must provide that the prison administrator has discretion to issue bedding items to or removing bedding items from an inmate when possession of those items by the inmate could compromise the order, security or safety of the prison.

(4) Written local policy must provide that each mattress and pillow is sanitized chemically or by another acceptable method and is in usable condition before

reissue to another inmate. Each in-use mattress and pillow shall be sanitized at least annually.

(5) Written local policy must provide for the laundering of bed sheets, pillowcases, towels and blankets before reissue to another inmate. In-use bed sheets, pillowcases and towels shall be laundered on a weekly basis. In-use blankets shall be laundered at least quarterly.

§ 95.230. Food services.

The following are the minimum requirements applicable to food services:

(1) Written local policy must specify that each inmate be provided a daily diet that is nutritionally adequate for the maintenance of good health. Written local policy must recognize dietary requirements for those inmates whose medical condition requires prescribed therapeutic attention, for those inmates whose religious beliefs require adherence to specified and approved religious dietary law and for those inmates under segregation or disciplinary status, or both, whose behavior requires a different meal consistency. Regular and alternative menus shall be approved and signed by a registered dietician or licensed physician, or both, and the prison administrator on an as needed basis, but no less than on an annual basis.

(2) Written local policy must provide that food is prepared and served in a sanitary manner. The prison food preparation areas and food distribution areas shall be maintained in a safe and clean condition at all times. Food shall be stored and prepared in a proper manner to assure freshness and to prevent spoilage and damage from insects and rodents. Appropriate food service head cover, beard/facial hair cover and gloves shall be worn by staff, food service contractor and inmates engaged in food preparation or distribution, or both. Written local policy must require that one supervisory food service employe become certified in food safety and sanitation in accordance with 3 Pa.C.S. §§ 6501—6510 (relating to food employee certification). There shall always be a "person in charge" present during all hours of operations. If the "person in charge" is not certified, that person shall receive documented training as to the food safety and sanitation procedures as established by written local policy.

(3) Written local policy must provide for the control and use of culinary equipment. All culinary equipment shall be identified and accounted for on an inventory list. In addition, cutlery items shall be documented as to being checked in and out, to control use at all times. When not in use, cutlery shall be stored in a secure manner.

(4) Written local policy must establish preassignment and periodic medical clearance for staff, food service contractor and inmate food service workers. Food handlers shall wash their hands upon reporting to duty and after using toilet facilities.

(5) Written local policy must identify the methods available to clean, rinse and sanitize prison-issued eating and drinking utensils at least weekly. These eating and drinking utensils shall be cleaned, rinsed and sanitized before being reissued to another inmate.

(6) Written local policy must provide that compartmented trays, plastic ware and paper products be utilized to serve the food. More than one type of food may not be served in a noncompartmented container during normal feeding operations. Food shall be served as promptly as possible, at the proper temperature.

§ 95.232. Medical and health services.

The following are the minimum requirements applicable to medical and health services:

(1) Written local policy must specify that all inmates admitted to the prison receive a health care screening performed and recorded by a person with health care training within 24 hours of admission. The health care screening must include a structured inquiry and observation designed to identify newly-committed inmates who pose a health or safety threat to themselves or others. Screening can be performed by health care professionals or by health-trained correctional staff at the time of admission. A record of the result of the examination shall be kept as a part of the permanent prison document.

(2) Written local policy must specify that an inmate determined upon admission not to be in good health be assessed by a health care professional within 24 hours.

(3) Written local policy must specify that following review of the initial commitment screening by a health care professional, a medical history and physical examination be performed by the prison health care provider within 14 days following admission.

(4) Written local policy must specify routine screening procedures utilized for infectious diseases, acute illness and suicide risk.

(5) Written local policy must designate a health care provider responsible for control of the delivery of health care services including mental health services. A health care provider or professional shall have sole province on matters involving medical judgment.

(6) Written local policy must provide that the health care provider report in writing on the health care delivery system to the prison providing information sufficient to demonstrate that adequate health care is being provided to inmates and review findings with prison administrators annually.

(7) Written local policy must provide for an annual documented review of a prison's health care delivery system by the prison and when necessary, revisions shall be made to each health care procedure and program by the prison.

(8) Written local policy must provide for access to emergency care 24 hours a day for all inmates. A written plan must outline onsite treatment, evacuation, transportation and security procedures and designate emergency facilities to be utilized. All corrections personnel shall be certified in basic first aid and cardiopulmonary resuscitation in accordance with the time frames established by the organization that conducts the training.

(9) Written local policy must provide for the management of pharmaceuticals. The policy must include:

(i) Formulary and prescription practices.

(ii) Medication procurement, receipt, dispensing, distribution, storage and disposal, as supervised by properly licensed personnel in accordance with The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144).

(iii) Secure storage and inventory of all controlled substances, syringes and needles.

(10) Written local policy must provide for a suicide prevention and intervention program and outline the program review mechanisms utilized and staff training procedures for program implementation. Staff training must occur on an annual basis.

(11) Written local policy must provide that medical and dental instruments, equipment and supplies be controlled and inventoried.

(12) Written local policy must specify the scope of dental treatment to be provided to an inmate. This treatment must include extraction and other work of an emergency nature as needed. Written local policy must specify how an inmate is to obtain the available dental treatment.

§ 95.233. Visiting.

The following are the minimum requirements applicable to inmate visiting:

(1) Written local policy must explain inmate visiting procedures, including:

(i) Availability of contact or noncontact visitation, or both.

(ii) Visitor approval procedure.

(iii) Frequency and duration of visits.

(2) Written local policy must require that visitors register upon admission to the prison. Written local policy must describe the circumstances and the types of searches under which visitors are subjected.

(3) Written local policy must require that each inmate be permitted at least 30 minutes of visitation time weekly. Restrictions may be placed on visiting, including denial of a visit, when, in the discretion of the prison administrator, the restrictions are necessary to maintain the safety or security of the prison.

(4) Written local policy must, in accordance with the Official Visitation of Prisons Act (61 P. S. §§ 1091—1095), provide for visits by official visitors. Written local policy must require that accommodations be made to provide for the privacy of conversation during these official visits.

(5) Written local policy must allow for visits by an inmate's attorney or clergy. Written local policy must require that accommodations be made to provide for the privacy of conversation during these visits.

(6) Written local policy must require that each inmate be provided inmate visiting information upon admission. This information must also be made available to the public.

§ 95.233a. Telephone communication.

The following are the minimum requirements applicable to telephone communication:

(1) Written local policy must specify whether inmates are permitted telephone communication. If so, the policy must explain telephone procedures, including:

(i) Hours during which telephone communication is available.

(ii) Any limitations on calls.

(iii) Cost/method of payment.

(2) Written local policy must, in accordance with 18 Pa.C.S. § 5704 (relating to the exceptions to prohibition of interception and disclosure of communications), specify whether inmate telephone conversations are subject to intercepting, recording, monitoring or divulging. If so, the policy must establish the guidelines which permit those activities.

(3) Written local policy may allow for restrictions to be placed on telephone communication, including denial of telephone usage, when, in the discretion of the prison administrator, the restrictions are necessary to maintain the safety or security of the prison.

(4) Written local policy must require that each inmate be provided information about telephone communication upon admission. This information must also be made available to the public.

§ 95.235. Work programs.

The following are the minimum requirements applicable to inmate work programs:

(1) Written local policy must identify any authorized inmate work programs such as work assignment program, industries program, public works/community service program or work release program. Written local policy must specifically prohibit prison staff from using their official position to secure privileges for themselves or others in association with an inmate work program.

(2) Written local policy must identify whether sentenced inmates may be required to participate in a work program based upon availability. Unsentenced inmates may not be required to participate in a work program, but may request involvement in a work program.

(3) Written local policy must require that inmates who participate in a work program (other than personal housekeeping and housing area cleaning) receive compensation. Written local policy must specify the type and amount of compensation.

(4) Written local policy must require that inmates be provided appropriate clothing, supplies and tools for any work assignment program, industries program or public works/community service program. The inmate must receive direction on the proper use of any equipment or tools to be used by the inmate during any work assignment program, industries program or public works/community service program.

(5) Written local policy must specify that there may be no discrimination regarding access to a work program based on an inmate's race, religion, national origin, gender or disability.

§ 95.237. Religion.

The following are the minimum requirements applicable to religion:

(1) Written local policy must provide that each prisoner shall be allowed to satisfy the needs of his religious life consistent with the orderly administration of the prison.

(2) Written local policy must require that individuals seeking to provide religious guidance to inmates be screened and selected by the prison administrator or a designee.

(3) Written local policy must provide for the accommodation of religious practices consistent with the security needs and orderly administration of the prison. The policy must describe the procedure for reviewing an inmate request for accommodation of a religious practice or activity.

(4) Written local policy must provide that inmates are permitted to possess religious objects consistent with the security needs and orderly administration of the prison. The policy must describe the procedure for reviewing an inmate request to possess religious objects that would otherwise be considered contraband.

(5) Written local policy must provide for the accommodation of special foods, diets and fasts as part of an inmate's religious practices consistent with the security needs and orderly administration of the prison. The policy must describe the procedure for reviewing an inmate request for accommodation of these practices.

§ 95.239. Commissary and other funds.

The following are the minimum requirements that apply to commissaries and other funds:

(1) County prisons may provide commissary services if the county so chooses.

(2) Written local policy must require that funds associated with commissary services be audited and reported on an annual basis by an independent party using generally accepted accounting principles.

(3) Written local policy must describe a fiscal system that accounts for all income and expenditures on an ongoing basis. Methods for collecting, safeguarding and disbursing moneys must comply with generally accepted accounting principles. A financial audit of the prison shall be conducted annually by a certified, independent party using generally accepted accounting principles. The financial audit must result in an opinion that either affirms or disaffirms the accuracy of the records or accounts.

(4) Written local policy must require that funds associated with inmate telephone services be audited and reported to the governing county prison authority on an annual basis by an independent party using generally accepted accounting principles.

(5) Written local policy must require that funds associated with an industries program and a work release program be audited and reported to the governing county prison authority on an annual basis by an independent party using generally accepted accounting principles.

§ 95.240. Inmate disciplinary procedures.

The following are the minimum requirements applicable to inmate disciplinary procedures:

(1) Written local policy must identify a disciplinary process that provides clear notice of prohibited behavior and consistently applied sanctions for violations of prison rules. Disciplinary procedures governing inmate rule violations must address the following:

- (i) Rules.
- (ii) Minor and major infractions.
- (iii) Criminal offenses.
- (iv) Disciplinary reports.
- (v) Prehearing actions.
- (vi) Prehearing detention.
- (vii) Appeal of disciplinary decisions.

(2) Written local policy must identify violations of prison rules that are designated as a major infraction, a minor infraction or those not rising to the level of a major or minor infraction.

(i) A major infraction involves a grievous loss and requires use of a hearing procedure for resolution. Major infractions include:

(A) Violations that may result in disciplinary detention or administrative segregation.

(B) Violations for which punishment may tend to increase an inmate's sentence, such as extending parole eligibility.

(C) Violations that may result in forfeiture, such as loss of earned time.

(D) Violations that may be referred for criminal prosecution.

(ii) A minor infraction charge may be resolved without a hearing procedure and without the imposition of serious penalties. Minor infractions do not violate any State or Federal statutes and may be resolved informally by reporting staff.

(3) Written local policy must provide that discipline for a minor infraction may not be imposed unless a written statement as to the rule violated is prepared and a person not involved in the rule violation reviews the statement and makes a decision as to guilt.

(4) Written local policy must provide that discipline for a major infraction may not be imposed unless the inmate has been informed of the offense charged in writing, has had an opportunity to present a defense and has been found guilty of the charge by an impartial party or board designated by the prison administrator. Findings of guilt or innocence must be expressed in writing and based on information presented. Written findings of guilt must state the reasons for the finding.

(5) Written local policy must provide that disciplinary charges and written findings relative to a major infraction be recorded and made a permanent part of an inmate's prison file.

(6) Written local policy must provide that disciplinary sanctions imposed after a finding of guilt for a major infraction may include loss of privileges, segregation or other sanctions as set forth in written local policy.

(7) Written local policy may allow for informal resolution of rule infractions not rising to the level of a major or minor infraction. Participation by an inmate in informal resolution of a rule infraction shall be on a voluntary basis only.

(8) Written local policy must provide that when an inmate in disciplinary status is deprived of any usual authorized items or activity, a report of the action is to be made to the prison administrator. If an inmate in disciplinary status uses food or food service equipment in a manner that is hazardous to self, staff or other inmates, an alternative meal may be provided, upon the approval of the prison administrator or designee and responsible health care provider.

(9) Written local policy must provide that the imposition of discipline not violate an inmate's right to be free from cruel and unusual punishment.

§ 95.241. Security.

The following are the minimum requirements applicable to security:

(1) *Supervision of inmates.* Written local policy must provide for the following:

(i) The number of staff required to maintain care, custody and control of the inmate population on a 24-hour basis. Staff used to maintain the care, custody and control of the inmate population shall meet the minimum training requirements of § 95.221 (relating to personnel).

(ii) An initial staffing analysis shall be conducted by the prison administrator or a designee to determine the staffing allotment and post assignments necessary to safely operate the prison. In determining the number of staff needed, relief factors are to be calculated for each classification of staff that is assigned to relieve posts or positions. The staffing analysis shall be reviewed and documented on an annual basis by the prison administrator. Information on the number and type of positions filled and vacant shall be available for review by the Department's inspectors.

(iii) Assignments/posts shall be staffed without regard to gender except where reasonable accommodation to inmate privacy cannot be maintained. Prison staff of the opposite gender to that of the inmate population may not be given assignments/posts that require continuous and open viewing of unclothed inmates. When both male and female inmates are housed in the prison, at least one male corrections staff member and one female corrections staff member shall be on duty at all times.

(iv) Inmates may never be permitted to assume any authority over other inmates. Inmates may not be permitted access to prison employee records, the records of other inmates or other prison records.

(v) The prison shall maintain a 24-hour secure control center for monitoring and coordinating the prison's security, life safety and communications systems.

(vi) The prison administrator or assistant prison administrator and management staff designated by the prison administrator shall visit the prison's living and activity areas at least monthly to encourage contact with staff and inmates and observe living and working conditions. The visit shall be documented.

(2) *Use of force.* Written local policy must provide for the following:

(i) Force shall be restricted to instances of justifiable self-defense, protection of others, protection of property, prevention of escapes, and to effect compliance with the rules and regulations of the facility when other methods of control are ineffective or insufficient and only the least amount of force necessary to achieve that purpose is authorized. Force may not be used as a means of punishment or revenge.

(ii) Written local policy must specifically identify the following:

(A) Authorized purposes allowing for the use of force.

(B) Authorized equipment such as physical restraints, chemical agents, stun devices, batons or firearms permitted for use by prison staff.

(C) The appropriate limitations for the authorized use of force.

(D) A force option, beginning with the least amount of force necessary and progressing through the degrees of nondeadly and deadly force.

(E) Secure storage arrangements for restraints, chemical agents, stun devices, batons and firearms. A written record shall be maintained as to the distribution of these items. A documented inventory of these items shall be conducted on a monthly basis to determine accountability and condition.

(F) Circumstances and types of force requiring specific authorization and who shall authorize the use of the force.

(G) Medical consultation, review and treatment required when use of force occurs.

(H) Training for staff in the use of force. The training must occur before staff is assigned to a post involving the possible use of authorized equipment. This training must cover the use, safety and care of the equipment and the limitations on its use. The prison staff authorized to use the equipment shall demonstrate competency in its use in accordance with the training or certification standards recommended by the manufacturer of the equipment. The competency must be documented.

(iii) Law enforcement personnel conducting official business on prison premises who have in their possession equipment or weapons not permitted into the prison shall be provided a locked security area to properly secure the equipment or weapons.

(iv) Each prison staff member involved in any use of force for other than routine inmate movement/escort/transportation shall submit a written report to the prison administrator or a designee. In addition, this information shall be documented and reported to the Department, as required under § 95.242 (relating to statistical/informational reporting).

(3) *Emergency plans.* Written local policy must provide for the following:

(i) Establishment of emergency plans for responding to emergency incidents, including escape, fire, disturbances, hostage taking, bomb threat, terrorism, biological/chemical incidents, utility outages, natural disasters and evacuation/relocation. The emergency plans must contain basic information and instructions for all prison staff including:

(A) To whom the emergency shall be reported.

(B) Chain of command during an emergency.

(C) Outside agencies to be contacted for response to an emergency.

(D) A description of duties of staff for each type of emergency.

(E) Identification of emergency keys/security devices and access location. There shall be a means for the immediate release of inmates from locked areas and provisions for a back-up system.

(F) Evacuation plan.

(G) How to use emergency equipment.

(H) Training for staff to handle emergencies. Prison personnel shall be trained annually in the implementation of the emergency plans. The training shall be documented.

(I) The written agreements with other jurisdictions for handling emergency incidents and the possible evacuation of inmates.

(ii) To be in alignment with the *National Response Plan* and the *Commonwealth of Pennsylvania Emergency Operations Plan*, written local policy must also require the prison to institute an all-hazards approach to incident response and incorporate the principles of the National Incident Management System into its operations and operations plans. Additionally, written local policy must require that the prison coordinate with the county emergency management agency about the hazards to which the prison and prison population may be vulnerable as known and documented in the county hazard vulnerability analysis.

(iii) Emergency plans shall be reviewed by the prison administrator or a designee on an annual basis. This review must determine if updates are necessary due to operational changes, changes in the law, changes in constitutional standards or in recognized professional standards. The annual review and updates shall be documented.

(iv) Any emergency shall be documented and reported to the Department, as required under § 95.242.

(4) *Access control.* Written local policy must identify:

(i) Current listing of all keys/access cards.

(ii) Storage/back-up/protection arrangements for keys/access cards and accessible security devices. Keys/access cards shall be stored in a secure location when not in use. A set of emergency prison keys/access cards shall be stored in a controlled location outside the secure perimeter.

(iii) Criteria for use of keys/access cards and security devices.

(iv) Security measures required for the installation/maintenance/repair/replacement of keys/access cards and security devices. An inspection of all keys/access cards and security devices shall be conducted quarterly to determine status, condition and need for action. The results of this inspection shall be documented and submitted to the prison administrator or a designee.

(v) Staff responsible for authorizing use of applicable keys/access cards and security devices. Inmates may not be permitted access to keys/access cards and security devices.

(vi) An inventory and receipt system to account for keys. Keys/access cards shall be checked out and checked in. A record shall be maintained to identify keys/access cards issued, identifying the person possessing and returning the key/access card. The record must allow a current accounting as to the location and possessor of keys/access cards.

(vii) Staff training required to use keys/security devices, particularly the ability to release inmates in the event of a fire or other emergency.

(5) *Contraband control.* Written local policy must describe time, methods and techniques and identify:

(i) What is considered contraband.

(ii) Procedures for conducting personal searches of inmates, vendors, volunteers, visitors and staff. All individuals shall be subject to search upon entering or leaving the prison. Inmates permitted to leave the prison for any reason shall be searched prior to reentering the prison.

(iii) Procedures for conducting cell/dormitory/area searches. Searches of all cell/dormitory/area locations shall be conducted at least twice annually to determine the presence of contraband and the security status of bars, doors and windows. The results shall be documented and submitted to the prison administrator or a designee.

(iv) Procedures for conducting security checks of the interior and the security perimeter of the prison. At least one daily security check shall be conducted of all interior areas and the security perimeter to determine matters

such as staff and inmate concerns and faulty or unsafe conditions. The results of this security check shall be documented and submitted to the prison administrator or a designee.

(v) Staff training required to conduct searches/security checks.

(6) *Tool/equipment control.* Written local policy must identify:

(i) The current listing of authorized tools/equipment.

(ii) Security measures required for the maintenance/repair/replacement of tools/equipment. An inspection of all tools/equipment shall be conducted semiannually to determine status, condition and need for action. The results of this inspection shall be documented and submitted to the prison administrator or designee.

(iii) The staff responsible for authorizing use of tools/equipment. Inmates may not be permitted access to these items, except as issued by authorized prison staff.

(iv) The storage arrangements for tools/equipment. Tools/equipment shall be stored in a secure locker or area when not in use. These items shall be stored so that their presence or absence can be immediately determined.

(v) An inventory and receipt system to account for all tools/equipment. Inmates may not have access to the tool storage area without staff supervision.

(vi) The direction given to staff and inmates in the use of tools/equipment.

(vii) The safety procedures to protect persons who use tools/equipment.

(viii) Inmates given assignments in the work assignment program, industrial program or the public works/community service program shall be supervised by persons designated by the prison administrator or a designee. These inmates shall be subject to searches as prescribed by procedure.

(7) *Count control.* Written local policy must require that at least one formal, physical inmate headcount be conducted for each shift, with at least three head counts being completed within each 24-hour period. Each head count shall be documented in the prison's records. In the performance of the formal inmate head counts, each inmate in attendance shall be observed as to flesh and movement. There shall be strict accountability for all temporary absences from the prison by an inmate. Only prison staff trained to conduct a formal inmate head count shall perform such a count. Written local policy must describe time, methods and techniques to be followed in making any counts and remedying count discrepancies.

(8) *Inmate transportation.* Written local policy must identify the circumstances and means for transporting inmates, including specifying the vehicles and persons authorized for that purpose. Written local policy must identify what restraint and search techniques are to be used and any special precautions. Written local policy must include contingency plans to be followed in the event of an accident, escape/security breach or medical emergency during transportation.

§ 95.242. Statistical/informational reporting.

The following are the minimum requirements applicable to the collection of statistics and other information by the Department:

(1) *Monthly county prison and jail data.* Written local policy must provide that a completed County Data Monthly Report (Population Information) be submitted to the Department on designated report forms or by other available approved methods. The County Data Monthly Report (Population Information) shall be submitted within 30 days of the end of the reporting month.

(2) *Report of extraordinary occurrence.* Written local policy must provide for the following:

(i) County prisons shall submit to the Department a completed County Extraordinary Occurrence Monthly Report (Incident Information) on designated report forms or by other available approved methods. The County Extraordinary Occurrence Monthly Report (Incident Information) shall be submitted within 30 days of the end of the reporting month.

(ii) An incident qualifies as an extraordinary occurrence when an incident involves one or more of the following and meets the associated conditions:

<i>TYPE OF INCIDENT</i>	<i>ONLY COMPLETE IF</i>
Death Natural Accidental Homicide Suicide	All cases
Escape Actual Walk-a-Way Attempt	Law enforcement referral
Infectious Diseases/ Communicable Diseases	Department of Health reporting required
Mental Health Commitment Mental Health 302 Mental Health 304	All cases
Attempted Suicide	Medical treatment beyond immediate first aid or mental health referral or both
Use Of Force Physical Restraints Chemical agent Stun device Baton Firearms	Whenever utilized for other than routine use of restraints during inmate movement/escort/transportation
Assault On Staff By Inmate On Inmate By Staff On Inmate By Inmate	Medical treatment beyond immediate first aid or law enforcement referral or both
Sexual Assault/ Allegation of Sexual ASSAULT On Inmate by Inmate On Inmate by Staff	All Cases
Emergency Fire Disturbance Hostage Bomb threat Terrorism Biological/chemical Utility outages Evacuation/relocation	Outside agency assistance or law enforcement referral or both

(iii) An incident qualifies as an extraordinary occurrence when an incident involves an inmate, prison employe, contractor, volunteer or visitor in a situation occurring within the prison, on prison property or while an inmate is under custody of the prison, or during the performance of a prison employe's official duties.

(3) Written local policy must provide that a completed Annual County Prison General Information Report be

submitted to the Department on designated report forms or by means of other available approved methods. The Annual County Prison General Information Report for the preceding calendar year shall be submitted by the first Monday in March of each year.

(4) The data and information submitted to the Department in the County Data Monthly Report, the County Extraordinary Occurrence Monthly Report and the An-

nual County Prison General Information Report will be collected for statistical, analytical and trending purposes only.

(5) Information required upon commitment of offender to the Department.

(i) Written local policy must establish the procedure necessary to ensure that the information which must accompany an inmate upon commitment to the custody of the Department is provided to the Department as required under 42 Pa.C.S. § 9764(a) (relating to information required upon commitment and subsequent disposition). The policy must also specify the person responsible for collecting the information and ensuring that it is submitted to the Department as required by law.

(ii) Written local policy must establish the procedure necessary to ensure that the additional information regarding an inmate, which is provided by the court to the county prison in accordance 42 Pa.C.S. § 9764(b), is transmitted to the State correctional facility, as required under 42 Pa.C.S. § 9764(c), following transfer of that inmate from the county prison. The policy must also specify the person responsible for collecting the information and ensuring that it is submitted to the Department as required by law.

§ 95.243. Treatment services.

The following are the minimum requirements applicable to treatment services:

(1) Written local policy must:

(i) Designate that the delivery of treatment services shall be supervised by a treatment professional who is employed by the prison, someone under contract with the prison or who serves as a volunteer.

(ii) Identify treatment services.

(iii) Designate who is responsible to provide each treatment service.

(iv) Identify the number of hours provided per week for each treatment service and the total number of hours provided per week for all treatment services.

(2) Written local policy must require treatment services to include the following:

(i) Education.

(ii) Social services.

(iii) Alcohol and other drugs.

(iv) Counseling services.

(3) Written local policy must require treatment services to be provided by a treatment professional or a person certified, licensed or trained to provide that programming who is employed by the prison, under contract with the prison or who serves as a volunteer, or by any combination thereof.

(4) Written local policy must specify that inmates admitted to the prison receive a treatment intake screening, performed and recorded by a person with treatment training. This screening must include the determination of current mental and emotional stability, medical status, immediate personal/family issues, the identification of legal representation, and the obtaining of the name of a relative or other person for notification in the event of an emergency. A record of the screening shall be kept as part of the permanent prison document.

(5) Written local policy must require that an inmate determined upon admission to be in need of immediate treatment services be assessed by a treatment professional within 7 days.

(6) Written local policy must require that a treatment needs assessment be conducted by a treatment professional within 90 days following admission. This assessment must identify individual treatment needs and, within available prison and community resources, provide for access to supportive and rehabilitative services. The assessment shall be recorded as part of the inmate's file. Follow-up available treatment services shall begin within 45 days of the treatment needs assessment.

(7) Written local policy must identify the procedures for evaluating whether an inmate is mentally ill and proceedings under the Mental Health Procedures Act (50 P. S. §§ 7101—7503) should be initiated.

(8) Written local policy must provide that inmates shall have the option to refuse treatment services except when subject to an involuntary commitment under the Mental Health Procedures Act or unless otherwise directed by court order.

(9) Written local policy must specify that there is no discrimination regarding treatment services access based on an inmate's race, religion, national origin, gender, or disability. If both genders are housed in the prison, all available services and programs shall be comparable.

§ 95.244. (Reserved).

§ 95.245. Incoming publications.

The following are the minimum requirements applicable to incoming publications:

(1) Written local policy must specify the procedure for receiving, reviewing and allowing publications into the prison, including the searching of incoming publications for contraband.

(2) Written local policy must establish the criteria for prohibiting a publication from coming into the prison, including the defining of obscene material. Incoming publications may be read and examined by the prison administrator or a designee. The criteria for prohibiting a publication from coming into the prison must be related to maintaining the order, security or safety of the prison or the exclusion of obscene material.

(3) Written local policy must identify the procedure for allowing access to both recreational and instructional reading materials for use by inmates.

§ 95.246. Investigations; deaths and sexual assaults/allegations.

The following are the minimum requirements for investigation of:

(1) *Deaths.* Written local policy must provide for the procedure to be followed in the event of the death of an inmate, prison employe, volunteer, contractor or visitor. The policy must provide for the following:

(i) Immediate notification of the coroner and the appropriate law enforcement agency by the prison administrator or a designee when an inmate dies within the prison, on prison property or while in the custody of prison staff.

(ii) Immediate notification of the coroner and the appropriate law enforcement agency by the prison administrator or a designee when a prison employe, volunteer, contractor or visitor dies within the prison, on prison property or while in the performance of official duties.

(iii) Identification of the coroner and the law enforcement agency to be notified.

(iv) Identification of the staff person responsible for coordinating investigative efforts with the coroner and the law enforcement agency and completing and submitting a report to the governing county prison authority.

(v) Documentation and reporting of any death to the Department and the United States Department of Justice.

(2) *Sexual assaults/allegations.* Written local policy must describe the procedure to be followed in the event of an allegation of a sexual assault involving an inmate, prison employe, volunteer, contractor or visitor. The policy must provide for the following:

(i) The prison administrator or a designee shall immediately direct an investigation of all allegations of sexual assault occurring within the prison, on prison property or while an inmate was in the custody of prison staff.

(ii) The designated law enforcement agency shall be notified and an investigation requested when a sexual assault occurs within the prison, on prison property or while in the custody of prison staff.

(iii) Identification of the law enforcement agency to be notified.

(iv) Identification of the staff person responsible for contacting the law enforcement agency, coordinating investigative efforts with that agency and completing and submitting a report to the governing county prison authority.

(v) Documentation and reporting of a sexual assault or allegation of sexual assault to the Department and the United States Department of Justice.

§ 95.247. Notification.

The following are the minimum requirements applicable to notification:

(1) Written local policy must provide for prompt notification by prison authorities of an inmate's listed emergency contact in the event of the inmate's death, serious illness or serious injury. The policy must also provide for prompt notification to an inmate in the event of the death, serious illness or serious injury to the inmate's immediate family member.

(2) Written local policy, in accordance with the sections 201 and 214 of the Crime Victims Act (18 P. S. §§ 11.201 and 11.214), must establish a victim notification procedure. The procedure must identify how victims register for notification, the circumstances for which victims are notified, how this information will be maintained in a confidential manner and who is responsible for notifying the victim. If the inmate is a State prisoner on writ for local court proceedings, the county prison shall immediately contact the State correctional institution from which the inmate was transferred when circumstances exist requiring notification of the victim. In this instance, disclosure to the victim will then be handled by the Department.

§ 95.248. Sanitation, maintenance and safety.

The following are the minimum requirements applicable to sanitation, maintenance and safety:

(1) Written local policy must require the prison to adhere to applicable Department of Labor and Industry regulations regarding sanitation, maintenance and safety or any applicable local code inspections.

(2) Written local policy must identify a sanitation and housekeeping plan. This plan must address all prison areas and provide for daily housekeeping and regular maintenance by assigning specific duties and responsibilities to staff and inmates. Inmates shall be required to maintain their immediate living area and adjacent general space in a sanitary condition. The control of vermin and pests shall be addressed on a monthly basis by a qualified person, with documentation of the application of any pest or vermin control treatment. A sanitation inspection shall be conducted of all prison areas on a monthly basis to determine the health and safety status of the prison and the need for action. The results of this inspection shall be documented and submitted to the prison administrator or designee.

(3) Written local policy must identify a preventive maintenance program for the physical plant of the prison. This program must ensure the regular care and inspection of equipment that is essential for safe and efficient operation. A qualified person shall conduct an inspection of all equipment, at least semiannually, as specified by the manufacturer, to determine condition and need for action. The results of this inspection shall be documented and submitted to the prison administrator or designee.

(4) Written local policy must provide for the inventory, control, storage and clean-up of toxic, caustic and flammable substances. Written local policy must also specify an exposure control plan for governing the handling of blood-born pathogens.

(5) Written local policy must require that prison operational support areas, to include laundry room, janitorial closets, mechanical room, electrical room, boiler room, maintenance room and storage room be maintained in a safe and clean condition at all times.

(6) Written local policy must require that the prison administrator maintain any required licenses or documentation of the prison's compliance with an applicable building code/life safety code. Current licenses or certificates of occupancy, or both, shall be available for inspection in the prison.

(7) Written local policy must require that the approved bed capacity be specified annually. The actual in-house population may not exceed the prison's approved bed capacity. The in-house population shall be calculated as the average daily inmate population for the 6 calendar months prior to the date of the prison inspection.

(8) Written local policy must require that an emergency power back-up system be available and in operational condition. This system shall be load tested at least on an annual basis, with this load test and the operating status of the system documented.

(9) Written local policy must identify a fire emergency/evacuation plan. This plan shall be reviewed annually by the prison administrator or a designee and identify an existing agreement with a responding fire department. Staff training for the implementation of this plan shall be provided on an annual basis. All areas of the prison shall

be involved and participate in fire drill exercises at least once each year, with all fire drills being documented. Written local policy must also provide for a system of inspection, testing and certification by a qualified person of all fire/smoke detectors, fire/smoke alarms and panels and fire fighting equipment on an annual basis.

[Pa.B. Doc. No. 08-1844. Filed for public inspection October 10, 2008, 9:00 a.m.]

Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 401a, 435a, 439a, 441a, 461a, 461b, 463a, 465a, 503a AND 511a]

Preliminary Provisions; Employees; Junket Enterprises; Slot Machine Licenses; Slot Machine Testing and Control; Technical Standards; Possession of Slot Machines; Accounting and Internal Controls; and Self-Exclusion and Persons Required to be Excluded

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. §§ 1207, 1311, 1321, 1322 and 1522, amends Chapters 401a, 435a, 439a, 441a, 461a, 461b, 463a, 465a, 503a and 511a to read as set forth at 38 Pa.B. 1151 (March 8, 2008) and in Annex A.

Purpose of the Final-Form Rulemaking

This final-form rulemaking reflects organizational changes, requires the display of Board credentials, adds new slot machine design standards, deletes a technical standard that is outdated, makes a number of changes to existing accounting and internal control requirements, revises the jackpot payout procedures and expands the provisions related to merchandise jackpots.

Explanation of Amendments to Chapters 401a, 435a, 439a, 441a, 461a, 461b, 463a and 465a

Throughout this rulemaking, references to the Board have been replaced with more specific references to the bureau or office that is involved.

In § 401a.3 (relating to definitions), the definition of "BCCIC" has been deleted because that Bureau of Corporate Compliance and Internal Controls no longer exists.

In § 435a.6(c) (relating to Board credentials), the requirement that a slot machine licensee's employees carry their Board credential has been changed to require that the Board credential be displayed.

In Chapter 439a (relating to junket enterprises), references to the Bureau of Corporate Compliance and Internal Controls have been replaced with references to the Office of Gaming Operations.

Section 441a.19 (relating to notice of employee misconduct and offenses) has been amended to require slot machine licensees to notify the Bureau of Licensing of the resignation of any key employee. This will provide the Board with an opportunity to conduct an exit interview with the key employee.

In Chapter 461a (relating to slot machine testing and control), the Board has made a number of changes. In § 461a.1 (relating to definitions), the definition of "asset

number" has been expanded to include associated equipment and the definition of "merchandise jackpot" has been revised to correspond to changes to § 465a.28 (relating to merchandise jackpots) which will require slot machine licensees to offer a cash payment in lieu of the merchandise.

In § 461a.7 (relating to slot machine minimum design standards), the Board has amended subsection (b)(3) to conform with the change made to § 465a.28 discussed previously. Additionally, a new standard related to the service button on slot machines has been added. It requires that the service button be easily accessible to the patron playing the slot machine and that activating the service button trigger a signal on the tower light that is consistent with the technical standards in § 461b.2 (relating to slot machine tower lights and error conditions).

The third change in § 461a.7 moves a requirement that was in the technical standards in § 461b.1 (relating to slot machine minimum design standards) as a statement of policy into the regulations. This standard requires that slot machines be configured to use any noncashable credits available for play before it uses any cashable credits. Because the Board is moving this requirement into the regulations, the technical standard in § 461b.1 has been deleted.

The final change in § 461a.7 requires labels on slot machines containing the asset number and gaming floor location. Similar requirements have also been added to §§ 461a.10 and 461a.22 (relating to automated gaming voucher and coupon redemption machines; and automated jackpot payout machines).

In § 461a.16 (relating to player tracking systems), a provision has been added prohibiting slot machine licensees from having anyone under 21 years of age in a player tracking system. Since these individuals can not participate in gaming, they should not be participating in any player programs. A new subsection (c) has also been added which requires anyone who has access to the information contained in the player tracking system must hold a key employee license or occupation permit. This was done to protect the personal information of individuals who elect to participate in any player programs.

The last revision to Chapter 461a is in § 461a.25 (relating to disputes). This section, which sets forth the process for addressing patron disputes, has been revised to match the process that is currently being used. When a dispute arises which can not be resolved by the slot machine licensee, the slot machine licensee will notify the casino enforcement agents at the licensed facility. A casino enforcement agent will attempt to resolve the dispute, and if unsuccessful, will assist the patron in filing a complaint. When complaints are filed, the Bureau of Investigations and Enforcement (BIE) will conduct an investigation.

In Chapter 463a (relating to possession of slot machines), a number of changes have been made to further clarify how certain requests are to be filed and what bureaus should receive copies of various filings. In § 463a.1 (relating to possession of slot machines generally), subsection (c) has been revised to require requests to possess slot machines to be filed as a petition. Additionally, a new subsection (e) has been added requiring anyone authorized to possess slot machines under subsection (d) to obtain Board approval for the offsite storage of the slot machines.

Section 463a.2 (relating to transportation of slot machines into, within and out of this Commonwealth) has been amended to require that the notice that is sent to

the Bureau of Gaming Laboratory Operations when a slot machine is going to be moved, also be sent the Office of Gaming Operations.

In § 463a.5 (relating to slot machine master list), subsection (a) has been amended to require a copy of the slot machine master list to be filed with the Office of Gaming Operations as well as the Bureau of Gaming Laboratory Operations.

In § 463a.7 (relating to off premises storage of slot machines), subsection (b) has been amended to require requests for off premises storage of slot machines to be filed as a petition under § 493a.4.

In Chapter 465a (relating to accounting and internal controls), numerous changes have been made concerning where filings should be made, eliminating unnecessary filings, clarifying various requirements and adding new procedures.

In § 465a.2 (relating to internal control systems and audit protocols), references to the Board, the Bureau of Corporate Compliance and Internal Controls and BCCIC have been replaced with the Office of Gaming Operations which is now responsible for these functions. In subsection (f), provisions have been added to clarify that requests for changes to a slot machine licensee's internal controls are to be filed using an Amendment and Waiver Request Form. Also, subsection (j) has been revised to require the retention of required attestations for 5 years.

In § 465a.3 (relating to forms, records and documents), the reference to the "Bureau" has been deleted. The Board does not need to routinely receive copies of these occurrences.

In § 465a.4 (relating to standard financial and statistical reports), subsections (a) and (b) have been deleted. The Board has determined that these required filings are duplicative or unnecessary for the Board to monitor the financial integrity of slot machine licensees.

In § 465a.5 (relating to annual audit; other reports; suspicious activity and currency transaction reporting), references to the Bureau of Corporate Compliance and Internal Controls, BCCIC and Board have been replaced with the Bureau of Licensing throughout this section except in subsections (k) and (m) where "Board" is replaced with "BIE" and in subsection (n) where "Board" is replaced with the "Office of Gaming Operations." In subsections (d) and (e), the phrase "independent certified public accountant or" has been added to be consistent with the language used in subsection (a).

In subsections (d), (g) and (h), only one copy of the specified reports will have to be filed, instead of two or three copies.

In § 465a.7 (relating to complimentary services or items), "Board" has been replaced with "BIE" in subsection (e).

In § 465a.8 (relating to licensed facility), "or floor" has been added to subsection (d)(2) and "facilitating" has been replaced with "providing" in subsection (d)(6).

In § 465a.9 (relating to surveillance system; surveillance department control; surveillance department restrictions), a number of editorial changes have been made. In subsection (a) a general requirement that the surveillance system must be in compliance with the requirements of 18 Pa.C.S. Chapter 5 (relating to Wiretapping and Electronic Surveillance Control Act) has been added.

In subsection (b), the phrase "upon request" has been deleted because it is not necessary.

In subsection (c)(4), the requirement for audio surveillance capability in the count room has been revised to require that it be in conformance with 4 Pa.C.S. § 1522 (relating to interception of oral communications). Additionally, the phrase "and elsewhere in the licensed facility as required by the Board" in subsection (c)(5) has been deleted. This language is not needed because all of the activities that require surveillance are covered in paragraph (1).

In subsection (c)(4)(ii), the word "facilitate" has been replaced with "provide."

In subsections (h) and (i), the references to "Bureau" have been replaced with "casino enforcement agents at the licensed facility" and "casino enforcement supervisor at the licensed facility" respectively. This will provide clearer direction to the slot machine licensees concerning who they should notify in these circumstances.

In subsection (o), a reference to § 493a.4 (relating to petitions generally) has been added to clarify that a surveillance department employee must file a petition when requesting an exemption from the 1-year restriction on accepting employment with another department at the licensed facility.

In § 465a.11 (relating to slot machine licensee's organization), the references to "Bureau" in subsections (b)(1)(viii) and (5)(x) and (xi), have been replaced with "casino enforcement agents... at the licensed facility" and subsection (b)(5)(x) has been split into two subparagraphs, subparagraphs (x) and (xi).

In subsection (c), a new option has been added for reporting by the supervisors of the surveillance and internal audit departments.

In § 465a.12 (relating to access badges and temporary access credentials), "licensed manufacturer designees" were added to the list of entities that must be covered by a slot machine licensee's temporary access badge procedures.

In § 465a.13 (relating to possession of deadly weapons within a licensed facility), the prohibition on deadly weapons has been expanded to include stun guns or other devices that are designed to injure or incapacitate a person. This is intended to provide additional protection of patrons at licensed facilities.

In § 465a.16 (relating to accounting controls for the cashiers' cage), the phrase "and nongaming" has been deleted from subsections (c)(1)(ii) and (2)(i) and (iii) to make these provisions consistent with the language used in § 465a.20 (relating to personal check cashing).

In § 465a.18 (relating to transportation of slot cash storage boxes to and from bill validators; storage), "Board" has been replaced with "Office of Gaming Operations" in subsections (a) and (b). Additionally, a new subsection (f) has been added that requires the casino enforcement agents to be contacted prior to the commencement of the drop if the central control computer is not online and that a casino enforcement agent witness and certify the drop. This is intended to provide greater security for and integrity of the collection of the slot cash storage boxes.

In § 465a.20 (relating to personal check cashing), subsection (b)(6) has been amended to allow the amount of a check being cashed to be put in a customer deposit account as well as immediately being paid in cash to the

patron. This will provide greater convenience and safety for patrons. A new subsection (f) has also been added requiring any slot machine licensee that charges a fee for cashing checks to comply with the Check Casher Licensing Act (63 P. S. §§ 2301—2334).

In § 465a.23 (relating to customer deposits), subsections (a) and (b) were revised to allow checks to be accepted for customer deposits consistent with the changes made to § 465a.20. The phrase “subsequent use for gaming purposes” has been replaced with the broader phrase “subsequent use at the licensed facility” again for the convenience of the patrons.

In § 465a.25 (relating to counting and recording of slot cash storage boxes), the first reference to the “Board” in subsection (a) has been replaced with the “Office of Gaming Operations” and the second reference to the “Board” has been replaced with the “Office of Gaming Operations and the casino enforcement supervisor at the licensed facility.” Existing subsection (j) has been deleted; the Board does not need to routinely receive these reports. A new subsection (j) has been added which requires notice to and the presence of someone from BIE in the count room before the count commences when the central computer control system is down.

Section 465a.26 (relating to jackpot payouts) has been totally rewritten. While many of the previous requirements remain, the procedures have been revised to provide greater flexibility as to who may verify the winning combination and to provide better accountability in the actual payment of the jackpots.

In § 465a.27 (relating to annuity jackpots), the phrase “a banking institution in this Commonwealth” has been added to subsection (e)(1)(iii). This will allow trusts established to pay annuity jackpots to be placed with banks in addition to being maintained by a slot machine licensee or slot system operator.

In § 465a.28, the provisions governing merchandise jackpots have been expanded to provide additional guidance to the slot machine licensees. Provisions have been added specifying how a slot machine licensee is to determine the cash equivalent value of the merchandise and what supporting documentation a slot machine licensee is required to maintain. Slot machine licensees will also be required to offer optional cash payment that the winner may elect to receive in lieu of the merchandise being offered. The additions also provide that merchandise jackpots are considered winnings for the purpose of calculating gross terminal revenue and how the amount of the winnings is to be determined. Minimum requirements governing advertising of merchandise jackpots and technical requirements related to slot machines offering merchandise jackpots have also been included.

In § 465a.29 (relating to automated teller machines), a new subsection (b) has been added that requires a label on the top and front of automated teller machines that displays a unique identification number of the automated teller machine. This will make it easier for surveillance to identify individual automated teller machines and their location in the licensed facility.

In § 465a.31 (relating to gaming day), subsection (c) has been revised to require that changes in a slot machine licensee’s hours of operation be submitted as a change to the slot machine licensee’s internal controls under the procedures outlined in § 465a.2(f).

Comment and Response Summary

Notice of proposed rulemaking was published at 38 Pa.B. 1151.

The Board received comments from Downs Racing L.P. (Downs), International Gaming Technology (IGT), Greenwood Gaming and Entertainment, Inc. (Greenwood) and Washington Trotting Association, Inc. (WTA) during the public comment period. On May 7, 2008, the Independent Regulatory Review Commission (IRRC) also filed comments on the proposed rulemaking. All of these comments were reviewed by the Board and are discussed in detail as follows.

Downs commented that requiring display of the Board credential exposes personal information of employees and detracts from the refined professional image desired. They suggested that employees just be required to carry their credentials.

The Board disagrees with this comment. The personal information (other than the name) on an employee’s credential is on the back of the credential and therefore not seen by the patrons. While the credential may detract somewhat from the uniform worn by the employee, this is outweighed by the improved ability to insure that all employees have their credentials.

Concerning the revision to § 441a.19, Downs argued that 5 days is too short. They suggested that 15 days, which is the current practice and which was approved by the Board, is more reasonable. IRRC asked if the new regulation would supersede previously approved procedures and if so, suggested that clarifying language be added.

The Board does not believe that 5 days is an unreasonable time period. As noted in the preamble of the proposed rulemaking, the Board has set the 5-day reporting period to allow the Board to promptly conduct an exit interview. Furthermore, this requirement is consistent with § 441a.10 (relating to notification of anticipated or actual changes in principals or key employees) which requires a slot machine licensee to provide written notice “as soon as it becomes aware” and gives slot machine licensees a clear, definitive standard to determine when notice must be provided.

Because a regulation has the same force and effect of a statute, previously approved procedures or internal controls are superseded by the new regulation. Accordingly, slot machine licensees will be required to revise any previously approved procedures that do not conform to the requirements in the Board’s regulations.

In § 461a.1, Greenwood and WTA suggested that the definition of “asset number” be revised further so that it only applies to slot machines, gaming voucher redemption machines and automated teller machines.

The proposed definition simply indicates what an asset number is and that asset numbers may appear on pieces of associated equipment. It does not require that all items that are associated equipment must have an asset number. Only those pieces of associated equipment that the regulations require to have an asset number will be required to have one.

Concerning § 461a.7(x), IGT and IRRC suggested that the proposed provision be revised so that a service button is not required when a machine requires a full-time attendant for operation.

The Board agrees with this suggestion and has modified the final regulation to incorporate this change.

The provision published as § 461a.7(y)(3), should be § 461a.7(z). On this provision, and §§ 461a.10 and 461a.22, Greenwood commented that they did not object to this labeling requirement, but noted that if they had to

replace existing labels to meet the new requirements, it would cost \$9,000. IRRC asked what the approval process is for alternate labels and whether labels currently in use would have to be approved or replaced. IRRC also suggested that the Board replace the phrase "may not be easily removed" with a more definitive phrase.

Use of an alternate labeling scheme is typically discussed with and approved by the Board's Office of Gaming Operations' opening team at the licensed facility during construction. Approval would be given verbally so long as the alternate labeling was easily readable by the surveillance cameras. Since the readability of existing labels was verified as part of the opening process at each licensed facility currently operating, no existing labels will have to be replaced.

The Board has not replaced the phrase "may not be easily removed" as IRRC suggested. Slot machine licensees have not had problems complying with this standard, so the Board does not believe additional clarification is necessary.

In § 463a.7(b), WTA suggested that the Board retain the existing "writing request" provision as opposed to being required to file a petition which they believe is more cumbersome and time consuming. IRRC asked what changes in terms of time for review and cost to the slot machine licensee would result from this change.

The Board uses the petition process as the general procedure for most matters that require Board approval. The information a slot machine licensee would be required to include in a petition is essentially the same as what a slot machine licensee would have to include in a written request. Furthermore, the Board's internal review process would be the same for a petition or written request. For these reasons, the Board anticipates that there will be no significant increases in costs or time for review as a result of this amendment.

Concerning § 465a.2(f), WTA noted that the Amendment and Waiver Request Form on the web site requires submission to the Board, but the regulation is replacing Board with the Office of Gaming Operations. WTA also asked if these forms can be submitted electronically to both the Board and the Department of Revenue.

The Board is currently revising the internal control Amendment and Waiver Request Form and its procedures so that the entire submission to the Office of Gaming Operation will be done electronically. However, the submission to the Department of Revenue will still be done by means of a written submission. Revisions have been made to subsection (f) to reflect these changes.

In § 463a.2(j), IRRC and IGT suggested that subsection (j) be revised to allow electronic as well as paper copies for record retention.

The Board has not adopted this suggestion because electronic copies can be more easily modified. The Board has however reworded this section. The original attestations, not copies, are what the Board is requiring slot machine licensees to keep for 5 years.

In § 465a.9, WTA believed there is no need for or benefit from subsection (o) and suggested that it be deleted entirely.

The Board disagrees that there is no need for this provision. Activities and procedures used by the surveillance department are designed to monitor critical activities within the licensed facilities. If a former surveillance employee takes another job at the licensed facility, the integrity of the surveillance process could be compro-

mised. Therefore, the Board believes that Board review of waiver requests is appropriate and the existing provision has been retained.

Concerning § 465a.11(c)(5), WTA noted its general objections to the requirement for an independent audit committee and the existing reporting requirements for the directors of the surveillance and internal audit departments.

This amendment does not create a new requirement to have an independent audit committee. That requirement is the subject of another proposed rulemaking. This amendment merely gives slot machine licensees another option for meeting the existing reporting requirement for the directors of the surveillance and internal audit departments. Therefore, the Board has made no changes to the proposed language.

In § 465a.13, IRRC noted that the phrase "or other device that could injure or incapacitate a person" is vague; many common items a person might carry "could" cause injury.

IRRC's point is correct. While many devices "could" injure or incapacitate a person, the Board's intent was to ban devices that are "designed to" injure or incapacitate. The words "that could" have been replaced with "designed to" throughout this section.

On the revisions to § 465a.26, IRRC had three concerns. First, IRRC asked if all slot machine licensees would be required to have "lead slot attendants." Second, IRRC asked why two-part manual and electronic jackpot payout receipts are needed. Finally, IRRC suggested that the phrase "if the jackpot is between \$10,000 or more but less than \$25,000" could be clearer.

Slot machine licensees are not required to have lead slot attendants. However, because of the tax reporting requirements associated with jackpots equal to or exceeding \$1,200, the Board believes that verification should be done by someone above the entry level of slot attendant. For that reason, the Board used the phrase "lead slot attendant or above." Where there are no lead slot attendants, slot supervisors or above will be required to witness jackpots of \$1,200 or more.

Both electronic and manual forms are used to insure that the information generated by the slot machine licensee's electronic system matches what was recorded by the slot attendant from the slot machine. Additionally, some of the information on the manual form does not appear on the electronic form. A two-part form is used to protect the integrity of the payout process and provide an audit trail. This is done by having the forms witnessed and by having the witness and the slot attendant independently deposit copies of the forms in the lock box for slot accounting.

To address IRRC's final concern, the phrase "if the jackpot is between \$10,000 or more but less than \$25,000" in subsections (b)(4) and (7)(vii)(C) has been replaced with "if the jackpot is between \$10,000 and \$24,999.99."

Greenwood also voiced several concerns with the proposed version of § 465a.26. These included: the concern over having to have lead slot attendants; the jackpot level at which approval by someone above a slot attendant would be required; the need for the patron to sign the manual jackpot payout receipt as required by subsection (b)(9)(ii); and the need to notify surveillance when a jackpot payout is \$1,200 or more.

As stated previously, this regulation does not require that each slot machine licensee have lead slot attendants; instead it requires someone above the level of slot attendant to witness jackpot payouts of \$1,200 or more. Greenwood also argues that slot attendants should be able to act as witnesses for any jackpot that is less than \$10,000. The Board disagrees. While slot attendants are trained to do all types of jackpot payouts, the additional forms that must be completed when a jackpot is \$1,200 or more warrant review by more experienced personnel.

The Board also disagrees that the patron signature is not needed; the signature is important to assure proper payment and to eliminate patron disputes over improper payment. Accordingly, this provision remains unchanged. For the same reason and to correct an oversight, subsection (b)(7) is being amended to add the patron's signature.

Because of the potential for patron disputes or procedural errors in jackpot payouts, the Board believes that notice to surveillance for jackpots of \$1,200 or more is a prudent business practice. This will insure that there is a video record of these jackpot payouts.

Greenwood also suggested some clarifying language and that the regulations incorporate provisions for the use of WIZ machines if the slot computer system is offline or an electronic jackpot payout slip can not be created.

The Board has added some of the clarifying language that was suggested. However, the Board has not added language to address the use of WIZ machines. While WIZ machines were commonly used in the past, current practice in casinos now is to use the three-part manual jackpot payout books. If Greenwood desires to continue using WIZ machines, the Board suggests that they file a waiver request under § 465a.30 (relating to waiver of requirements).

In § 465a.28, IGT suggested that subsection (k) be revised to allow greater flexibility in game offerings.

The Board has elected not to add the suggested language because this could be confusing to patrons.

In § 465a.29, IRRC asked why the language in this section differed from the language in §§ 461a.7 and 461a.22.

The inconsistency in the language was a drafting error. The final-form regulations have been amended to parallel the language used in §§ 461a.7 and 461a.22.

On this same section, Downs commented that the new label requirement would create a significant expense to purchase and replace existing labels.

As discussed previously, existing labels that have already been reviewed will not have to be replaced. So Downs will not incur additional costs as a result of this regulation.

Additional Revisions

In addition to renumbering the provision published as § 461a.7(y)(3) to § 461a.7(z), the duplicate phrase "or other color combination approved by the Office of Gaming Operations" in this subsection has been deleted.

At proposed, in § 465a.5(h), the Board reduced, from three to one, the number of copies of reports or forms filed with the Securities and Exchange Commission or other regulatory agencies that had to be filed with the Bureau of Licensing. Because this information is now available by means of the Internet, the Board no longer believes it is necessary for copies of these items to be filed with the Board. Instead, slot machine licensees will only be required to provide notice that a filing has been made.

This should reduce paperwork requirements for both the slot machine licensees and the Board.

The Board has also inserted the word "manual" in several places in § 465a.26 to enhance the clarity of this section.

Finally the Board had added the titles "casino enforcement agent" and "casino enforcement supervisor" in various sections of the proposed rulemaking to clarify who was responsible for performing certain functions. After the publication of the proposed rulemaking, these titles were changed to "casino compliance representative" and "casino compliance supervisor" to better reflect the nature of their duties. Corresponding changes to these titles have also been made in the final-form rulemaking in the proposed sections and in §§ 435a.7, 503a.4(a)(ii) and 511a.8(d)(1) (relating to emergency credentials; and duties of slot machine licensees).

Affected Parties

Slot machine licensees will have to comply with the new design standards and labeling requirements for slot machines, and changes in the patron dispute process and the surveillance requirements. Slot machine licensees will also have to comply with the new jackpot payout procedures and will have clearer guidance on the payment of and how merchandise jackpots are to be administered.

Fiscal Impact

Commonwealth

Because most of the revisions in this final-form rulemaking reflect current Board practice, there will be no significant costs or savings to the Board or other State agencies as a result of these revisions.

Political Subdivisions

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

Private Sector

Slot machine licensees will experience some slight savings from reduced filing requirements and from being required to submit fewer copies of a number of reports. Slot machine licensees may experience some costs related to the new design standards and labeling requirements for slot machines and associated equipment. Additionally, slot machine licensees may experience some increased cost to comply with the new requirements related to jackpot payouts and merchandise jackpots.

General Public

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

Paperwork requirements

This final-form rulemaking eliminates the requirement that slot machine licensees file a report with the Board on patron disputes that are not resolved within 7 days. It also eliminates a number of financial reports that are not needed and reduces the number of copies of other reports slot machine licensees must submit. These amendments will require more detailed filings of information related to merchandise jackpots.

Effective Date

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

Contact Person

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 21, 2008, the Board submitted a copy of this proposed rulemaking, published at 38 Pa.B. 1151 and a copy of the Regulatory Analysis Form to IRRC and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee (Committees).

Under section 5(c) of the Regulatory Review Act (71 P. S. § 745.5(c)), IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments received from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), the final-form rulemaking was deemed approved by the Committees on August 20, 2008. Under section 5.1(e) of the Regulatory Review Act, IRRC met on August 21, 2008 and approved the final-form rulemaking.

Findings

The Board finds that:

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

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

Order

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

(a) The regulations of the Board, 58 Pa. Code Chapters 401a, 435a, 439a, 441a, 461a, 461b, 463a, 465a, 503a and 511a, are amended by amending §§ 401a.3, 435a.6, 439a.7, 439a.8, 439a.10, 439a.11, 441a.19, 461a.1, 461a.10, 461a.16, 461a.22, 463a.1, 463a.2, 463a.5, 463a.7, 465a.3, 465a.4, 465a.7, 465a.8, 465a.12, 465a.16, 465a.20, 465a.23, 465a.27—465a.29 and 465a.31 and by deleting § 461b.1 to read as set forth 38 Pa.B. 1151; and by amending §§ 435a.7, 461a.7, 461a.25, 465a.2, 465a.5, 465a.9, 465a.11, 465a.13, 465a.18, 465a.25, 465a.26, 503a.4 and 511a.8 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Chairperson of the Board shall certify this order, 38 Pa.B. 1151 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

MARY DIGIACOMO COLINS,
Chairperson

(Editor's Note: The admendment of §§ 503a.4 and 511a.8 were not included in the proposed rulemaking at 38 Pa.B. 1151.)

(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 125-79 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION

CHAPTER 435a. EMPLOYEES

§ 435a.7. Emergency credentials.

(a) A principal, key employee, gaming employee or nongaming employee of the slot machine licensee who does not have the credential issued to him on his person, or whose credential has been stolen, lost or destroyed, may obtain an emergency credential from the Board to enable the employee to perform the employee's duties at the licensed facility.

(b) An employee seeking an emergency credential shall present himself to a casino compliance representative at the Board office at the licensed facility. Prior to issuing the emergency credential, the casino compliance representative will verify:

(1) The identity of the individual requesting the emergency credential.

(2) That the employee holds a valid license, permit or registration.

(3) That fewer than 12 emergency credentials have been issued to the employee in the past 12 months.

(c) The following provisions apply to emergency credentials:

(1) They will be valid for a time period not to exceed 72 hours.

(2) They shall be returned to the Board office at the licensed facility.

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 461a. SLOT MACHINE TESTING AND CONTROL

§ 461a.7. Slot machine minimum design standards.

* * * * *

(b) The calculation of the theoretical payout percentage will not include:

(1) The amount of any progressive jackpot in excess of the initial or reset amount.

(2) A cash or noncash complimentary issued under § 465a.7 (relating to complimentary services or items).

(c) A play offered by a slot machine may not have a theoretical payout percentage which is less than, when calculated to one hundredth of a percentage point, the theoretical payout percentage for any other play offered by that slot machine which is activated by a slot machine wager in a lesser amount than the slot machine wager required for that play. Notwithstanding the foregoing, the theoretical payout percentage of one or more particular plays may be less than the theoretical payout percentage of one or more plays which require a lesser wager provided that:

(1) The aggregate total of the decreases in the theoretical payout percentage for plays offered by the slot machine is not more than 1/2 of 1%.

(2) The theoretical payout percentage for every play offered by the slot machine is equal to or greater than the theoretical payout percentage for the play that requires the lowest possible wager that will activate the slot machine.

* * * * *

(w) A slot machine that does not require a full-time attendant for operation must be equipped with a service button designed to allow the player of a slot machine to request assistance. The service button must:

(1) Be visible to and within easy reach of the player of the slot machine.

(2) Communicate directly or through the slot machine to the slot machine's tower light which will provide a signal that is in compliance with the technical standards on slot machine tower lights under § 461b.2 (relating to slot machine tower lights and error conditions).

(x) A slot machine approved for use in a licensed facility must be configured to wager credits available for play in the following order:

- (1) Noncashable credits.
- (2) Cashable credits.

(y) A slot machine on the gaming floor must have a label on the top of the slot machine and on the front of the slot machine near the bill validator that displays the asset number and the gaming floor plan location number of the slot machine. The labels must have white lettering on a black background or other color combination approved by the Office of Gaming Operations, may not be easily removed and must be easily visible to the surveillance department. The label on the top of the slot machine must be at least 1.5 inches by 5.5 inches and the label on the front of the slot machine must be at least 1 inch by 2.5 inches.

§ 461a.25. Disputes.

(a) If a dispute arises with a patron concerning payment of alleged winnings, the slot machine licensee shall attempt to resolve the dispute. If the dispute can not be resolved, the slot machine licensee shall notify the casino compliance representatives at the licensed facility who will attempt to resolve the dispute. If the dispute is not resolved, the casino compliance representative will provide the patron with a Board Patron Dispute/Complaint Form and Instructions for Submitting a Patron Dispute/Complaint and assist the patron in completing the Board Patron Dispute/Complaint Form.

(b) When a patron files a complaint, BIE will conduct an investigation of the complaint.

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

* * * * *

§ 465a.2. Internal control systems and audit protocols.

* * * * *

(f) If a slot machine licensee intends to make a change or amendment to its system of internal controls, it shall submit the change or amendment electronically to the Office of Gaming Operations using the Amendment and Waiver Request Form posted on the Board's web site (www.pgcb.state.pa.us). A request for a change or amendment must include electronic copies of the attestations required under subsections (b)(1) and (2). The slot machine licensee shall also submit a written copy of the

change or amendment and the required attestations to the Department. The slot machine licensee may implement the change or amendment on the 30th calendar day following the filing of a complete submission unless the slot machine licensee receives a notice under subsection (g) tolling the change or amendment.

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

* * * * *

(i) When a change or amendment has been tolled under subsection (g), the slot machine licensee may submit a revised change or amendment within 30 days of receipt of the written notice from the Office of Gaming Operations. The slot machine licensee may implement the revised change or amendment on the 30th calendar day following the filing of the revision unless it receives written notice under subsection (g) tolling the change or amendment.

(j) A current version of the internal controls of a slot machine licensee shall be maintained in or made available in electronic form through secure computer access to the accounting and surveillance departments of the slot machine licensee and the Board's onsite facilities required under § 465a.8 (relating to licensed facility). The slot machine licensee shall also maintain a copy, either in paper or electronic form, of any superseded internal control procedures for a minimum of 5 years. The original signed two attestations required under subsection (b)(1) and (2) shall also be maintained for a minimum of 5 years. Each page of the internal controls must indicate the date on which it was approved by the Board.

§ 465a.5. Annual audit; other reports; suspicious activity and currency transaction reporting.

* * * * *

(d) One copy of the audited financial statements, together with any management letter or report prepared thereon by the slot machine licensee's independent certified public accountant or independent registered public accounting firm, shall be filed with the Bureau of Licensing not later than 60 days after the end of the licensee's fiscal year.

(e) The slot machine licensee shall require the independent certified public accountant or independent registered public accounting firm auditing its financial statements to render the following additional reports:

* * * * *

(f) The slot machine licensee shall prepare a written response to the independent certified public accountant's or independent registered public accounting firm's reports required by subsection (e)(1) and (2). The response must indicate, in detail, corrective actions taken. The slot machine licensee shall submit a copy of the response to the Bureau of Licensing within 90 days of receipt of the reports.

(g) The slot machine licensee shall file with the Bureau of Licensing one copy of the reports required by subsection (e), and one copy of any other reports on internal controls, administrative controls, or other matters relative to the slot machine licensee's accounting or operating procedures rendered by the licensee's independent certi-

fied public accountant or independent registered public accounting firm within 120 days following the end of the licensee's fiscal year or upon receipt, whichever is earlier.

(h) If the slot machine license, or a licensed holding company, licensed intermediary or licensed principal entity of the slot machine licensee, is publicly held, the slot machine licensee shall submit a notice to the Bureau of Licensing when it files any report, including forms S-1, 8-K, 10-Q, 10-K, proxy or information statements and registration statements, required to be filed by the slot machine licensee, licensed holding company, licensed intermediary or licensed principal entity of the slot machine licensee, with the SEC or other domestic or foreign securities regulatory agency. The notice must include a listing of the reports or forms filed and the date of the filing. The notice to the Bureau of Licensing shall be made within 10 days of the time of filing with the applicable Commission or regulatory agency.

(i) If an independent certified public accountant or independent registered public accounting firm who was previously engaged as the principal accountant to audit the slot machine licensee's financial statements resigns or is dismissed as the slot machine licensee's principal accountant, or another independent certified public accountant or independent registered public accounting firm is engaged as principal accountant, the slot machine licensee shall file a report with the Bureau of Licensing within 10 days following the end of the month in which the event occurs, setting forth the following:

* * * * *

(j) The slot machine licensee shall request the former accountant to furnish to the slot machine licensee a letter addressed to the Bureau of Licensing stating whether he agrees with the statements made by the slot machine licensee in response to subsection (i)(2). The letter shall be filed with the Bureau of Licensing as an exhibit to the report required by subsection (i)(2).

(k) The slot machine licensee shall file with BIE a copy of any Suspicious Activity Report-Casino (SARC) it is required to file under 31 CFR 103.21 (relating to reports by casinos of suspicious transactions). Each SARC shall be filed with BIE concurrently with the Federal filing.

* * * * *

(m) The slot machine licensee shall file with BIE a copy of any Currency Transaction Report by Casino (CTRC) it is required to file under 31 CFR 103.22 (relating to reports of transactions in currency). Each CTRC shall be filed with BIE concurrently with the Federal filing.

(n) Prior to commencing gaming operations, a slot machine licensee shall file with the Office of Gaming Operations, in a manner to be prescribed by the Office of Gaming Operations, a copy of its compliance program required under 31 CFR 103.64 (relating to special rules for casinos). Thereafter, a slot machine licensee shall file with the Office of Gaming Operations any amendment or supplement to its compliance program on or before the effective date of the amendment or supplement.

§ 465a.9. Surveillance system; surveillance department control; surveillance department restrictions.

(a) The surveillance system of a licensed facility must comply with 18 Pa.C.S. Chapter 57 (relating to Wiretapping and Electronic Surveillance Control Act) and section 1522 of the act (relating to interception of oral communications) and shall be submitted to and approved by the

Board under § 465a.2 (relating to internal control systems and audit protocols). The Bureau will review surveillance system specifications, inclusive of the camera configuration and any changes or modifications to the system specifications, to determine whether the system provides the adequate and effective surveillance of activities inside and outside the licensed facility mandated by section 1207(11) of the act (relating to regulatory authority of board). A slot machine licensee may not commence gaming operations until its surveillance system is approved by the Board.

(b) A slot machine licensee shall at all times provide the Board and the Pennsylvania State Police with access to its surveillance system and its transmissions. Each member of its surveillance department shall comply with any request made by the Board or the Pennsylvania State Police to:

* * * * *

(c) The surveillance system required in this section must include the following:

* * * * *

(4) Audio capability in the count room installed in a manner that conforms to section 1522 of the act.

(5) One or more monitoring rooms in the licensed facility which shall be staffed by employees of the slot machine licensee's surveillance department who shall at all times monitor the activities enumerated in paragraph (1). Each monitoring room shall be equipped with or serviced by:

* * * * *

(ii) Computer terminals which provide read only access to any computerized slot monitoring system or casino management system, or both, used by the slot machine licensee in its gaming operation.

* * * * *

(h) The casino compliance representatives at the licensed facility shall be notified within 30 minutes of any incident of equipment failure as noted in subsection (f) including the time and cause of the malfunction, if known, the time the slot machine licensee's security department was notified of the malfunction and the nature of communications with the security department relating to the malfunction.

(i) The casino compliance supervisor at the licensed facility shall be notified at least 48 hours in advance of the following:

- (1) Relocation of an approved camera.
- (2) Change in an approved camera's specifications.
- (3) Change in lighting for areas required to be subject to camera coverage.
- (4) Addition or change to the surveillance system.

* * * * *

(o) A present or former surveillance department employee may not accept employment as a key employee or gaming employee with the same slot machine licensee for whom he was previously employed as a surveillance department employee unless 1 year has passed since the former surveillance department employee worked in the surveillance department. The present or former surveillance department employee may file a written petition as required under § 493a.4 (relating to petitions generally) requesting the Board to waive this restriction and permit the employment of a present or former surveillance

department employee in a particular position. The Board may grant or deny the waiver upon consideration of the following factors:

* * * * *

§ 465a.11. Slot machine licensee's organization.

* * * * *

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

(1) A surveillance department supervised by a person located at the licensed facility who functions, for regulatory purposes, as the director of surveillance. The director of surveillance shall be subject to the reporting requirements specified in subsection (c) and shall be licensed as a key employee. The surveillance department shall be responsible for the following:

* * * * *

(iv) The video recording of activities in the count room and the video recording of movements of cash and slot cash storage boxes.

* * * * *

(vi) The detection of the presence of any person who may or is required to be excluded or ejected from the licensed facility under section 1514 or 1515 of the act (relating to regulation requiring exclusion of certain persons; and repeat offenders excludable from licensed gaming facility) and Chapters 511a and 513a (relating to persons required to be excluded; and underage gaming), or is self excluded from the gaming floor and gaming activities at all licensed facilities under section 1516 of the act (relating to list of persons self excluded from gaming activities) and Chapter 503a (relating to self-exclusion).

* * * * *

(viii) The provision of immediate notice to supervisors designated in the internal controls, the casino compliance representatives and the Pennsylvania State Police at the licensed facility upon detecting, and also upon commencing video recording of, a person who is engaging in or attempting to engage in, or who is suspected of cheating, theft, embezzlement, a violation of this part or other illegal activities, including a person who is required to be excluded or ejected from the licensed facility under section 1514 of the act, who may or is required to be excluded or ejected from the licensed facility under section 1514 or 1515 of the act and Chapters 511a or 513a or is self excluded from the gaming floor and gaming activities at all licensed facilities under section 1516 of the act and Chapter 503a.

* * * * *

(5) A security department supervised by a person located at the licensed facility who functions, for regulatory purposes, as the director of security. The director of the security department shall be licensed as a key employee and be responsible for the overall security of the licensed facility including the following:

* * * * *

(ix) The provision of immediate notice to the Pennsylvania State Police upon detecting the presence in the licensed facility of a person possessing a weapon in violation of § 465a.13 (relating to possession of weapons within a licensed facility).

(x) The provision of immediate notice to supervisors designated in the internal controls and the casino compliance representatives and the Pennsylvania State Police at the licensed facility upon detecting any person who is engaging in or attempting to engage in, or who is suspected of cheating, theft, embezzlement, a violation of this part or other illegal activities.

(xi) The provision of immediate notice to supervisors designated in the internal controls and the casino compliance representatives and the Pennsylvania State Police at the licensed facility upon detecting any person who is required to be excluded or ejected from the licensed facility who may or is required to be excluded or ejected from the licensed facility under section 1514 or 1515 of the act and Chapter 511a or 513a or is self-excluded from the gaming floor and gaming activities at all licensed facilities under section 1516 of the act and Chapter 503a.

* * * * *

(c) The supervisors of the surveillance and internal audit departments required by subsection (b) shall report directly to one of the following persons or entities regarding matters of policy, purpose, responsibility and authority, which persons or entities shall also control the hiring, termination and salary of each supervisor:

* * * * *

(5) An independent audit committee or other persons designated by the Board in the slot machine licensee's Statement of Conditions under § 423a.6 (relating to license, permit, registration and certification issuance and statement of conditions).

§ 465a.13. Possession of weapons within a licensed facility.

(a) Individuals, including security department personnel, are prohibited from possessing any deadly weapon as defined in 18 Pa.C.S. § 2301 (relating to definitions), stun gun or other device designed to injure or incapacitate a person within a licensed facility without the express written approval of the Board.

(b) The prohibition in subsection (a) does not apply to:

(1) Pennsylvania State Police assigned to its Gaming Enforcement Office.

(2) An on-duty officer or agent of any local, State or Federal law enforcement agency when the officer or agent is acting in an official capacity.

(c) To obtain approval for the possession of a deadly weapon, stun gun or other device designed to injure or incapacitate a person within a licensed facility, an individual shall be required to submit a written request to the Board which includes:

(1) An explanation of the compelling need for the possession of the deadly weapon, stun gun or device designed to injure or incapacitate a person within the licensed facility.

(2) If the request is for possession of a firearm as defined in 18 Pa.C.S. § 6105 (relating to persons not to possess, use, manufacture, control, sell or transfer firearms), proof that the individual holds a valid license to possess the firearm.

(d) A slot machine licensee shall post in a conspicuous location at each entrance to the licensed facility signs that may be easily read stating the following:

The possession of a deadly weapon, stun gun or other device designed to injure or incapacitate a person by any person within this licensed facility without the express written permission of the Pennsylvania Gaming Control Board is prohibited.

§ 465a.18. Transportation of slot cash storage boxes to and from bill validators; storage.

(a) Slot machine licensees shall file with the Office of Gaming Operations a schedule setting forth the specific times at which slot cash storage boxes will be brought to or removed from the bill validators along with specifications as to what areas of the gaming floor will be dropped on each pick-up day and the specific transportation route to be utilized from the gaming floor to the count room.

(b) Slot machine licensees shall maintain immediately available to the Office of Gaming Operations and the Pennsylvania State Police, a current list, with credential numbers, of all employees participating in the transportation of slot cash storage boxes. Any deviation from the schedule setting forth the specific times at which slot cash storage boxes will be brought to or removed from the bill validators, change in the areas to be dropped or the transportation route to the count room shall be noticed to the Office of Gaming Operations in advance.

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

(1) Upon its removal from a bill validator, a slot cash storage box shall be placed immediately in an enclosed trolley which is secured by two separately keyed locks. The keys shall be maintained and controlled as follows:

(i) The key to one lock shall be maintained and controlled by the finance department.

(ii) The key to the second lock shall be maintained and controlled by the security department. Access to the security department's key shall be controlled, at a minimum, by a sign-out and sign-in procedure. The security department key shall be returned to its secure location immediately upon the completion of the collection and transportation of the slot cash storage boxes.

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

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

(d) Slot cash storage boxes not contained in a bill validator, including emergency slot cash storage boxes that are not actively in use, shall be stored in the count room or other secure area outside the count room approved by the Board, in an enclosed storage cabinet or trolley and secured in the cabinet or trolley by a sepa-

ately keyed, double locking system. The keys shall be maintained and controlled as follows:

(1) The key to one lock shall be maintained and controlled by the finance department.

(2) The key to the second lock shall be maintained and controlled by a security department. Access to the security department's key shall be limited to a supervisor of that department.

(e) Notwithstanding subsection (c), the security department may, immediately prior to the commencement of the count process, issue its key to the storage cabinet or trolley to a count room supervisor for the purpose of allowing count room personnel to gain access to the slot cash storage boxes to be counted. A key transferred from the custody of the security department to the count room supervisor shall be returned immediately following the conclusion of the count of the slot cash storage boxes and the return of the empty emergency drop boxes and slot cash storage boxes to their respective storage cabinet or trolley by the count room supervisor. The security department shall establish a sign-out and sign-in procedure which includes documentation of this transfer.

(f) If the central computer control system is not online prior to commencement of the drop of the slot cash storage boxes, a drop team supervisor shall contact the casino compliance representatives at the licensed facility to witness and certify the drop. The drop may not commence until a casino compliance representative is present.

§ 465a.25. Counting and recording of slot cash storage boxes.

(a) A slot machine licensee shall file with the Office of Gaming Operations a schedule setting forth the specific times during which the contents of slot cash storage boxes are to be counted and recorded. Any deviation from the schedule shall be noticed to the Office of Gaming Operations and the casino compliance supervisor at the licensed facility at least 48 hours in advance.

(b) Computerized equipment utilized to count and strap currency, gaming vouchers and coupons must:

(1) Automatically provide two separate counts of the funds at different stages of the count process and, if the separate counts are not in agreement, document the discrepancy.

(2) Be capable of determining the value of a gaming voucher or coupon by independently examining information printed on the gaming voucher or coupon. The information is used by the counting equipment to either calculate the value internally or obtain the value directly from the gaming voucher system or coupon system in a secure manner. If the gaming voucher system is utilized to obtain the value of a gaming voucher or coupon, the gaming voucher system must perform a calculation or integrity check to ensure that the value has not been altered in the system in any manner since the time of issuance.

(c) Persons accessing the count room when uncounted funds are present shall wear clothing without any pockets or other compartments with the exception of representatives of the Board, the Department, the Pennsylvania State Police, the security department and the internal audit department.

(d) Persons present in the count room may not:

(1) Carry a handbag or other container unless it is transparent.

(2) Remove their hands from or return them to a position on or above the count table or counting equipment unless the backs and palms of the hands are first held straight out and exposed to the view of other members of the count team and a surveillance camera.

(e) Immediately prior to the commencement of the count, a count room employee shall notify the surveillance department that the count is about to begin to facilitate the recording, under § 465a.9(e) (relating to surveillance system; surveillance department control; surveillance department restrictions), of the entire count process.

(f) Prior to commencing gaming operations, a slot machine licensee shall establish a comprehensive system of internal controls addressing the opening, counting and recording of the contents of slot cash storage boxes. The internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols).

(g) The internal controls developed and implemented by the slot machine licensee under subsection (f) must include a description of all computer equipment used in the counting and recording process and other systems, if any, that communicate with that computer equipment for purposes related to the counting of gross terminal revenue.

(h) A gaming voucher or coupon deposited in a slot cash storage box shall be counted and included in the calculation of gross terminal revenue without regard to the validity of the gaming voucher or coupon.

(i) A coupon which has not already been canceled upon acceptance or during the count shall be canceled prior to the conclusion of the count.

(j) If the central computer control system is not online prior to commencement of the count of the slot cash storage boxes, a count room employee shall contact the casino compliance representatives at the licensed facility to witness and certify the count. The count may not commence until a casino compliance representative or other BIE employee is present.

§ 465a.26. Jackpot payouts.

(a) Prior to commencing gaming operations, a slot machine licensee shall establish a comprehensive system of internal controls addressing jackpot payouts that are not paid directly from a slot machine. The internal controls may include procedures by which a slot attendant, in the presence of a member of the security department or another member of the slot operations department, utilizes an imprest inventory of funds secured in a pouch or wallet to pay a jackpot of less than \$1,200. The internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols).

(b) The internal control procedures developed and implemented by the slot machine licensee under subsection (a) must, at a minimum, include:

(1) The use of a two-part manual jackpot payout receipt and a two-part electronically generated jackpot payout slip created by a slot attendant or slot supervisor, evidencing the observation by the slot attendant or slot supervisor of the winning combination of characters or a code corresponding to the winning combination of characters on the slot machine and a determination as to the appropriate amount of the jackpot payout based on the observed winning combinations.

(2) A requirement that the electronically generated jackpot payout slip not be susceptible to any changes or deletion from the slot computer system by any personnel after preparation.

(3) A requirement that if the jackpot range is \$1,200 to \$9,999.99, the witness on the two-part manual jackpot payout receipt and the two-part electronically generated jackpot payout slip be a lead slot attendant or above.

(4) A requirement that if the jackpot is between \$10,000 and \$24,999.99, the witness on the two-part manual jackpot payout receipt and the two-part electronically generated jackpot payout slip be a slot supervisor or above.

(5) A requirement that if the jackpot amount is \$25,000 or more, a slot shift manager or above shall sign the manual jackpot payout receipt attesting that the winning combination of characters or a code corresponding to the winning combination of characters on the slot machine and the amount to be paid match those which appear on the two-part manual jackpot payout receipt. The two-part manual jackpot payout receipt shall then be immediately returned to the preparer.

(6) A requirement that if the amount is \$1,200 or more the slot attendant shall immediately transport the original of the manual jackpot payout receipt and the original of the electronically generated jackpot payout slip to the cashiers' cage.

(7) A requirement that the following information be on the two-part manual jackpot payout receipt:

(i) The date and time of the jackpot.

(ii) The asset number of the slot machine on which the jackpot was registered.

(iii) The winning combination of characters constituting the jackpot or a code corresponding to the winning combination of characters constituting the jackpot.

(iv) The amount of the jackpot payout.

(v) The method of payment requested by the patron (cash or slot licensee check).

(vi) The signature or identification code of the preparer.

(vii) The signature of the patron who received the jackpot payout.

(viii) If the slot machine or the progressive meter is reset prior to the patron being paid or if payment is made directly to the patron by a slot attendant, the following additional signatures or identification codes:

(A) The signature or identification code of a security department member or slot operations department member other than the preparer attesting to the winning combination of characters or a code corresponding to the winning combination of characters constituting the jackpot and the amount of the jackpot payout when the amount is below \$1,200.

(B) The signature or identification code of a lead slot attendant or above attesting to the winning combination of characters or a code corresponding to the winning combination of characters constituting the jackpot and the amount of the jackpot payout when the jackpot amount is between \$1,200 and \$9,999.99.

(C) The signature or identification code of a slot shift supervisor or above attesting to the winning combination of characters or a code corresponding to the winning combination of characters constituting the jackpot and

the amount of the jackpot payout when the jackpot amount is between \$10,000 and \$24,999.99.

(D) The signature or identification code of a slot shift manager or above attesting to the winning combination of characters or a code corresponding to the winning combination of characters constituting the jackpot and the amount of the jackpot payout when the jackpot amount is \$25,000 or more.

(8) A requirement that the following information be on all two-part electronically generated jackpot payout slips:

- (i) The date on which the jackpot occurred.
- (ii) The asset number of the slot machine on which the jackpot was registered.
- (iii) The winning combination of characters constituting the jackpot or a code corresponding to the winning combination of characters constituting the jackpot.
- (iv) The type of win (that is, Progressive or Jackpot).
- (v) The amount that is to be paid to the winning patron. This amount may, at the slot machine licensee's discretion, be rounded up to the nearest whole dollar.
- (vi) A unique number generated by the slot computer system.
- (vii) The signature or identification code of the preparer.
- (viii) The signature or identification code of the witness on the duplicate copy only.
- (ix) The signature or identification code of the cashier providing the funds to the preparer.

(9) A requirement that whenever a winning patron is paid directly by a slot attendant's imprest fund, the following procedures shall be followed:

- (i) A two-part electronic jackpot payout slip is generated and a two-part manual jackpot payout receipt is completed in accordance with paragraph (1).
- (ii) Before payment is made to the winning patron, the manual jackpot payout receipt shall be signed by the patron in the presence of the slot attendant and a witness.
- (iii) After the slot attendant determines that the required signatures verifying the winning combination of characters or a code corresponding to the winning combination of characters on the slot machine and the amount to be paid have been placed on the manual jackpot payout receipt, the slot attendant shall pay the winning patron in the presence of the witness.
- (iv) Once payment has been made and all required signatures obtained, the slot operations department member or security department member witnessing the payment shall obtain the duplicate copy of the manual jackpot payout receipt and immediately deposit it into a locked accounting box.
- (v) The slot attendant shall attach the original manual jackpot payout receipt to the original electronically generated jackpot payout slip and forward both forms, by the end of the slot attendant's shift, to the cashiers' cage for reimbursement. The duplicate of the electronically generated jackpot payout slip should be deposited into a locked accounting box immediately after obtaining the funds from the cashier's cage.

(10) When jackpot payouts are made from slot attendants' imprest funds, procedures for the replenishment of the imprest funds and the reconciliation process to be used by the slot attendants.

(11) A requirement that the two-part manual jackpot payout receipt and the two-part electronically generated jackpot payout slip be distributed as follows:

- (i) Both the original and duplicate of the manual jackpot payout receipt shall be handed to the witnessing slot operations department member or security department member by the preparer for verification and signature.
- (ii) The duplicate of the manual jackpot payout receipt shall be presented to the winning patron who shall be required to present the duplicate to the witness before being paid the jackpot.
- (iii) The original of the manual jackpot payout receipt shall be attached to the original electronically generated jackpot payout slip and forwarded to the cashiers' cage for payment of the funds.
- (iv) The duplicate of the manual jackpot payout receipt shall be placed into a secured lock box for slot accounting by the witness.
- (v) The duplicate of the electronically generated jackpot payout slip shall be placed inside a secured lock box for slot accounting by the generating slot attendant.

(12) A requirement that the slot machine licensee's accounting department perform, at the conclusion of each gaming day, effective audit procedures over the issuance of jackpot payouts including adequate comparisons to gaming voucher system data.

(13) Detailed procedures on the processing of all system overrides or adjustments in regards to jackpot payouts.

(14) A requirement that any person that witnesses a jackpot payout may not be permitted to override the jackpot payout.

(15) A requirement that when the slot computer system is offline or an electronic jackpot payout slip can not be created, a three-part manual jackpot payout book shall be utilized. The three-part manual jackpot payout book must contain preprinted, serial numbered three-part manual jackpot payout slips that include all of the information that is required on the two-part manual jackpot payout receipt in accordance with paragraph (7).

(16) A requirement that unused manual jackpot payout books be maintained in a secured locked cabinet, that the key to the cabinet be controlled by the security department and that the manual jackpot payout books can only be signed out by the slot shift manager when the slot computer system is offline.

(17) A requirement that a slot machine licensee maintain a manual jackpot payout book log for each gaming day or portion thereof that the slot computer system is offline that includes the following information:

- (i) The slot machine licensee's name preprinted on the top of the log.
- (ii) The gaming day.
- (iii) The signature and identification code of the slot attendant assigned the three-part manual jackpot payout book.
- (iv) The date and time of issuance of the three-part manual jackpot payout book.
- (v) The series of numbers preprinted on the three-part manual jackpot payout book.
- (vi) The signature and identification code of the slot shift manager issuing the manual jackpot payout book.

(vii) The date and time the three-part manual jackpot payout book is returned.

(viii) The series of numbers preprinted on the three-part manual jackpot payout book that were completed by the slot attendant.

(ix) The signature and identification code of the slot shift manager receiving the returned manual jackpot payout book.

(18) A requirement that the three-part manual jackpot payout slips be distributed as follows:

(i) The original shall be given to the cashiers' cage to obtain the funds to pay the jackpot to the winning patron or to replenish the imprest funds of the slot attendant that paid the winning patron.

(ii) The second copy shall be retained by the witness of the payout. The witness shall immediately transport the second copy to a locked accounting box.

(iii) The third copy shall be maintained in the manual jackpot payout book. At the end of the slot attendant shift, the manual jackpot payout book shall be turned into the slot shift manager and the manual jackpot payout book log shall be completed.

(19) A requirement that the original manual jackpot payout book log be forwarded to the accounting department at the end of the gaming day and that the slot operations department retain a copy of the manual jackpot payout book log.

(20) A requirement that the manual jackpot payout books turned into the slot shift manager at the end of each slot attendant's shift be forwarded to the accounting department; that the accounting department ensure that all three copies of the manual jackpot payout slips contain the same information; and that any discrepancies between the three copies are researched, documented and reported.

(21) A requirement that the manual jackpot payout books are audited to the manual jackpot payout book log and that any discrepancies between the manual jackpot payout books and the manual jackpot payout book log are researched and documented.

(22) A requirement that the surveillance department is notified of all jackpot payouts when the amount of the jackpot payout is \$1,200 or more. The surveillance department shall log all calls regarding jackpot payouts in the surveillance log.

Subpart I. COMPULSIVE AND PROBLEM GAMBLING

CHAPTER 503a. SELF-EXCLUSION

§ 503a.4. Duties of slot machine licensees.

(a) A slot machine licensee shall train its employees and establish procedures that are designed to:

(1) Identify a self-excluded person when present in a licensed facility and, upon identification, immediately notify the following persons:

(i) Employees of the slot machine licensee whose duties include the identification and removal of self-excluded persons.

(ii) Casino compliance representatives at the licensed facility.

* * * * *

Subpart J. EXCLUSION OF PERSONS CHAPTER 511a. PERSONS REQUIRED TO BE EXCLUDED

§ 511a.8. Duties of slot machine licensees.

(a) Slot machine licensees shall establish procedures that are designed to prevent violations of this chapter and submit a copy of the procedures to the Director of OCPG 30 days prior to initiation of gaming activities at the licensed facility. A slot machine licensee will be notified in writing of any deficiencies in the plan and may submit revisions to the plan to the Director of OCPG. The slot machine licensee may not commence operations until the Director of OCPG approves its procedures. Amendments to these procedures must be submitted to and approved by the Director of OCPG prior to implementation.

(b) A slot machine licensee shall have the responsibility to distribute copies of the exclusion list to the appropriate employees. Additions, deletions or other updates to the list shall be distributed by a slot machine licensee to its employees within 2 business days of the slot machine licensee's receipt of the updates from the Board.

(c) A slot machine licensee shall exclude or eject the following persons from its licensed facility:

(1) An excluded person.

(2) A person known to the slot machine licensee to satisfy the criteria for exclusion in section 1514 of the act (relating to regulation requiring exclusion of certain persons) and § 511a.3 (relating to criteria for exclusion).

(d) If an excluded person enters, attempts to enter, or is in a licensed facility and is recognized by employees of the slot machine licensee, the slot machine licensee shall:

(1) Immediately notify the BIE agents at the licensed facility.

(2) Notify the Director of OCPG in writing within 24 hours.

(e) It shall be the continuing duty of a slot machine licensee to inform the Bureau, in writing, of the names of persons the slot machine licensee believes are appropriate for placement on the exclusion list or a person who has been excluded or ejected under subsection (c)(2) and the reason for placement on the exclusion list.

[Pa.B. Doc. No. 08-1845. Filed for public inspection October 10, 2008, 9:00 a.m.]

PROPOSED RULEMAKING

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 21]

[L-2008-2038549/57-262]

Household Goods in Use Carrier

The Pennsylvania Public Utility Commission (Commission) on May 22, 2008, adopted a proposed rulemaking order which amend the definition of the term "household goods in use carrier."

Executive Summary

The recent emergence of containerized moving service firms, such as Portable on Demand Storage (PODS), as an alternative to traditional full service loading and unloading, packing and unpacking moving services for consumers, has raised issues regarding how PODS-type carriers should be regulated. In particular, it appears that PODS-type services, in which the customer is responsible for packing and unpacking, and loading and unloading the container, is more akin to common carrier of property service. Under these circumstances, the only service ordinarily provided by the carrier is transportation, making it appropriate to impose the lesser degree of regulation associated with property common carriers to these containerized moving service carriers.

Based upon the Commission's consideration of this issue to date, as well as our review of the approach to this issue taken by the Federal government and other states, we are proposing to amend our regulation to distinguish the operating authority of carriers of household goods and carriers of property based upon the nature of the service provided and not upon the type of contents being transported. By changing the definition of a household goods carrier, the Commission's regulation will be more consistent with the Federal government as well as the majority of other states. A service-based definition of a household good user will obviate the need for determining whether certain items qualify as household goods. A service-based definition will also eliminate unequal treatment among PODS carriers who transport household goods and PODS carriers who transport property, when the same service is being provided.

The Commission, therefore, formally commences its rulemaking process to amend its existing regulation in 52 Pa. Code § 21.1 defining the term "household goods in use carrier." The proposed amended definition will categorize PODS-type services as transportation of property irrespective of the contents of the move, so long as the only service provided is the transportation of property from one location to another. If, however, a company such as PODS provides packing and unpacking or loading and unloading services, or both, it will still be required to have a certificate as a household goods in use carrier.

Additionally, the existing regulation in § 21.1 includes as a "household goods in use carrier" the "transportation of property from a factory or store when the property is purchased by the householder with intent to use in his dwelling." *Id.* Thus, the current regulation covers instances such as when a buyer purchases a large appliance or furniture from a department store, and then arranges for the department store to deliver the item to buyer's

dwelling. The proposed amendment seeks to change this in keeping with its Federal counterpart, 49 U.S.C.A. § 13102(10) as amended. In 1999, the Federal government amended § 13102(10) to exclude moves from a factory or store, whereas this provision previously included such moves. The Commission believes a similar amendment to § 21.1 is in order, as we no longer intend to require household goods authority for such deliveries.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 25, 2008, the Commission submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Committees (Committees). In addition to submitting the proposed rulemaking, the Commission provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Commission. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Commission within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met by the portion of the proposed rulemaking to which an objection is made. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the amendments, by the Department, the General Assembly and the Governor of objections raised.

Public Meeting held
May 22, 2008

Commissioners Present: Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Tyrone J. Christy; Kim Pizzigrilli

*Rulemaking Re Amendment to 52 Pa. Code § 21.1;
Defining the Term Household Goods in Use Carrier;
Doc. No. L-2008-2038549*

Proposed Rulemaking Order

By the Commission

In accordance with section 501 of the Public Utility Code, 66 Pa.C.S. § 501, the Commission formally commences its rulemaking process to amend its existing regulations at 52 Pa. Code § 21.1 defining the term "Household goods in use carrier." The Commission seeks comments from all interested parties on this proposed regulation amendment, which is found at Annex A to this Order.

A. Background and Procedural History

The recent emergence of containerized moving service firms, such as PODS, as an alternative to traditional full service loading and unloading, packing and unpacking moving services for consumers, has raised issues regarding how PODS-type carriers should be regulated.¹ In particular, it appears that PODS-type services, in which the customer is responsible for packing and unpacking,

¹PODS provides a "you pack, we haul" moving service where the company delivers a portable storage unit to the customer. The customer packs the unit, and then PODS loads the unit onto a truck and transports the shipment to its destination, where the customer unpacks. PODS uses a special hydraulic truck to lift the unit so as not to disturb the contents inside. PODS handles the customer's contents when the unit is being hoisted onto the truck, during transport and during the detachment from the truck. PODS also gives the customer an option to arrange for a team of "expert packers" to pack boxes as well as load and unload the unit. See <http://www.pods.com/>. See also <http://www.getasam.com/sam/portable-storage> (Providing the same service as PODS.)

and loading and unloading the container, and the only service ordinarily provided by the carrier is transportation, is more akin to common carrier property service. Under those circumstances, it may be appropriate to impose the lesser degree of regulation associated with property common carriers to these containerized moving service carriers.

Based upon the Commission's consideration of this issue to date, as well as our review of the approach to this issue taken by the Federal government and other states, we are proposing to amend our regulations to distinguish the operating authority of carriers of household goods and carriers of property based upon the nature of the service provided and not upon the type of contents being transported. By changing the definition of a household goods carrier, the Commission's regulation will be more consistent with the Federal government as well as the majority of other states. A service-based definition of a household good user will lessen confusion about determining what items qualify as household goods. A service-based definition will also eliminate unequal treatment among PODS carriers who transport household goods and PODS carriers who transport property, when the same service is being provided.

DISCUSSION

The Commission currently determines whether to grant a certificate for moving household goods or a certificate for moving property based upon the contents being transported. The regulations define "household goods in use" as "personal effects and property used or to be used in a dwelling."² 52 Pa. Code § 21.1. Companies such as PODS offer services to individuals who are moving personal items from one residence to another. The customer pays for the transportation service, but handles the loading and unloading of the items him/herself. Thus, the kinds of contents that these service providers transport sometimes fall within the Commission's definition of household goods. However, these carriers may also transport property aside from household goods. In these instances, the Commission requires these carriers to obtain a certificate as a carrier of property.

Several differences exist between the requirements for obtaining a certificate to be a carrier of household goods and a carrier of property. Generally, the application to obtain a household goods certificate imposes more requirements upon the carrier than those required for a carrier of property. First, the application fee for a household goods certificate is more expensive (\$350 as opposed to \$100 for a carrier of property). Second, the household goods application requires the applicant to specifically describe the nature and character of its service, including a full description of the territory where the applicant plans to operate. There is no corresponding requirement on the application to be a common carrier of property. Third, carriers of household goods must file a tariff and seek Commission approval for any change in rates, whereas carriers of property are not required to file a tariff. This third requirement for a household goods carrier is arguably the most stringent one; it regulates a carrier's rates by binding the carrier to a tariff that must be approved by the Commission. And last, after the application for a household goods carrier is accepted by the Commission, it is published in the *Pennsylvania Bulletin*. Any active Pennsylvania certified carrier holding household goods authority in the same geographical area

may file a protest to the granting of the application. Thereafter, carriers may resolve protests amongst themselves or, if an agreement cannot be reached, a hearing will be held before an administrative law judge. A carrier of property does not have to encounter protests when it files an application for authority.

There are, however, several similarities between the manner in which a carrier of household goods and a carrier of property are regulated. For example, the Commission requires both types of carriers to maintain the same amount of insurance: \$300,000 per accident per vehicle to cover liability for bodily injury, death or property damage and \$5,000 for loss or damage to cargo. Additionally, the Commission imposes the same requirements to both types of carriers related to annual assessments, safety regulations, the marking of vehicles, fines and penalties and other general requirements. Therefore, carriers of household goods must abide by more regulations and are more limited in the scope of their operating authority. The resulting inequality is that carriers like PODS who transport household goods are regulated more than carriers of property even though they provide the exact same service.

a. Federal Law

The Federal government determines the scope of the operating authority of household goods carriers based on the nature of service provided rather than the kind of goods being transported. The Interstate Commerce Commission (ICC)³ has expressly declined to apply household goods regulatory requirements to general freight carriers transporting household goods. *See Practices of Motor Common Carriers of Household Goods*, 17 MCC 467 (1939) (holding that general freight carriers transporting household goods were not subject to the ICC's household goods regulations unless they performed services typical of a household goods carrier); *American Red Ball Transit Co. v. McLean Trucking Co., Inc.*, 67 MCC 305 (1956) (concluding that a general freight carrier with a household goods exclusion in its certificate could transport household goods in the same equipment used to transport general freight); *Glosson Motor Lines, Inc.—Purchase—Helderman*, 101 M.C.C. 151 (1966).

In 2001, a subdivision of the United States Department of Transportation (DOT), the Federal Motor Carrier Safety Administration (FMSCA) denied a petition for declaratory order filed by the American Moving and Storage Association, Inc. (AMSA). The petition requested that carriers such as PODS be subject to the same regulatory requirements applicable to registered household goods carriers. *Am. Moving and Storage Assoc., Pet. for Declaratory Order*. (United States Dep't of Transp. June 13, 2001). AMSA contended that consumers using customer-packed and carrier-hauled services were being unfairly denied the regulatory protections established for users of traditional household goods carriers. In denying AMSA's petition, FMSCA explained that it has adopted the underlying rationale of the ICC decisions, namely that the household goods requirements are directed at a discrete segment of the transportation industry that is service oriented. But, because carriers such as PODS are customer-packed, loaded and unloaded, the service aspect is missing. The FMSCA also explained that there is no evidence that Congress intended to change the longstanding treatment of household goods transportation, which is more service oriented than carriers of property. *Id.* at 2.

²Household goods in use also includes transportation "arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his dwelling." 52 Pa. Code § 21.1.

³The ICC has since been dissolved and its functions have been transferred to the United States Department of Transportation (DOT). The DOT considers ICC orders to have precedential effect. *See Interstate Commerce Comm'n Termination Act of 1995*, Pub. L. 104-88, § 204, 109 Stat. 803 (1995).

Federal case law also supports the FMSCA's decision to regulate PODS as carriers of property. See *Hath v. Alleghany Color Corp.*, 369 F. Supp. 2d 1116 (D. Ariz. 2005).

Additionally, in 2005, Congress amended its statutory definition of a household goods motor carrier to exclude services by PODS carriers.⁴ The Federal Highway Authorization bill has adopted this definition. See *Safe, Accounting, Flexible, Efficient Transportation Equity Act: A Legacy for USERS*, H.R. 3, 109th Congress § 4202 (2005). Therefore, the decisions of the DOT/ICC, Federal case law and federal statutes interpret PODS-type carriers to be excluded from household goods regulatory requirements because of the nature of the service provided.

b. Other States

A number of other states exclude PODS-type carriers from being considered household goods carriers.⁵ These states, which consider these carriers to be carriers of property, place emphasis on the nature of the service provided, rather than the type of contents being transported. These states do not believe that the inherent nature of a household goods shipment, which is predominantly a packing and handling service, is present since the individual customer packs and seals their goods. The Commission concurs with this view. The transportation of household goods is a more personal service that includes entry into the customer's residence, packing of the customer's household goods, loading the household goods into the truck, transport to another residence, entry into the other residence, and subsequent unloading and unpacking. The personal nature of this service warrants greater regulatory oversight to protect the public interest. In contrast, the PODS-type service is more akin to the transportation of property in that the only service provided, in most cases, is transportation of the customer's property or household goods.

c. Exclusions

The existing regulation at 52 Pa. Code § 21.1 includes as a "household goods in use carrier" the "transportation of property from a factory or store when the property is purchased by the household with intent to use in his dwelling." *Id.* Thus, the current regulation covers instances such as when a buyer purchases a large application or furniture from a department store, and then arranges for the department store to deliver the item to his/her dwelling. The current regulation exists in keeping with Federal counterpart, 49 U.S.C.A. § 13102(10), as it existed prior to the 1999 amendments, which changed the definition for *including* moves from a factory or store, to *excluding* moves from a factory or store.⁶ The Commission believes a similar amendment to 52 Pa. Code § 21.1 is in order, as we no longer intend to require household goods authority for such deliveries.

Therefore, the regulation as amended in Annex A specifically excludes the transportation of property from a factory or store when property is purchased by the

householder with intent to use in his dwelling. It is intent of the Commission not to require such factories or stores to have a household goods certificate for such moves, even in the instance where an agent or employee loads and unloads the items.

CONCLUSION

The Commission, therefore, formally commences its rulemaking process to amend its existing regulations at 52 Pa. Code § 21.1 defining the term "Household goods in use carrier" consistent with Annex A to this Order. The proposed amended definition will categorize PODS-type services as transportation of property irrespective of the contents of the move, so long as the only service provided is the transportation of property from one location to another. If, however, a company such as PODS provides packing and unpacking and/or loading and unloading services, it will still be required to have a certificate as a household goods in use carrier. The Commission seeks comments from all interested parties on this proposed regulation amendment, which is found at Annex A to this Order.

Accordingly, under sections 501 and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 501 and 1501; 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 promulgated thereunder in 1 Pa. Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732.204(b)); section 5 of the Regulatory Review Act (71 P. S. § 745.5); and section 612 of The Administrative Code of 1929 (71 P. S. § 232) and the regulations promulgated thereunder in 4 Pa. Code §§ 7.231—7.234, we are considering adopting the proposed amendment set forth in Annex A, *therefore*,

It Is Ordered that:

1. A proposed rulemaking be opened to consider the proposed amendment set forth in Annex A.
2. The Secretary shall submit this proposed rulemaking order and Annex A to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review of fiscal impact.
3. The Secretary shall submit this proposed rulemaking order and Annex A for review and comments to the IRRC and the Legislative Standing Committees.
4. The Secretary shall certify this proposed rulemaking order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*. The Secretary shall specify publication of the Order in accordance with 45 Pa.C.S. § 727.
5. An original and 15 copies of any written comments referencing the docket number of the proposed amendment be submitted within 30 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attn: Secretary, P. O. Box 3265, Harrisburg, PA 17105-3265.

6. A copy of this proposed rulemaking order and Annex A shall be served on the Office of Trial Staff, the Office of Consumer Advocate, and the Office of Small Business Advocate, the Tri-State Household Goods Tariff Conference, the Pennsylvania Moving and Storage Association, and all carriers currently holding Household Goods authority from the Commission.

7. The contact person for this proposed rulemaking is Adam D. Young, Assistant Counsel, Law Bureau, (717) 772-8582. Alternate formats of this document are available to persons with disabilities and may be obtained by

⁴The term does not include a motor carrier when the motor carrier provides transportation of household goods in containers or trailers that are entirely loaded and unloaded by an individual (other than an employee or agent of the motor carrier)." 49 U.S.C.A. § 13102, (1995), amended by 49 U.S.C.A. § 13102(12)(C)(Supp. 2005).

⁵Based on staff's contacts with other state utility commissions, the following states have determined that PODS-type carriers are excluded from the type of regulation imposed on household goods carriers: Alabama, Idaho, Indiana, Iowa, Massachusetts, New York, North Carolina, Ohio, Oklahoma, Rhode Island, South Dakota, Virginia, and Washington.

⁶1999 Amendments. Par. (10)(A). Pub. L. 106-159, § 209(a), struck out, "including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his or her dwelling," and inserted, "except such term does not include property moving from a factory or store, other than property that the householder has purchased with the intent to use in his or her dwelling and is transported at the request of, and the transportation charges are paid to the carrier by, the householder."

contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau, (717) 772-4579.

By the Commission,

JAMES J. MCNULTY,
Secretary

Fiscal Note: 57-262. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart B. CARRIERS OF PASSENGERS OR PROPERTY

CHAPTER 21. GENERAL PROVISIONS

§ 21.1. Definitions.

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

* * * * *

Household goods in use—[As used in connection with transportation, the term means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of the dwelling, and similar property if the transportation of the effects or property is one of the following:

(i) Arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his dwelling.

(ii) Arranged and paid for by another party.]

(i) As used in connection with transportation, the term means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of the dwelling, and similar property if the transportation of the effects or property is arranged and paid for by either the householder or by another party.

(ii) The term does not include:

(A) A motor carrier when the motor carrier provides transportation of household goods in containers or trailers that are entirely packed, loaded, unloaded, or unpacked by an individual other than an employee or agent of the motor carrier.

(B) Transportation of property from a factory or store when the property is purchased by the householder with the intent to use it in the householder's dwelling.

* * * * *

[Pa.B. Doc. No. 08-1846. Filed for public inspection October 10, 2008, 9:00 a.m.]

NOTICES

CAPITOL PRESERVATION COMMITTEE

Request for Proposals

CPC 08.116: The Rehabilitation of Historic South Capitol Park involves the construction of retaining walls, walks, storm drains, landscaping and lighting to rehabilitate historic South Capitol Park. Work includes maintenance of traffic, tree preservation, demolition, masonry for walls and walks, renovation of existing light fixtures, installation of new light fixtures, installation of new storm drainage, stormwater management, water lines and hose bibs, installation of site furniture, landscape and lawn installation. The project is divided into three phases over 2 years. A \$100 deposit is required for issuance of project documents. Issue date of proposal will be October 10, 2008, at 2 p.m. A mandatory preproposal conference and walk through will be held on October 30, 2008, at 10 a.m. Convene in Room 630 Main Capitol. Proposals are due on November 12, 2008, at 2 p.m. prevailing time. Project documents may be obtained in Room 630 Main Capitol Building, Harrisburg, PA or by contacting Tara Pyle at (717) 783-6484.

Department/Agency: PA Capitol Preservation Committee

Location: Main Capital Building, Room 630, Harrisburg, PA 17120

County: Dauphin

Duration: April 2009—October 2011

Contact: Chris Ellis

E-Mail Address: cellis@cp.state.pa.us

Phone: (717) 783-6484

RUTHANN HUBBERT-KEMPER,
Executive Director

[Pa.B. Doc. No. 08-1847. Filed for public inspection October 10, 2008, 9:00 a.m.]

DEPARTMENT OF AGRICULTURE

Order of Guidelines for Destruction of Animals by Drug Overdose

Recitals

A. The act of December 22, 1983 (P. L. 303, No. 83) (3 P. S. §§ 328.1—328.10) (act) addresses various methods by which animals may be destroyed. Among the responsibilities assigned to the Department of Agriculture (Department) under the act is the responsibility to establish guidelines for the destruction of animals by the administration of an overdose of a barbiturate, barbiturate combinations, a drug or drug combinations approved for the purpose of animal destruction by the Federal Drug Administration. See 3 P. S. § 328.2(a).

B. The act requires that the referenced drugs be administered to the animal by intravenous injection, intraperitoneal injection, intracardiac injection or orally. See 3 P. S. § 328.3.

C. The act requires that the referenced drugs be administered by a licensed veterinarian. See 3 P. S. § 328.3. There is a limited exception to this requirement that allows for an appropriately-trained nonveterinarian to administer a single drug—sodium pentobarbital—to destroy animals if that person is working for a humane society organization or animal control organization that has obtained a limited license from the State Board of Pharmacy authorizing that organization to purchase, possess and administer that drug for animal euthanasia purposes. See 3 P. S. §§ 328.3 and 328.6.

D. The American Veterinary Medical Association (AVMA) has established its own guidelines addressing destruction of animals. The current edition of these guidelines is titled *AVMA Guidelines on Euthanasia*, and is dated June 2007.

E. The *AVMA Guidelines on Euthanasia* address various methods of animal euthanasia, including euthanasia through the use of “noninhalant pharmaceutical agents.”

F. The Department believes the *AVMA Guidelines on Euthanasia* present a broad, reasonable set of standards that represent the current state of veterinary medical thinking on the subject of animal euthanasia, and that provide understandable and workable guidance for both: (1) veterinary medical practitioners who euthanize animals by drug overdose; and (2) nonveterinarians who possess and use sodium pentobarbital for animal euthanasia under the specific conditions described in the act.

Order

It is hereby ordered that:

1. The Recitals set forth previously are incorporated into this Order.

2. The most current *AVMA Guidelines on Euthanasia* are adopted as the Department’s guidelines for the destruction of animals by administration of an overdose of a barbiturate, barbiturate combination, drug or drug combination authorized by the act.

3. The topics addressed in the *AVMA Guidelines on Euthanasia* that are most applicable to the destruction of animals by administration of an overdose of a barbiturate, barbiturate combination, drug or drug combination authorized by the act include, but are not limited to, the following:

- a. general considerations for methods of euthanasia;
- b. animal behavioral considerations;
- c. human behavioral considerations;
- d. modes of action of euthanizing agents;
- e. noninhalant pharmaceutical agents;
- f. special considerations; and
- g. relevant tables and appendices.

4. Interested persons may view or download a copy of the *AVMA Guidelines on Euthanasia* through the AVMA web site: www.avma.org, or may obtain a copy from the Department of Agriculture, Bureau of Animal Health and Diagnostic Services, ATTN: Chief, Regulations and Compliance Division, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 772-2852.

5. This Order does not establish or purport to establish the *AVMA Guidelines on Euthanasia* as regulations of this Department. These guidelines do not have the force and effect of law but are, instead, the Department's guidance for persons who destroy animals by the administration of a barbiturate, barbiturate combination, drug or drug combination as authorized by the act.

6. This Order shall take effect as of October 11, 2008.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 08-1848. Filed for public inspection October 10, 2008, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Conservation and Natural Resources Advisory Council Meeting

The Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources (Department) will hold a meeting on Wednesday, October 22, 2008, at 10 a.m. in Room 105, Lobby Level, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting or agenda items can be directed to Kurt Leitholf at (717) 705-0031.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Joan Dupes directly at (717) 705-0031 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 08-1849. Filed for public inspection October 10, 2008, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Application of Ann Bartolomeo for Reinstatement of Teaching Certificates; Doc. No. Re-08-02

Under the Professional Educator Discipline Act (act) (24 P. S. §§ 2070.1—207.18a), the Professional Standards and Practices Commission (Commission) will consider the application of Ann Bartolomeo for reinstatement of her teaching certificates.

Ann Bartolomeo filed an application for reinstatement of her teaching certificates under section 16 of the act (24 P. S. §§ 2070.16), 1 Pa. Code §§ 35.1 and 35.2 (relating to applications) and 22 Pa. Code § 233.14 (relating to reinstatement). Under section 16 of the act, the Department of Education on September 29, 2008, filed its opposition to the reinstatement.

In accordance with the act, 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and 22 Pa. Code § 233.14(d), the Commission will act upon the application without hearing, unless within 30 days after the publication of this notice in the *Pennsylvania Bulletin* a written request for public hearing is filed with the Commission, along with a notice of intervention, a petition to intervene or protest in accordance with 1 Pa. Code §§ 35.23 and 35.24 (relating to protest) or 1 Pa. Code §§ 35.27—35.32 (relating to intervention).

Petitions to intervene, protests and requests for hearing shall be filed with Carolyn Angelo, Executive Director of the Professional Standards and Practices Commission, at 333 Market Street, Harrisburg, PA 17126-0333, on or before 4 p.m. on the due date prescribed by this notice.

Persons with a disability who wish to attend the hearing, if held, and require an auxiliary aid, service or other accommodation to participate contact Suzanne Markowicz at (717) 787-6576 to discuss how the Commission may best accommodate their needs.

GERALD L. ZAHORCHAK, D. Ed.,
Secretary

[Pa.B. Doc. No. 08-1850. Filed for public inspection October 10, 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

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>
PA0041076	Department of Conservation and Natural Resources Bureau of Forestry— District 19 HC1 Box 95A Swiftwater, PA 18370-9723	Monroe County Pocono Township	UNT of Scot Run 1E	Y
PAS212202 (Industrial Stormwater)	Berks Products Corporation 5050 Crackersport Road Allentown, PA 18104	South Whitehall Township Lehigh County	Little Cedar Creek 2C	Y

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>
PA0083186 (Sew)	Mark Davis HMS Host P. O. Box 8 Middletown, PA 17057	Fulton County Taylor Township	Dry ditch of Licking Creek Branch 12-C	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>
PA0209431 Sewerage	Thomas R. Shroul 788 Beaver Branch Road Pennsylvania Furnace, PA 16865-9734	Halfmoon Township Centre County	UNT Halfmoon Creek 11A	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>
PA0239437	Human Services Center 130 West North Street New Castle, PA 16101	Pulaski Township Lawrence County	UNT to Shenango River 20-A	Y
PAS208302	Keystone Powdered Metal Co. 251 State Street Saint Marys, PA 15857	Lewis Run Borough McKean County	UNTs to East Branch Tunungwant Creek 16-C	Y
PA0222801	Sarah Heinz House Association One Heinz Street Pittsburgh, PA 15212	Wayne Township Lawrence County	Slippery Rock Creek 20-C	Y
PA0222356	TDY Industries, Inc. 1000 Six PPG Place Pittsburgh, PA 15222	Borough of Edinboro Erie County	UNT to Darrows Creek 16A	Y
PA0222232	Albion Borough 26 Smock Avenue Albion, PA 16401	Conneaut Township Erie County	East Branch of Conneaut Creek 15CC	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.

PA0029521, Sewage, SIC 4952, **Pennridge School District**, 1200 North 5th Street, Perkasio, PA 18944. This proposed facility is located in Bedminster Township, **Bucks County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge 9,000 gpd of treated sewage into Deer Run.

The receiving stream, Deer Run, is in the State Water Plan Watershed 2D and is classified for: CWF. The nearest downstream public water supply intake for PA Water Company is located on Delaware River and is 25 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 9,000 gpd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	15	30
(11-1 to 4-30)	25	50
Suspended Solids	30	60
Ammonia (as N) (5-1 to 10-31)	2.0	4.0
(11-1 to 4-30)	6.0	12.0
Fecal Coliform	200 colonies/100 ml 1,000 #/100 ml	
Dissolved Oxygen	Minimum of 5 mg/l at all times	
pH	Within limits of 6.0 to 9.0 Standard Units at all times	

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

1. Special Protection Waters Discharge.

PA0030023, Amendment 1, Sewage, SIC 4952, **Bryn Athyn Borough**, P. O. Box 683, 2835 Buck Road, Bryn Athyn, PA 19009. This proposed facility is located in Bryn Athyn Borough, **Montgomery County**.

Description of Proposed Activity: This application is for amendment of an NPDES permit to incorporate maximum monthly hydraulic capacity of 0.08 mgd of the New Church STP, located in Bryn Athyn Borough, Montgomery County. This is an existing discharge to a UNT to Huntingdon Valley Creek. Also, Total Dissolved Solids limitations has been added in the amendment as per approved the Delaware River Basin Commission Docket No. D-2008-13CP-1 dated July 21, 2008.

The receiving stream, UNT to Huntingdon Valley Creek, is in the State Water Plan Watershed 3J and is classified for: TSE, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua-Pennsylvania is located on Pennypack Creek and is about 8 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.065 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅			
(5-1 to 10-31)	6.8	10.2	13.6
(11-1 to 4-30)	13.6	20.4	27.2
Total Suspended Solids	10	15	20
Total Dissolved Solids	1,000	2,000	2,500
Ammonia (as N)			
(5-1 to 10-31)	2.8		5.6
(11-1 to 4-30)	8.4		16.8
Total Residual Chlorine	0.4		0.9
Fecal Coliform	# 200/100 ml		# 1,000/100 ml
Dissolved Oxygen	Minimum of 5.0 mg/l at all times		
pH	Within limits of 6.0 to 9.0 Standard Units at all times		

The EPA waiver is in effect.

PA0056847, Sewage, SIC 4953, **East Rockhill Township**, 1622 Ridge Road, Perkasio, PA 18944. This proposed facility is located in East Rockhill Township, **Bucks County**.

Description of Proposed Activity: This application is for renewal of an NPDES permit to discharge treated sewage from East Rockhill Township wastewater treatment plant in East Rockhill Township, Bucks County.

The receiving stream, East Branch Perkiomen Creek, is in the State Water Plan Watershed 3E and is classified for TSE. There are no downstream public water supply intakes on this stream.

The proposed effluent limits for Outfall 001, based on a design flow of 0.133 mgd, are as follows:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Average Monthly</i>	<i>Average Weekly</i>	
CBOD ₅					
(5-1 to 10-31)	19	28	20	30	40
(11-1 to 4-30)	24	38	25	40	50
Total Suspended Solids	28	42	30	45	60
Ammonia as N					
(5-1 to 10-31)	9.4		10.0		20.0
(11-1 to 4-30)	14.1		15.0		30.0
Phosphorus as P	1.41		1.5		3.0
Fecal Coliform			200 #/100 ml		1,000 #/100 ml
Dissolved Oxygen			5.0 Minimum at all times		
pH (Standard Units)			Within Limits of 6.0 to 9.0 Standard Units at all times		

The EPA waiver is in effect.

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

Application No. PA 0086860, Sewage, **Springfield Township York County Sewer Authority**, Hollow Creek STP. This facility is located in Springfield Township, **York County**.

Description of activity: The application is for issuance of an NPDES permit for new discharge of treated sewage.

The receiving stream, a UNT of the East Branch Codorus Creek, is in Watershed 7-H, and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for York Water Company is located on the South Branch Codorus Creek, approximately 6.5 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.7 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	10	15	20
Total Suspended Solids	10	15	20
NH ₃ -N			
(5-1 to 10-31)	1.5		3.0
(11-1 to 4-30)	4.5		9.0

NOTICES

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Chlorine	0.017		0.055
Total Phosphorus	2.0		4.0
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform		200/100 ml as a Geometric Average	
(5-1 to 9-30)		2,000/100 ml as a Geometric Average	
(10-1 to 4-30)			

Chesapeake Bay Requirements

	<i>Concentration (mg/l)</i>		<i>Mass (lbs)</i>
	<i>Monthly Average</i>	<i>Monthly</i>	<i>Annual</i>
Ammonia-N	Report	Report	Report**
Kjeldahl-N	Report	Report	XXX
Nitrate-Nitrite as N	Report	Report	XXX
Total Nitrogen	Report	Report	Report
Total Phosphorus	Report	Report	Report
Net Total Nitrogen	XXX	Report	12,785*
Net Total Phosphorus	XXX	Report	1,704*

* The permit contains conditions which authorize the permittee to apply nutrient reduction credits, to meet the Net Total Nitrogen and Net Total Phosphorus effluent limits, under the Department of Environmental Protection's (Department) Trading of Nutrient and Sediment Reduction Credits Policy and Guidelines (392-0900-001, December 30, 2006). The conditions include the requirement to report application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

* Net Total Nitrogen and Net Total Phosphorus limits compliance date will begin on October 1, 2012. Since these reporting requirements are annual loads, reporting on compliance with the annual limitations will be required on the Supplemental DMR—Annual Nutrient Summary by October 28, 2013. The facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2012.

** Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by October 28, 2013.

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

The EPA waiver is in effect.

Application No. PA 0261181, Sewage, **Mr. and Mrs. Michael Camellerie**, 150 Corey Place, Huntington Station, NY 11746. This facility is located in North Middleton Township, **Cumberland County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated sewage.

The receiving stream, UNT to Conodoguinet Creek, is in Watershed 7-B, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Carlisle Borough is located on the Conodoguinet Creek, approximately 6.9 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0005 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	XXX	50
Total Suspended Solids	30	XXX	60
Total Residual Chlorine	Report	XXX	XXX
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform		200/100 ml as a Geometric Average	
(5-1 to 9-30)		2,000/100 ml as a Geometric Average	
(10-1 to 4-30)			

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

The EPA waiver is in effect.

Application No. PA 0083607, Sewage, **Union Township**, 3111 SR 72, Jonestown, PA 17038. This facility is located in Union Township, **Lebanon County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated sewage.

The receiving stream, Forge Creek, is in Watershed 7-D, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for the City of Lebanon is located on the Swatara Creek, approximately 3.5 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.3 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	10	15	20
Total Suspended Solids	10	15	20
NH ₃ -N			
(5-1 to 10-31)	1.0		2.0
(11-1 to 4-30)	3.0		6.0
Total Residual Chlorine	0.1		0.33
Total Phosphorus	0.67		1.34
Dissolved Oxygen	Minimum of 5.0 at all times		
pH	From 6.0 to 9.0 inclusive		
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a Geometric Average		
(10-1 to 4-30)	2,000/100 ml as a Geometric Average		

Chesapeake Bay Requirements

	<i>Concentration (mg/l)</i>		<i>Mass (lbs)</i>	
	<i>Monthly Average</i>	<i>Monthly</i>	<i>Monthly</i>	<i>Annual</i>
Ammonia-N	Report	Report	Report	Report**
Kjeldahl-N	Report	Report	Report	XXX
Nitrate-Nitrite as N	Report	Report	Report	XXX
Total Nitrogen	Report	Report	Report	Report
Total Phosphorus	Report	Report	Report	Report
Net Total Nitrogen	XXX	Report	Report	5,479*
Net Total Phosphorus	XXX	Report	Report	612*

* The permit contains conditions which authorize the permittee to apply nutrient reduction credits, to meet the Net Total Nitrogen and Net Total Phosphorus effluent limits, under the Department of Environmental Protection's (Department) Trading of Nutrient and Sediment Reduction Credits Policy and Guidelines (392-0900-001, December 30, 2006). The conditions include the requirement to report application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

** Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary.

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

The EPA waiver is not in effect.

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

PA0253936, Sewage, **Ferndale Borough**, 109 Station Street, Johnstown, PA 15905. This application is for issuance of an NPDES permit to discharge combined sewage from combined sewer outfalls in Ferndale Borough, **Cambria County**.

The Outfalls in the Borough serve as a combined sewer overflows which may discharge to the Stonycreek River receiving water. Discharges from these outfalls 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: Ferndale Borough has proposed a plan to control its combined sewer overflow (CSO) discharges through; the construction of a new sanitary-only collector sewer system, the exclusion of all wet weather flow related inflow sources from the new collector sewer system and property lateral sewer systems and the cessation of 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. In a letter dated August 20, 2008, the Department of Environmental Protection has approved the Borough of Ferndale's long-term CSO management plan (LTCP). A task identification and implementation schedule and post-construction compliance monitoring requirement is included in this permit with the proposed LTCP completion required within 3 1/2 years following the permit effective date.

The EPA waiver is in effect.

PA0217913, Sewage, **William J. McIntire**, P. O. Box 171, Shelocta, PA 15774. This application is for renewal of an NPDES permit to discharge treated sewage from Urling Mine Nos. 1 and 2 Main Portal STP in Armstrong Township, **Indiana County**.

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

Outfall 002: existing discharge, design flow of 0.023 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	13.0			26.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	2.3			4.6
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0252590, Sewage, **Center Township Supervisors**, P. O. Box 435, Rogersville, PA 15359. This application is for renewal of an NPDES permit to discharge treated sewage from Rogersville STP in Center Township, **Greene County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as South Fork Tenmile Creek, which are classified as a HQ-WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Tri-County Joint Municipal Authority.

Outfall 001: existing discharge, design flow of 0.03 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	10			20
Suspended Solids	10			20
Ammonia Nitrogen (5-1 to 10-31)	1.5			3.0
(11-1 to 4-30)	4.5			9.0
Nitrite/Nitrate	Monitor and Report			
Fecal Coliform (5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0205575, Sewage, **Pleasant Valley Country Club**, R. D. 2, Box 292, Connellsville, PA 15425. This application is for renewal of an NPDES permit to discharge treated sewage from Pleasant Valley C.C. STP in Bullskin Township, **Fayette County**.

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

Outfall 001: existing discharge, design flow of 0.01 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	19.0			38.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0001350, Sewage, **Eighty Four Mining Company**, P. O. Box J, Claysville, PA 15323. This application is for renewal of an NPDES permit to discharge treated sewage from Mine 84-Somerset Portal STP in Somerset Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Center Branch Pigeon Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the PA American Water Co., Aldrich Station, on the Monongahela River.

Outfall 001: existing discharge, design flow of 0.00972 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	17.0			34.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

PA0006343, Industrial Waste. **AK Steel Corporation—Butler Works**, 210 Pittsburgh Road, Butler, PA 16003. This proposed facility is located in Butler Township and City of Butler, **Butler County**.

Description of Proposed Activity: Renewal (redraft) of an existing discharge of treated industrial waste, noncontact cooling water and stormwater.

The receiving waters are Connoquenessing Creek (Outfalls 001—005, 007—016, 027—030, 033—037 and 040—045), Sawmill Run (Outfalls 006, 026, 031 and 032), Rocklick Run (Outfalls 017—024, 038 and 039) and Sullivan Run (Outfall 025). The receiving streams are in State Water Plan 20-C and are classified for the following uses: WWF, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, and phenolics, sulfate and chloride the existing/proposed downstream potable water supply considered during the evaluation is the Beaver Falls Municipal Authority intake on the Beaver River, located at Eastvale, approximately 34 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.341 mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (mgd)	XX	XX			
Total Suspended Solids	179	417	XX	XX	157
Chromium, Total	2.4	6.0	XX	XX	2.1
Nickel, Total	1.8	5.4	XX	XX	1.6
Chromium Hexavalent	0.26	0.51	0.093	0.19	0.23
Iron, Total	XX	XX	4.3	8.7	10.9
pH	Within limits of 6.0 to 9.0 at all times				

The proposed effluent limits for Outfalls 002 and 003 are based on a design flow of n/a mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (mgd)	XX				
Total Suspended Solids					150
Oil and Grease					30
pH	Within limits of 6.0 to 9.0 at all times				

The proposed effluent limits for Outfall 004 are based on a design flow of 0.286 mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (mgd)	XX				
pH	Within limits of 6.0 to 9.0 at all times				

The proposed effluent limits for Outfall 005 are based on a design flow of 2.51 mgd.

Parameter	Loadings		Concentrations		
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX	XX			
Total Suspended Solids	1,552	3,728	XX	XX	186
Oil and Grease	511	1,532	15	XX	30
Chromium, Total	19.1	47.8	XX	XX	2.3
Nickel, Total	14.4	43.1	XX	XX	2.1
Naphthalene		0.06			
Tetrachloroethylene		0.09			
Iron, Total	55.7	111	2.54	5.08	6.35
pH		Within limits of 6.0 to 9.0 at all times			

The proposed effluent limits for Outfall 006 are based on a design flow of n/a mgd.

Parameter	Loadings		Concentrations		
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX				
Total Suspended Solids			30		60
Oil and Grease			15	XX	30
pH		Within limits of 6.0 to 9.0 at all times			

The proposed effluent limits for Outfall 007 are based on a design flow of 1.35 mgd.

Parameter	Loadings		Concentrations		
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX				
Total Suspended Solids	1,152	3,073			273
Oil and Grease		770	15		30
pH		Within limits of 6.0 to 9.0 at all times			

Outfalls 008, 017—022, 026 and 027 wastewater consists of: Stormwater runoff and low volume discharges of treated recycle water from the main plant recycle system.

Outfalls 009—016, 023—025, 028—045 wastewater consists of: Stormwater runoff.

Special Conditions:

1. Temperature.
2. Chemical Additives.
3. Stormwater Best Management Practices.
4. Outfall Labeling—(Heated Waste Discharge)—Outfall 001 and 004.
5. Monitoring Waiver—Outfall 005 parameters: Naphthalene and Tetrachloroethylene.
6. Restart of Production Facilities.

The EPA waiver is not in effect.

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

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

WQM Permit No. 1508412, Sewerage, **West Grove Borough Authority**, P. O. Box 61, 117 Rosehill Avenue, West Grove, PA 19390-0061. This proposed facility is located in West Grove Township, **Chester County**.

Description of Action/Activity: Rerate influent organic loading.

WQM Permit No. 4608413, Sewerage, **Lower Frederick Township**, 53 Spring Mount Road, P. O. Box 253, Zieglerville, PA 19492. This proposed facility is located in Lower Frederick Township, **Montgomery County**.

Description of Action/Activity: Installation of an ultraviolet disinfection system and replacement/relocation of the effluent discharge piping.

WQM Permit No. 1508413, Sewerage, **West Vincent Township**, 729 St. Matthews Road, Chester Springs, PA 19425. This proposed facility is located in West Vincent Township, **Chester County**.

Description of Action/Activity: Construction and operation of a wastewater treatment plant and spray irrigation.

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

WQM Permit No. 3108402, Sewerage, **Spring Ridge Club**, 150 West 7th Street, Bellwood, PA 16617. This proposed facility is located in Spruce Creek Township, **Huntingdon County**.

Description of Proposed Action/Activity: Construction/Operation of 12 individual onlot septic systems to be permitted as a single large volume system.

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

WQM Permit No. 0408201, Industrial Waste, **Valvoline**, 3499 Blazer Parkway, Lexington, KY 40509. This proposed facility is located in Rochester Borough, **Beaver County**.

Description of Proposed Action/Activity: Application for the construction and operation of a wastewater treatment plant.

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

WQM Permit No. 6108402, Sewerage, **City of Oil City**, 21 Seneca Street, Oil City, PA 16301. This proposed facility is located in City of Oil City, **Venango County**.

Description of Proposed Action/Activity: Combined sewer overflow (CSO) Improvements in accordance with Phase II of the approved long-term CSO management plan. Modifications to the 16 existing CSOs in the City's sewer collection system adjacent to Oil Creek and the Allegheny River. The modifications to the CSOs include installation of new regulator structures, sewer piping, outfalls, modifications to existing regulator structures and elimination of two CSO overflow points.

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025208011	Wayne J. Day 185 Weber Road Milford, PA 18337	Pike	Delaware Township	Dingman's Creek HQ-CWF
PAI025208012	509 Central North, LLC and 509 Central South, LLC 5020 Clark Road 315 Sarasota, FL 34233	Pike	Palmyra Township	Wallenpaupack Creek HQ-CWF Wallenpaupack Lake HQ-CWF

Carbon County Conservation District: 5664 Interchange Road, Lehighton, PA 18235-5114, (610) 377-4894.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI021308002	Carbon Career and Technical Institute 150 West 13th Street Jim Thorpe, PA 18229	Carbon	Jim Thorpe Borough	Slaughterhouse Creek HQ-CWF

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041408011	Springfield Commons Tom Songer, II GTW Associates 1951 Pine Hall Road Suite 150 State College, PA 16801	Centre	Harris Township	Spring Creek HQ-CWF

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

Westmoreland County Conservation District: 211 Donohoe Road, Greensburg, PA 15601, (724) 837-5271.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056508002	Robert Mihok Maronda Homes, Inc. 202 Park West Drive Pittsburgh, PA 15275	Westmoreland	North Huntingdon Township	UNT to Long Run HQ-TSF

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.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI063308004	Department of Transportation P. O. Box 429 2550 Oakland Avenue Indiana, PA 15701-0429	Jefferson	Brookville Borough Rose Township	North Fork Creek HQ-CWF Clement Run CWF

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

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

STATE CONSERVATION COMMISSION

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

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

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

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

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

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

NUTRIENT MANAGEMENT PLAN— PUBLIC NOTICE SPREADSHEET—APPLICATIONS

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal/New</i>
Downs Racing LP d/b/a Mohegan Sun at Pocono Downs 1280 Highway 315 Wilkes-Barre, PA 18702	Luzerne	216	254	Horse	N/A	New
Dale Stoltzfus 160 Farm View Road Pine Grove, PA 17963	Schuylkill	56.3	130.2	Ducks	N/A	Renewal

<i>Agricultural Operation Name and Address</i>	<i>County</i>	<i>Total Acres</i>	<i>Animal Equivalent Units</i>	<i>Animal Type</i>	<i>Special Protection Waters (HQ or EV or NA)</i>	<i>Renewal/New</i>
Steven Haas Haas Farms 15 Haas Road Klingerstown, PA 17941	Schuylkill	1,343.2	757.3 0.564/acre	Layers	N/A	Renewal

CAFO PUBLIC NOTICE SPREADSHEET—APPLICATIONS

David H. Martin 420 Nottingham Road Nottingham, PA 19362	Lancaster	232	698.3	Hogs Pullets Heifers	HQ	Renewal
Mt. Pleasant Farms 2071 Mt. Pleasant Road Fayetteville, PA 17222	Franklin	540.0	435.45	Dairy	N/A	Renewal
Hissong Farmstead, Inc. 5492 Buchanan Trail West Greencastle, PA 17225	Franklin	1,418.1	1,444.9	Dairy	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

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

Permit No. 0604511, Public Water Supply.
 Applicant **Colonial Manor Adult Home**
 Municipality Union Township
 County **Berks**
 Responsible Official Regina Kwapisz, Owner
 2308 East Main Street
 Douglassville, PA 19518
 Type of Facility Public Water Supply
 Consulting Engineer James Rhoades Jr., P. E.
 Alfred Benesch and Company
 400 One Norwegian Plaza
 Pottsville, PA 17901
 Application Withdrawn: September 17, 2008
 Description of Action Installation of a nitrate treatment system.

Permit No. 4408502, Public Water Supply.
 Applicant **Melanie Macknair**
 Municipality Derry Township
 County **Mifflin**
 Responsible Official Melanie Macknair, Owner
 2305 Vira Road
 Lewistown, PA 17044
 Type of Facility Public Water Supply
 Consulting Engineer Mark V. Glenn, P. E.
 Gwin, Dobson and Foreman, Inc.
 3121 Fairway Drive
 Altoona, PA 16602-4475
 Application Received: August 25, 2008
 Description of Action Installation of nitrate treatment for a catering buisness.

Permit No. 2808508, Public Water Supply.
 Applicant **Guilford Water Authority**
 Municipality Guilford Township
 County **Franklin**
 Responsible Official Larry Heck, Manager
 115 Spring Valley Road
 Chambersburg, PA 17201

Type of Facility Public Water Supply
 Consulting Engineer Diana M. Young, P. E.
 Buchart-Horn
 445 West Philadelphia Street
 York, PA 17405-7040
 Application Received: September 10, 2008
 Description of Action Construction of Bartl and Valley
 Quarries Well Pump Stations.

MINOR AMENDMENT

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

**Application No. 4807502MA, Minor Amendment,
 Public Water Supply.**

Applicant **Pennsylvania American
 Water**
 800 West Hersheypark Drive
 Hershey, PA 17033
 Pen Argyl Borough
 Responsible Official David Kaufman
 Pennsylvania American Water
 800 West Hersheypark Drive
 Hershey, PA 17033
 Type of Facility PWS
 Consulting Engineer Daniel G. Rickard, P. E.
 Pennsylvania American Water
 100 North Pennsylvania Avenue
 Wilkes-Barre, PA 18701
 Application Received September 9, 2008
 Date
 Description of Action Applicant requests approval to
 replace the existing
 pretreatment gas chlorination
 system with a new liquid
 hypochlorite system at the PAW
 Pen Argyl WTP.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

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

strates 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:

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

New York Wire Company, Spring Garden Township, **York County**. Earth Tech AECOM, 2 Market Plaza Way, Mechanicsburg, PA 17055, on behalf of New York Wire, Inc., 829 Loucks Mill Road, York, PA 17402, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with boron, iron, manganese, chloride, sulfate and fluoride. Industrial/nonresidential activities are planned for the site, which will be remediated to a combination of the Statewide Health and Site-Specific Standards. The site is being cleaned up under the Department of Environmental Protection/Environmental Protection Agency One Cleanup Program.

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

Yellow Freight Diesel Release, Armstrong Township, **Lycoming County**. Northridge Group Incorporated, 1172 Ridge Road, Northumberland, PA 17857 on behalf of Yellow Freight, 3576 Old Route 15, New Columbia, PA 17886 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 of the project will remain a right-of-way area along the highway.

Penske Truck Leasing Accident, Monroe Township, **Snyder County**. Northridge Group Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Penske Truck Leasing, 233 Sardis Road, Ashville, NC 28806 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 a Department of Transportation right-of-way along the highway.

Nell Hann Property/Truck Accident, Richmond Township, **Tioga County**. ATC Associates, Inc., 101 Allegheny Street, Hollidaysburg, PA 16643 on behalf of Pelton Trucking, R. R. 1, Box 228, Monroeton, PA 18832 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 of the project will continue to be a residence.

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.

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

46-0161C: Reading Materials (294 Sanatoga Road, Pottstown, PA 19464) to modify production parameters of an existing plan approval at an existing facility in Lower Pottsgrove Township, **Montgomery County**. The emission rate of NO_x, VOC, CO and SO_x are requested to be revised based on stack test results. The annual production limit will be increased from 300,000 tons to 395,000 tons. Overall there will be a reduction in emission limits for NO_x, SO_x, CO and PM, but will have increased emission limit for VOC. 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.

09-0048D: H & K Materials (300 Skunk Hollow Road, Chalfont, PA 18914) to modify production parameters of an existing plan approval at an existing facility in Hilltown Township, **Bucks County**. The emission rate of NO_x, VOC, CO and SO_x are requested to be revised based on stack test results. The annual production limit will be reduced from 495,000 tons to 50,000 tons. The annual potential to emit for all the criteria pollutants will decrease due to the reduction in the production limit and will become the new limits for the facility. 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.

09-0206: Samax Enterprises Inc. (1001 New Ford Mill Road, Morrisville, PA 19067) for installation of a paint remover manufacturing process at a new facility in Falls Township, **Bucks County**. The facility shall be limited to 11.90 tpy of total HAPs emissions. 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.

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

18-00009D: Clinton County Solid Waste Authority (264 Landfill Lane, McElhattan, PA 17748) for construction of a municipal waste landfill (conversion of a closed municipal waste landfill to an active municipal waste landfill) in Wayne Township, **Clinton County**.

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

20-123C: Lord Corp. (124 Grant Street, Cambridge Springs, PA 16403) for installation of three hand spray booths and associated preheat ovens at their facility in Cambridge Springs Borough, **Crawford County**. This is a Title V facility.

24-083P: Carbone of America (215 Stackpole Street, St. Marys, PA 15857) for modification of existing plan approval 24-083N to include three additional mixers at their facility in the City of St. Marys, **Elk County**. This is a Title V facility.

62-032D: Ellwood National Steel (3 Front Street, Irvine, PA 16329) for installation of two natural gas fired annealing furnaces at their facility in Brokenstraw Township, **Warren County**. This is a Title V 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.

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

PA 66-399-006: The Procter & Gamble Paper Products Co. (P. O. Box 31, Mehoopany, PA 18692) for modification of diaper operations (Source ID DP17) in Washington Township, **Wyoming County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b) the Department of Environmental Protection (Department) intends to issue Plan Approval No. 66-399-006 to The Procter & Gamble Paper Products Co., P. O. 31, Mehoopany, PA 18692, for their plant located in Washington Township, Wyoming County. The facility currently has Title V Permit No. 66-00001. This plan approval will be incorporated into the Title V operating permit through an administrative amendment at a later date, and the action will be published as a notice in the *Pennsylvania Bulletin*.

Plan Approval No. 66-399-006 is for the modification of diaper operations (Source ID DP17). These modifications involve increasing the throughput of the site's diaper operations. In addition, one diaper production line (line 43) will be replaced by a new diaper production line (line 44). By this application the company has requested to increase diaper production by 33% from their 18 existing lines. Eighteen production lines will be affected. Presently PM emissions from all affected diaper production lines are controlled by either baghouses or drum filters. To achieve the desired production level the company will increase the air flow through the air pollution control devices. The company will maintain the air cloth to ratios for pleated baghouses to less than 3.5 feet per minute and for drum filters to less than 125 feet per minute, which meets good design practices. PM emissions from the new diaper production line will be controlled by existing air pollution control devices, no new baghouse/drum filter proposed for this line. The additional diaper production increase will increase VOC emission and PM emissions only from the diaper raw material handling systems and diaper manufacturing operations. This project does not impact emissions from other sources at the site. The VOC emissions increase due to this modification will be less than 8.81 tpy, and PM/PM10 with less than 1.39 tpy based on a 12-month rolling sum. The use of baghouses and drum filters capable of achieving 99.8% efficiency for PM and use of low VOC inks and adhesive meets Department's BAT requirements.

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

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

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

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

Identification of the proposed permit No.: 66-399-006

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

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

40-399-062: Valmont Penn Summit (225 Kiwanis Boulevard, West Hazleton, PA 18202) for construction and operation of a plasma cutting operation and shot blast machine at their facility in Hazle Township, **Luzerne County**. This facility is not a Title V facility. The company will install two cartridge filters, one for each operation, to control emission into the atmosphere. The plan approval will include all appropriate testing, monitoring, recordkeeping and reporting requirements designed to keep the operations 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.

21-05021F: Arnold Fuel Oil, Inc. (P. O. Box 2621, Harrisburg, PA 17105-2621) for construction of a loading rack controlled by a vapor combustion unit at Mechanicsburg North Terminal at 127 Texaco Road, Silver Spring Township, **Cumberland County**. The primary emissions from the source is VOCs with potential of 42 tpy. The facility has the actual VOC emissions limits of 50 tpy that will not change. The plan approval will be incorporated into the facility's synthetic minor operating permit No. 21-05021. The plan approval and permit will have restrictions, monitoring, recordkeeping and reporting requirements designed to operate the sources to comply with the applicable air quality standards.

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

49-00038A: F. B. Leopold Co., Inc. (P. O. Box 128, Watsontown, PA 17777), submitted an application (No. 49-00038A) to the Department of Environmental Protection (Department) for plan approval to install a new Seneca model 336-IMTS-10 fabric collector (ID C101) to replace existing C. P. Environmental model 120TNF256W fabric collector to control PM emissions from the facility's existing coal drying and loading operation (Source ID

P101) at the Watsonstown coal preparation plant located in Delaware Township, **Northumberland County**.

The Department's review of the information submitted by F. B. Leopold Co., Inc. indicates that the proposed new fabric collector associated with the drying and loading operation will comply with all applicable air quality requirements including State and Federal requirements. The operation of the proposed fabric collector associated with the drying and loading operation will not result in an increase in any air contaminant emissions. Additionally, if the Department determines that the Source ID P101 and ID C101 are in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into the State-only operating permit (NMOP 49-00038) by means of an administrative amendment under 25 Pa. Code § 127.450.

The following is a summary of the conditions the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable air quality regulatory requirements:

1. Source ID P101 is a coal drying and loading operation consisting of the following sources:

A. One Carman Industries model FBP 902 natural gas fired fluid bed dryer with a maximum rated heat input capacity of 8.00 mmBtu/hr.

B. One belt conveyor, flex wall enclosed 18' by 33', 17 tph.

C. One screw feeder with integral hopper, open top, 17 tph.

The PM emissions from Source ID P101 shall be controlled by a Seneca Environmental Products manufactured model 336-IMTS-10 fabric collector (ID C101).

2. Under 25 Pa. Code § 127.12b, the PM emissions in the exhaust of Control Device ID C101 associated with Source ID P101 shall not exceed 0.02 gr/dscf. Compliance with this requirement assures compliance with the PM requirement specified in 40 CFR 60.252.

3. Under 40 CFR 60.252, the visible air contaminants emissions from the exhaust of Control Device ID C101 associated with Source ID P101 shall not exhibit equal to or greater than 20% opacity at any time.

4. The permittee shall comply with all applicable requirements relating to fugitive PM emissions of 25 Pa. Code §§ 123.1 and 123.2 for Source ID P101.

5. Within 120 days of issuance of this plan approval, the permittee shall conduct PM stack test at the exhaust of the Control Device ID C101 associated with Source ID P101 to verify compliance with the PM emissions limitation of 0.02 gr/dscf. The performance test shall be conducted in accordance with the requirements and procedures specified in 25 Pa. Code Chapter 139.

6. The stack testing required by this plan approval shall be performed using reference method test procedures acceptable to the Department. At least 60 days prior to the performance of the stack testing required by this plan approval, a test plan shall be submitted to the Department for evaluation. The plan shall contain a description of the proposed test methods and dimensioned drawings or sketches showing the test port locations. The Department (Northcentral Regional Office and Central Office, Source Testing Section) shall be given at least 15 days advance notice of the scheduled dates for the performance of the stack testing required by this plan approval. Within 60 days of the completion of the stack testing required by this plan approval, two copies of the

test report shall be submitted to the Department (Northcentral Regional Office). The report shall contain the results of the tests, a description of the testing and analytical procedures actually used in performance of the tests, all process and operating data collected during the tests, a copy of all raw data, and a copy of all calculations generated during data analysis. In addition, the permittee shall keep records of the test report.

7. Control Device ID C101 associated with Source ID P101 shall be equipped with instrumentation which continuously monitors the pressure drop across the fabric collector on a continuous basis.

8. Control Device ID C101 associated with Source ID P101 shall be constructed, operated and maintained in accordance with the manufacturer's instructions and recommendations.

9. The permittee shall record the pressure drops across Control Device ID C101 at least once per day. The permittee shall keep these records for a minimum of 5 years and shall be presented to the Department upon request.

10. The permittee shall keep on hand a sufficient quantity of spare fabric collector bags for Control Device ID C101 associated with Source P101 in order to be able to immediately replace any bag that requires replacement immediately.

11. The submission of all requests, reports, applications, submittals and other communications relating to Source ID P101, as required by 40 CFR 60.250—60.254 shall be made available to the Department and the US Environmental Protection Agency (EPA) as required by 40 CFR 60.4.

12. The Carman fluid bed dryer of Source ID P101 is subject to Subpart Y of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.250—60.254. The permittee shall comply with all applicable requirements of this subpart.

A copy of the plan approval application is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at (570) 327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Manager, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

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

24-123F: Veolia ES Greentree Landfill, LLC (635 Toby Road, Kersey, PA 15846) for construction of additional landfill cells (Area 2 expansion) in Fox Township, **Elk County**. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate BAT for the source:

* Annually, the permittee shall calculate the year-end gas generation rate in accordance with 40 CFR 60.755(a)(1)(ii) using known year-to-year solid waste acceptance rates. Also, the permittee shall estimate the next year-end gas generation rate using projected solid waste acceptance rates. The permittee shall compare both rates to the installed control devices maximum gas capacity. The permittee shall submit a report containing the calculated year-end and the estimated next year end gas generation rates by June 30 until such time as the plan approval for the next control device has been submitted. This report may be submitted as part of the Solid Waste Annual Operating Report; however, a copy needs to go to Air Quality. Once the calculated year-end or the estimated next year-end gas generation rate exceeds 80% of the existing control devices maximum gas capacity from the report due June 30, the permittee shall submit a new plan approval application, within 60-days of the report, for installation of an additional control device that will control LFG above the permitted capacity as stipulated under this plan approval (16,500 cfm).

* All applicable conditions from the Title V Operating Permit 24-00123 issued on October 6, 2005, for the landfill and the flares (4,000 cfm enclosed, 4,500 cfm enclosed and 2,000 cfm candle) and all applicable conditions from plan approval 24-123E issued on January 19, 2006, for the 6,000 cfm enclosed flare shall remain applicable to the existing landfill and its expansion.

OPERATING PERMITS

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

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

46-00035: SmithKline Beecham Corp.—d/b/a Glaxo SmithKline (709 Swedeland Road, King of Prussia, PA 19406) for a renewal of their Title V Operating Permit in Upper Merion Township, **Montgomery County**. The facility is primarily involved in pharmaceutical research and development. SmithKline Beecham Corp.—d/b/a Glaxo SmithKline operates boilers, generators, incinerators and other lab equipment. The renewal incorporates plan approval 46-0035D for the installation of a scrubber system and fabric filter. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting. The operation is subject to Compliance Assurance Monitoring under 40 CFR Part 64 and NSPS regulations.

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

TV 40-00011: Department of Corrections—Dallas SCI. (P. O. Box 598, Camp Hill, PA 17001-0598) for operation of a State Correctional Institution facility, Title V Operating Permit in Jackson Township, **Luzerne County**.

TV 40-00021: Lakeside Energy LLC—Hazelton Generation, LLC (10 Maplewood Drive, Humboldt Industrial Park, Hazelton, PA 18201) for operation of an electrical generation facility, Title V Operating Permit in Hazle Township, **Luzerne County**.

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

67-05045: Glen Gery Corp. (1090 East Boundary Avenue, York, PA 17403) for operation of a brick manufacturing plant in Spring Garden Township, **York County**. The facility's major source of emissions include two tunnel kilns which primarily emit the HAPs hydrogen fluoride and hydrochloric acid. The kilns are also primary emitters of the criteria pollutants SOx and PM10. This action is a renewal of the Title V operating permit issued in 2003.

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

10-00062: State System of Higher Education—Slippery Rock University—SRU (1 Morrow Way, Maintenance Center, Slippery Rock, PA 16057-1313) for a Title V Facility in the Borough of Slippery Rock, **Butler County**. SRU air emission sources are as followed: three 35.5 mmBtu/hr co-fired natural gas and coal boilers, 26 mmBtu/hr natural gas fired boiler and approximately 20 IC Engines. The facility, by rulemaking, is a Title V facility and is therefore subject to the Title V Operating Permit requirements adopted in 25 Pa. Code Chapter 127, Subchapter G.

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.

23-00053: Delaware County Memorial Hospital (501 North Lansdowne Avenue, Drexel Hill, PA 19026) for operation of three natural gas/No. 2 fuel oil-fired boilers and one natural gas and three diesel fuel-fired emergency generators at their facility in Upper Darby Township, **Delaware County**. The renewal permit is for a non-Title V (State-only) facility. The potential to emit NOx from the facility exceeds 25 tpy; however, Delaware County Memorial Hospital has elected to restrict NOx emissions from the facility to less than 25 tpy. Therefore, the facility is categorized as Synthetic Minor. The renewal permit will contain monitoring, recordkeeping, reporting and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

09-00168: Fiberglass Technologies, Inc. (1610 Hanford Street, Levittown, PA 19057) for operation of a gelcoat and a resin spray booth at their facility in Bristol Township, **Bucks County**. The permit is for a non-Title V (State-only) facility. The potential to emit styrene from the facility exceeds 25 tpy; however, styrene emissions from the facility are restricted to less than 2.7 tpy. Therefore, the facility is categorized as Synthetic Minor. The permit will contain monitoring, recordkeeping, reporting and work practice requirements designed to keep the facility operating within all applicable air quality requirements.

09-00156: Old Castle Lawn and Garden, Inc. (500 East Pumping Station Road, Quakertown, PA 18951) for issuance of a State-only Operating Permit to operate five diesel engines and wood processing equipment in Richland Township, **Bucks County**. The facility is synthetic minor for NOx, CO and PM. Plan Approvals, PA-09-0156 and PA-09-0156A, are being incorporated into the facility permit, SMOP-09-00156. This Operating Permit shall include monitoring, and recordkeeping designed to ensure this facility complies with all applicable air quality regulations.

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

48-00059: Keystone Food Products, Inc. (3767 Hecktown Road, Easton, PA 18044) for operation of a snack food manufacturing operation including ovens and fryers at their facility in Lower Nazareth Township, **Northampton County**. This action is a renewal of the State-only (Natural 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.

39-00022: Sunoco Partners Marketing & Terminals, LP, Fullerton Terminal (525 Fritztown Road, Sinking Spring, PA 19608) for operation of bulk petroleum storage in Whitehall Township, **Lehigh County**. This is a State-only Synthetic Minor operating permit.

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

06-05037: McConway & Torley Corp. (230 Railroad Street, Kutztown, PA 19530) for operation of a steel foundry in Kutztown Borough, **Berks County**. This is a renewal of the State-only operating permit issued in July 2003.

21-05052: Valk Manufacturing Company (66 East Main Street, New Kingstown, PA 17072-0428) for a snow plow and blade manufacturing operation located in Silver Spring Township, **Cumberland County**. The operation of the paint booths at this facility will result in emissions of approximately 15 tpy of VOCs and 1 tpy of HAPs. The facility wide (State-only) operating permit shall contain monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

67-03056: SKF USA, Inc. (20 Industrial Drive, Hanover, PA 17331) for operation of its spherical roller bearing manufacturing facility in Penn Township, **York County**. The State-only operating permit will include emission restrictions, work practice standards, testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a renewal of the State-only operating permit issued in 2001.

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

08-00016: Dalrymple Gravel & Contracting Co., Inc. (2105 South Broadway, Pine City, NY 14781), for their asphalt as well as sand and gravel processing facility located in Athens Township, **Bradford County**. The facility's main sources include a Cedar Rapids batch mix asphalt plant, a Barber Greene drum mix asphalt plant and various pieces of crushing, screening and conveying equipment of sand and gravel operation. The facility has the potential to emit major quantities of SO_x, NO_x, CO, PM/PM₁₀, VOCs and HAPs. The facility has taken a synthetic minor restrictions to limit its SO_x, NO_x, CO, PM/PM₁₀, VOCs and HAPs emissions below the major emission thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

49-00053: Shumaker Industries, Inc. (P. O. Box 206, Northumberland, PA 17857) for their cement drum refurbishing facility located in Northumberland Borough, **Northumberland County**. The facility's main sources include shot blasting and surface coating operations. The facility has the potential to emit SO_x, NO_x, CO, PM/PM₁₀, VOCs and HAPs below the major emission thresholds. The proposed operating permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are included.

49-00037: Milton Brothers Fabrics, Inc. (P. O. Box 538, Sunbury, PA 17801), for their fabric dyeing and finishing facility located in Milton Borough, **Northumberland County**. The facility's main sources include one natural gas/No. 2 fuel oil fired boiler, one natural gas/No. 2 fuel oil fired heat exchanger, one Artos dryer, one Krantz dryer, seven MCS jets, four narrow beams, two wide beams and two jigs. The facility has the potential to emit major quantities of SO_x. The facility has taken a synthetic minor restriction to limit its SO_x emissions below the major emission thresholds. The facility has the potential to emit NO_x, CO, PM/PM₁₀, VOCs and HAPs below the major emission thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

41-00060: Frito Lay, Inc. (220 North Reach Road, Williamsport, PA 17701), for their Frito Lay—Williamsport plant in the City of Williamsport, **Lycoming County**. The facility's main sources include 28 natural gas and propane fired combustion units, 11 propane fired combustion units, four snack food fryers, three ovens, six extruders, corn kettles, one corn clipper cleaner, two cold cleaning degreaser, one natural gas and propane fired emergency generator and two corn meal storage silos. The facility has the potential to emit SO_x, NO_x, CO, PM/PM₁₀, VOCs and HAPs below the major emission thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

12-00004: GE Transportation Systems, Motor Coils (55 Pine Street, Emporium, PA 15834), for their facility in the Borough of Emporium, **Cameron County**. The facility is a manufacturer of motor coils for locomotive engines. The facility's sources consist of a surface coating operation, coil burnout operation and space heaters. This facility has the potential to emit PM/PM₁₀, NO_x, SO_x, VOC and CO below the major thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

08-00012: Cargill Meat Solutions Corporation (P. O. Box 188, Wyalusing, PA 18852) for the renewal of State-only Operating Permit 08-00012 for the operation of a meat packing facility in Wyalusing Township, **Bradford County**.

The facility incorporates a 40.4 mmBtu/hr natural gas/No. 2 fuel oil-fired boiler, a 24.5 mmBtu/hr natural gas/No. 2 fuel oil-fired boiler, a 41.84 mmBtu/hr natural gas/No. 2 fuel oil/tallow/biogas-fired boiler, 54 small natural gas-fired boilers, heaters, and the like (with a total combined heat input of 36.72 mmBtu/hr), a rendering operation, a crax processing operation, a blood drying operation, a wastewater treatment plant, a biogas flare, two diesel fuel-fired emergency generators (82 and 85 horsepower), six aqueous parts washers, a meal silo and

nine aboveground storage tanks (six tallow tanks, two propylene glycol tanks and one No. 2 fuel oil tank).

The 40.4 mmBtu/hr boiler is equipped with a low NOx burner. The 24.5 and 41.84 mmBtu/hr boilers are each equipped with a low NOx burner and flue gas recirculation. The PM and malodorous air contaminant emissions from the blood drying operation are controlled by three centrifugal separators and a packed bed scrubber. The PM and malodorous air contaminant emissions from the rendering operation are controlled by a heat exchanger, a condenser, two venturi scrubbers, two packed bed scrubbers and one of the facility's boilers. The PM and malodorous air contaminant emissions from the crax processing operation are controlled by two centrifugal separators and a packed bed scrubber. The PM emissions from the meal silo are controlled by a fabric collector.

The facility has the potential to emit up to 91.96 tons of SOx, 83.37 tons of CO, 76.32 tons of PM/PM10 and 59.54 tons of NOx per year.

The Department of Environmental Protection (Department) proposes to renew State-only Operating Permit 08-00012. The Department intends to incorporate into this renewal all conditions currently contained in State-only Operating Permit 08-00012 with these changes and exceptions:

1. Conditions limiting the total combined facility-wide NOx emissions to less than 100 tons in any 12-consecutive month period, and requiring the maintenance and reporting of records of the amount of NOx emitted from the facility each month, have been removed from the permit as it is no longer possible for the facility's total combined NOx emissions to equal or exceed this emission limitation.

2. Conditions requiring the maintenance and semi-annual reporting of records of the amount of SOx emitted from the facility each month have been removed from the permit as these values can be determined from fuel usage records, the maintenance and reporting of which are required elsewhere in the permit.

3. A condition requiring the maintenance of No. 2 fuel oil sulfur content certification reports has been revised to make it clear that a certification of sulfur content must be obtained for each individual load of No. 2 fuel oil delivered to the facility rather than an after-the-fact certification for all deliveries made during the prior year.

4. Conditions requiring a weekly inspection of the facility for the presence of excessive visible air contaminant emissions, visible fugitive air contaminant emissions and malodorous air contaminant emissions, and the maintenance of records of these inspections, have been revised to require inspections for the presence of excessive malodorous air contaminant emissions only as this facility does not contain the types of sources that are likely to produce excessive visible air contaminant and visible fugitive air contaminant emissions.

5. A condition requiring malfunctions to be reported to the Department has been revised to exclude the reporting of malfunctions which do not result in, or potentially result in, air contaminant emissions in excess of an applicable air contaminant emission limitation and/or do not result in, or potentially result in, noncompliance with any operating permit condition.

6. Conditions requiring the maintenance of records of "supporting calculations used to verify compliance" with the NOx and carbon monoxide emission limitations for the facility's 40.4 mmBtu/hr boiler and 24.5 mmBtu/hr

boiler have been removed from the permit as it is not possible to verify compliance with the respective emission limitations with "calculations."

7. Conditions requiring the semiannual reporting of the amount of No. 2 fuel oil used in the facility's 40.4 mmBtu/hr boiler and 24.5 mmBtu/hr boiler have been revised to require annual reporting.

8. Several small natural gas-fired combustion units (boilers, heaters, and the like) have been added to the permit.

9. Conditions have been added to the permit requiring the maintenance, and annual reporting, of records of the amount of No. 2 fuel oil fired each month in the rotary drum dryer incorporated in the blood drying operation.

10. Conditions requiring the maintenance of records of the vapor pressure of the materials stored in the tallow, propylene glycol and No. 2 fuel oil storage tanks have been revised to require the maintenance of records of the identity of the material stored in each tank.

11. Conditions specifying 25 Pa. Code § 127.63 requirements for the facility's parts washers have been removed from the permit as the parts washers are not subject to 25 Pa. Code § 129.63.

12. Conditions have been added to the permit limiting the cleaning solutions used in the facility's parts washers to aqueous solutions containing 5% or less VOCs.

13. Conditions requiring the maintenance of records of once-per-shift pressure differential, scrubbing water flow rate and scrubbing solution identity readings for the centrifugal separators and scrubbers associated with the facility's rendering operation and crax processing operation have been removed from the permit.

14. A condition which requires the maintenance of records "which verify compliance with the particulate matter emission limitation" for the facility's meal silo has been removed from the permit as there are no records which could conceivably be maintained which could "verify" compliance with the respective emission limitation.

14-00024: Shain Shop Bilt, Inc. (509 Hemlock Street, Philipsburg, PA 16866-2937) for their wood furniture manufacturing facility in South Philipsburg Borough, **Centre County**. The facility's main sources include one No. 2 fired boiler, two spray booths, woodworking equipment and one aboveground storage tank. The facility has the potential to emit PM10, NOx, CO, VOCs, HAPs and SOx below the major emission thresholds. The proposed operating permit contains all applicable Federal and State regulatory requirements including monitoring, recordkeeping and reporting conditions.

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

S08-002: Innovation Printing and Communications (11601 Caroline Road, Philadelphia, PA 19154) for operation of a printing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emissions sources include four nonheatset, sheet-feed lithographic printing presses and two space heaters 400,000 Btu/hr or less firing natural gas.

The operating permit will be issued under the 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS,

321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least 30 days before the hearing.

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

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, telephone number and the interest of the party filing the request, and shall state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

Coal Applications Received

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

Table 1

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.

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

03080104 and NPDES Permit No. PA0251496. Thomas J. Smith, Inc. (2340 Smith Road, Shelocta, PA 15774). Application for commencement, operation and reclamation of a bituminous surface mine, located in East Franklin and North Buffalo Townships, **Armstrong County**, affecting 114.8 acres. Receiving streams: UNTs to Glade Run, classified for the following use: TSF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received September 19, 2008.

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

10930111 and NPDES Permit No. PA0211834. JMW Enterprises, Inc. (P. O. Box 312, Bridgeville, PA 15017). Renewal of an existing bituminous surface strip and auger operation in Washington Township, **Butler County** affecting 115.5 acres. Receiving streams: UNTs to South Branch Slippery Rock Creek and one UNT to Bear Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received September 24, 2008.

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

17803094 and NPDES No. PA0127086. RES Coal, LLC (224 Grange Hall Road, P. O. Box 228, Armagh, PA

15920), transfer of an existing bituminous surface mine with an Insignificant Permit Boundary Correction from Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849), located in Goshen Township, **Clearfield County**, affecting 307.9 acres. Receiving streams: Little Trout Run to Trout Run to West Branch Susquehanna River, classified for the following uses: CWF, CWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received August 15, 2008.

17743172 and NPDES No. PA0610909. RES Coal, LLC (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920), transfer of an existing bituminous surface mine with an Insignificant Permit Boundary Correction from Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849), located in Morris Township, **Clearfield County**, affecting 569.0 acres. Receiving streams: Hawk Run to Moshannon Creek to West Branch Susquehanna River, classified for the following uses: CWF, CWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received August 5, 2008.

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

40840203R5. Mammoth Anthracite, LLC, (P. O. Box Q, Milnesville, PA 18239), renewal of an existing anthracite coal refuse reprocessing operation in Hazle Township, **Luzerne County** affecting 101.0 acres, receiving stream: none. Application received September 22, 2008.

40930102R3. Mammoth Anthracite, LLC, (P. O. Box Q, Milnesville, PA 18239), renewal of an existing anthracite surface mine operation in Hazle Township, **Luzerne County** affecting 492.2 acres, receiving stream: none. Application received September 22, 2008.

Noncoal Applications Received

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

Table 2

Parameter	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*		greater than 6.0; less than 9.0	
pH*			

* 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.

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

48080301. Penn Big Bed Slate Co., Inc., (P. O. Box 184, Slatington, PA 18080), commencement, operation and

restoration of a quarry operation (replacing SMP No. 7475SM7) in Pen Argyl Borough, **Northampton County** affecting 174.59 acres, receiving stream: Waltz Creek, Classified for the following uses: CWF and MF. Application received September 2, 2008.

48080302. Penn Big Bed Slate Co., Inc., (P. O. Box 184, Slatington, PA 18080), commencement, operation and restoration of a quarry operation (replacing SMP No. 48900301) in Pen Argyl Borough, **Northampton County** affecting 49.39 acres, receiving stream: Waltz Creek, Classified for the following uses: CWF and MF. Application received September 2, 2008.

7973SM3C9 and NPDES Permit No. PA0594369. Miller Quarries, (6100 Easton Road, Pipersville, PA 18947), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Wrightstown Township, **Bucks County**, receiving stream: Mill Creek, classified for the following use: CWF and MF. Application received September 18, 2008.

6376SM2A1C5 and NPDES Permit No. PA0594474. York Building Products Co., Inc., (P. O. Box 1708, York, PA 17405), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Jackson Township, **York County**, receiving stream: Little Conewago Creek, classified for the following use: TSF. Application received September 19, 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

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

E15-788. West Bradford Township, 1348 Campus Drive, Downingtown, PA 19335, West Radford Township, **Chester County**, United States Army Corps of Engineers, Philadelphia District.

To perform the following water obstruction and encroachment activities across a UNT to Broad Run (EV) associated with the realignment of the intersection of Chestnut Lane and Lone Eagle Road slightly to the north:

- 1) To place fill in 0.003 acre of wetlands associated with the roadway grading.
- 2) To construct and maintain an outfall structure associated with the extension of the existing stormwater pipe.
- 3) To construct and maintain a temporary cofferdam.

The project will permanently impact approximately 30 linear feet of stream length and .003 acre of wetlands. The site is located at the intersection of Chestnut Lane and Lone Eagle Road (Unionville, PA USGS Quadrangle N: 16.75 inches; W: 17.24 inches).

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

E58-279. New Milford Borough, P. O. Box 630, New Milford, PA 18834, in New Milford Borough, **Susquehanna County**, United States Army Corps of Engineers, Baltimore District.

To restore and maintain the historical cross section and alignment of approximately 400 linear feet of Salt Lick Creek (HQ-CWF) to pre-2006 flood conditions. The project is located 0.5 mile northeast of the intersection of Church Street and SR 0492 in New Milford Borough, Susquehanna County (Harford, PA Quadrangle Latitude: 41° 52' 26"; Longitude: 75° 43' 23").

E40-693. Schiel Development, LLC, 30 Hanover Street, Wilkes-Barre, PA 18702, in Hanover Township, **Luzerne County**, United States Army Corps of Engineers, Baltimore District.

To place fill in 0.02 acre of PSS wetlands for the purpose of constructing townhouses within the Fairway Estates Residential Development. The project is located approximately 0.94 mile from the intersection of Oxford (SR 2011) and South Main Streets (SR 2008) (Wilkes-Barre West, PA Quadrangle Latitude: 41° 13' 16"; Longitude: 75° 55' 38").

E52-213. Department of Transportation, Engineering District 4-0, 55 Keystone Industrial Park, Dunmore, PA 18512, in Dingman Township, **Pike County**, United States Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain a single-span concrete spread box beam bridge skewed 40° to the stream with a normal span of 26 feet and an underclearance of 6 feet across Dwarfs Kill Creek (HQ-CWF). The project is located at SR 2006 (Log Tavern Road), Segment 0080, Offset 0000, approximately 2.8

miles east of the intersection of SR 0739 and SR 2006 (Scranton, PA Quadrangle Latitude: 41° 17' 49"; Longitude: 74° 54' 21").

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

E67-854: White Rock Commercial, LLC, 1501 LBJ Freeway, Suite 550, Dallas, TX 75234. Susquehanna Trail Distribution Center, in Manchester Township, **York County**, United States Army Corps of Engineers, Baltimore District.

The applicant proposes to: 1) permanently fill five wetland areas: 2.01 acres of PEM and 0.09 acre of PEM/PFO; 2) permanently place 37,330.0 cubic yards of fill in 1,775.0 linear feet of a UNT to Little Conewago Creek (TSF); 3) relocate 723.0 linear feet of a UNT to Little Conewago Creek (TSF); 4) relocate 521.0 linear feet of a UNT to Little Conewago Creek (TSF); 5) relocate 150.0 linear feet of a UNT to Little Conewago Creek (TSF); and 6) relocate 920.0 linear feet of a UNT to Little Conewago Creek (TSF) to construct a 708.0 square foot warehouse/distribution building, associated parking facilities and associated stormwater management facilities. The project proposes to impact a total of 2.10 acres of wetlands and 4,094.0 linear feet of stream channel. The project is located directly to the west of Interstate 83 and directly to the east of the intersection of Bear Road and North Susquehanna Trail (York Haven, PA Quadrangle N: 6.92 inches; W: 17.41 inches, Latitude: 40° 2' 17.1"; Longitude: 76° 44' 57.7") in Manchester Township, York County. The applicant is required to provide a minimum of 2.19 acres of wetland replacement. The applicant proposes to provide 2.49 acres of replacement wetlands of which 0.90 acre is proposed onsite with the remaining 1.59 acres to be located at a site along Bull Road (Dover, PA Quadrangle Latitude: 40° 1' 26.2"; Longitude: 76° 49' 14.8") in Conewago Township, York County. The applicant also proposes to protect 1,800.0 linear feet of wooded corridor along Little Conewago Creek through dedication of a restrictive covenant.

E67-862: Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103-1699, Manheim Township, **York County**, United States Army Corps of Engineers, Baltimore District.

To: (1) raze the existing SR 3074 (Smoketown Road) single span reinforced concrete slab bridge having a width of 20.0 feet, a total span of 17.0 feet, and an underclearance of 2.7 feet over a UNT to Codorus Creek (TSF) (Seven Valleys, PA Quadrangle N: 4.2 inches; W: 11.6 inches, Latitude: 39° 46' 23"; Longitude: 76° 49' 56"); (2) construct and maintain a composite prestressed concrete spread box beam bridge approximately 16 feet downstream of the existing bridge having a width of 32.0 feet, a total span of 36.0 feet, and an underclearance of 3.8 feet carrying SR 3074 (Smoketown Road) over a UNT to Codorus Creek (TSF) (York, PA Quadrangle N: 4.2 inches; W: 11.6 inches, Latitude: 39° 46' 23"; Longitude: 76° 49' 56"); (3) construct and maintain an 18-inch outfall structure to a UNT to Codorus Creek (TSF) (York, PA Quadrangle N: 4.3 inches; W: 11.6 inches, Latitude: 39° 46' 23"; Longitude: 76° 49' 56"); (4) construct and maintain an 18-inch outfall structure to a UNT to Codorus Creek (TSF) (York, PA Quadrangle N: 4.4 inches; W: 11.7 inches, Latitude: 39° 46' 27"; Longitude: 76° 50' 00"); and (5) construct and maintain an 18-inch outfall structure to a UNT to Codorus Creek (TSF) (York, PA Quadrangle N: 4.3 inches; W: 11.6 inches, Latitude: 39° 46' 25"; Longitude: 76° 49' 58"). The project will result in 40

linear feet of net permanent floodway impacts associated with replacement of the SR 3074 bridge over a UNT to Codorus Creek (TSF) in Manheim Township, York County.

E67-861: Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103-1699, Springettsbury and Spring Garden Townships, **York County**, United States Army Corps of Engineers, Baltimore District.

To: (1) raze the existing SR 1033 (Sherman Street) steel I-beam bridge having four spans, a width of 37.3 feet, a total span of 263.9 feet, and an underclearance of 22.5 feet over Mill Creek (CWF) and Interstate 83 (York, PA Quadrangle N: 18.9 inches; W: 11.9 inches, Latitude 39° 58' 45"; Longitude: 76° 42' 35"); and (2) construct and maintain a three span composite prestressed concrete bulb tee beam bridge approximately 18 feet west of the existing bridge having a width of 59.3 feet, a total span of 267.0 feet, and an underclearance of 26.8 feet carrying SR 1033 (Sherman Street) over Mill Creek (WWF) and Interstate 83 (York, PA Quadrangle N: 18.9 inches; W: 11.9 inches, Latitude: 39° 58' 45"; Longitude: 76° 42' 35"). The project will result in 62.0 linear feet of net permanent floodway impacts associated with replacement of the SR 1033 (Sherman Street) bridge over Mill Creek (WWF) in Springettsbury and Spring Garden Townships, York County.

E44-138: Department of Transportation, Engineering District 2-0, 1924 Daisy Street, P. O. Box 342, Clearfield, PA 16830, Derry Township, **Mifflin County**, United States Army Corps of Engineers, Baltimore District.

To: (1) raze the existing SR 2007 Section A01 bridge, having two spans, a width of 26.0 feet, a total span of 70.0 feet, and an underclearance of 10.5 feet over Kishacoquillas Creek (HQ-CWF) (Lewistown, PA Quadrangle N: 21.4 inches; W: 8.4 inches, Latitude: 30° 37' 03"; Longitude: 77° 33' 37"); and (2) construct and maintain a two span bridge approximately 20 feet west of the existing bridge having a width of 35.0 feet, a total span of 98.0 feet, and an underclearance of 9.8 feet carrying SR 2007 over Kishacoquillas Creek (HQ-CWF) (Lewistown, PA Quadrangle N: 21.4 inches; W: 8.4 inches, Latitude: 30° 37' 03"; Longitude: 77° 33' 37"). This permit also authorizes the installation of a temporary causeway and cofferdams for the purpose of constructing the new bridge and removing the old bridge. The project will result in 80.0 linear feet of temporary and 50.0 linear feet of net permanent floodway impacts associated with replacement of the SR 2007 Bridge over Kishacoquillas Creek (HQ-CWF) in Derry Township, Mifflin County.

E38-163: Jeffrey Camp, 633 West Germantown Pike, Suite 104, Plymouth Meeting, PA 19462, Lickdale Associates/Logistics Park, Union Township, **Lebanon County**, United States Army Corps of Engineers, Baltimore District.

To: (1) remove an existing 18.0-inch by 24.0-inch CMP from a UNT to the Swatara Creek (WWF) (Indiantown Gap, PA Quadrangle N: 11.29 inches; W: 1.69 inches, Latitude: 40° 26' 4.8" N; Longitude: 76° 30' 46.2" W); (2) remove an existing 12.0-inch metal culvert from a UNT to the Swatara Creek (WWF) (Indiantown Gap, PA Quadrangle N: 10.84 inches; W: 1.76 inches, Latitude: 40° 26' 4.8" N; Longitude: 76° 30' 45.5" W); (3) remove an existing 8.0-inch diameter concrete pipe from a UNT to the Swatara Creek (WWF) (Indiantown Gap, PA Quadrangle N: 11.77 inches; W: 1.98 inches, Latitude: 40° 26' 23.4" N; Longitude: 76° 30' 51.3" W); (4) construct and

maintain an 83.0-foot long, 36.0-inch diameter SLCPP with a 4.0-inch PVC sanitary sewer, a 10.0-inch diameter DIP water and a 6.0-inch diameter PVC electric line utility crossing in a UNT to the Swatara Creek (WWF) (Indiantown Gap, PA Quadrangle N: 11.35 inches; W: 1.66 inches, Latitude: 40° 26' 15" N; Longitude: 76° 30' 43" W); (5) construct and maintain a 102.0-foot long, 30.0-inch diameter SLCPP culvert in a UNT to the Swatara Creek (WWF) (Indiantown Gap, PA Quadrangle N: 11.00 inches; W: 1.47 inches, Latitude: 40° 26' 08" N; Longitude: 76° 30' 38" W); (6) remove an existing 65.2-foot long, 36.0-inch diameter concrete pipe culvert and to construct and maintain a 0.50-foot depressed, 132.0-foot long, 5.0-foot high by 6.0-foot wide concrete box culvert in a UNT to the Swatara Creek (WWF) to relocate the stream, also to construct and maintain a 4.0-inch PVC sanitary sewer, a 10.0-inch diameter DIP water and 6.0 inch diameter PVC electric line utility crossing under the proposed culvert in a UNT to the Swatara Creek (WWF) (Indiantown Gap, PA Quadrangle N: 11.55 inches; W: 1.70 inches, Latitude: 40° 26' 19" N; Longitude: 76° 30' 44" W); (7) to construct and maintain a 0.50-foot depressed, 151.0-foot long, 6.0-foot high, by 3.0-foot wide concrete box culvert having a 24.0-inch diameter storm sewer pipe, an 8.0-inch sanitary sewer line, a 10.0-inch diameter DIP water and a 6.0-inch diameter PVC electric line utility crossing under the proposed culvert in a UNT to the Swatara Creek (WWF) (Indiantown Gap, PA Quadrangle N: 11.40 inches; W: 2.13 inches, Latitude: 40° 26' 16" N; Longitude: 76° 30' 55" W); (8) to construct and maintain a 10.0-foot long, 48.0-inch diameter SLCPP utility line crossing over an existing 12.0-inch diameter culvert in UNT to the Swatara Creek (WWF) (Indiantown Gap, PA Quadrangle N: 10.14 inches; W: 1.51 inches, Latitude: 40° 25' 51" N; Longitude: 76° 30' 39" W); (9) to place and maintain fill in 0.20 acre of palustrine emergent wetland (PEM) for the construction of the proposed Old Forge Road (Indiantown Gap, PA Quadrangle N: 11.70 inches; W: 1.74 inches, Latitude: 40° 26' 22" N; Longitude: 76° 30' 45" W); (10) to construct and maintain a 0.50-foot depressed, 116.0-foot long, 12.0-foot high by 9.0-foot wide concrete box culvert with a 4.0-inch PVC sanitary sewer, a 10.0-inch diameter DIP water and a 6.0-inch diameter PVC electric line utility crossing in a UNT to the Swatara Creek (WWF) also impacting 0.017 acre of palustrine forested scrub/shrub wetlands (PFO/PSS) (Indiantown Gap, PA Quadrangle N: 12.01 inches; W: 1.74 inches, Latitude: 40° 26' 28" N; Longitude: 76° 30' 45" W); (11) to construct and maintain a 0.50-foot depressed, 85.0-foot long 5.0-foot high by 4.0-foot wide concrete box culvert with a 2.0 inch diameter PVC, a 4.0 inch PVC sanitary sewer pipe, a 10.0-inch diameter DIP water and a 6.0-inch diameter PVC electric line utility crossing impacting 85.0 linear feet of a UNT to the Swatara Creek (WWF) and 0.16 acre of palustrine emergent/scrub shrub/forested (PFO/PSS/PEM) (Indiantown Gap, PA Quadrangle N: 11.15 inches; W: 1.74 inches, Latitude: 40° 26' 11" N; Longitude: 76° 30' 46" W); (12) to place and maintain fill in 0.10 acre of PEM for the purpose of constructing warehouse buildings and an access road (Indiantown Gap, PA Quadrangle N: 10.09 inches; W: 1.70 inches, Latitude: 40° 25' 50" N; Longitude: 76° 30' 44" W); (13) to place and maintain fill in 0.11 acre of palustrine scrub shrub wetlands (PSS) for the purpose of constructing warehouse buildings and an access road (Indiantown Gap, PA Quadrangle N: 11.40 inches; W: 1.70 inches, Latitude: 40° 26' 16" N; Longitude: 76° 30' 56" W); (14) to place and maintain fill in 0.61 acre of palustrine forested wetlands located in and affecting 65.0 linear feet of floodway of a UNT to the

Swatara Creek (WWF) (Indiantown Gap, PA Quadrangle N: 10.74 inches; W: 1.82 inches, Latitude: 40° 26' 03" N; Longitude: 76° 30' 47" W); and (15) to place and maintain fill in 0.02 acre of PEM for the purpose of constructing the proposed warehouse and access roads (Indiantown Gap, PA Quadrangle N: 11.80 inches; W: 1.74 inches, Latitude: 40° 26' 24" N; Longitude: 76° 30' 45" W) all for the purpose of constructing three warehouse facilities and associated access and parking for an industrial park located at a point northwest of the intersection of SR 72 and Bordnersville Road in Union Township Lebanon County. Wetland replacement of 1.81 acres of (PEM/PSS/PFO) is proposed onsite.

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

E56-329 A. The Buncher Resort and Hospitality Group, LLC, Penn Liberty Plaza 1, Suite 300, 1300 Penn Avenue, Pittsburgh, PA 15222. To approve seasonal bridges over Kooser Run in Jefferson Township, **Somerset County**, United States Army Corps of Engineers, Pittsburgh District (Bakersville, PA Quadrangle N: 11.8 inches; W: 16.8 inches, Latitude 40° 03' 53"; Longitude 79° 14' 42"). The applicant proposes to amend Permit E56-329 which seasonally approved between November 15th and March 15th of each year the construction and maintenance of timber bridges across Kooser Run (HQ-CWF) and an adjoining abandoned fish hatchery, to create a snow tubing trail over these watercourses. The permit also authorizes two 70-foot by 20-foot bridges, separated by 40-feet to be seasonally constructed over Kooser Run and one 180-foot by 15-foot bridge to be seasonally constructed over the abandoned fish hatchery. The structures temporarily affect approximately 0.07 acre of adjacent wetlands. The permit requires that the timber bridges be replaced with timber deck structures as the logs for the timber bridges deteriorate and need to be replaced. To compensate for the wetland impacts 0.13 acre of wetlands were created by partially removing fill from a former pond. The project is located in Hidden Valley's Outback Park, located along SR 0031, approximately 0.25 mile past the main entrance to the Hidden Valley Resort. For this amendment, the applicant proposes to remove approximately 300-feet of the existing fish hatchery located in the UNT to Kooser Run, to construct and maintain concrete caisson or steel pilings at 20' centers for approximately 285-feet with steel beam supports between the caissons and an open metal deck on top at the same location as the fish hatchery. Also in this same UNT, they propose to remove an existing 30-foot long 36-inch diameter pipe and construct and maintain a new 50-foot long 36-inch diameter pipe and remove an existing 25-foot long 12-inch diameter culvert located in a small tributary on the upstream end of the existing fish hatchery with a new 65-foot long 18-inch diameter culvert. The applicant also proposes to construct and maintain concrete or steel caisson at 20-foot centers with steel beam cross supports and an open steel decking for approximately 70-feet in Kooser Run, which will be connected to a new 40-foot long, 36-inch diameter culvert, that will replace an existing 20-foot long 36-inch diameter culvert. On the downstream end of the new culvert, the applicant proposes to construct and maintain more concrete caisson or steel pilings at 20-foot centers with steel beam cross supports and open steel decking for approximately 180-feet. This project will also impact 0.09 acre of wetlands. To compensate for these impacts, the applicant proposes to construct and maintain 0.09 acre of replace-

ment wetlands. The total stream impact is approximately 535-feet for the proposed open steel decking and 155 feet of culverting of the stream.

E65-926. Loyalhanna Watershed Association, Inc., 110 Andi Lane, Ligonier, PA 15668. To construct a culvert, outfall and temporary wetland fill in Derry Township, **Westmoreland County**, United States Army Corps of Engineers, Pittsburgh District (Latrobe, PA Quadrangle N: 13.47 inches; W: 0.35 inch, Latitude: 40° 19' 27"; Longitude: 79° 22' 39"). The applicant proposes to:

1. Install and maintain a 24" penstock in an existing culvert.
2. Install, maintain and remove a temporary road crossing.
3. Install and maintain an outfall structure.
4. Install and maintain two 24" HDPE waterline crossings across Saxman Run (WWF).
5. Install a 24" KDPE waterline in approximately 0.54 acre of wetlands.
6. A Limited Power Permit Application was included.

All for the purpose of installing a micro turbine electric generation facility and acid mine drainage treatment facility.

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

E62-416, PAPCO, P. O. Box 627, Warren, PA 16365. Warrant 2978, Lots 38 and 39 Gas Wells, in Mead Township, **Warren County**, United States Army Corps of Engineers, Pittsburgh District (Clarendon, PA Quadrangle N: 12.9 inches; W: 12.7 inches).

The applicant proposes to construct approximately 3,500 feet of access roads and oil pipelines for the development of nine oil wells in the Allegheny National Forest north of the confluence of Fluent Run and Browns Run involving: 1) to construct and maintain two oil pipeline stream crossings of UNTs to Fluent Run (EV) by open trenching having two 2-inch diameter polyethylene lines at each crossing; 2) to construct and maintain five oil pipeline/road wetland crossings of PEM EV wetlands by open trenching having two 2-inch diameter polyethylene lines at each crossing resulting in permanent impact of 0.074 acre; and 3) to construct 0.2 acre of PEM wetland as mitigation for wetland impacts.

ENVIRONMENTAL ASSESSMENTS

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

EA36-018: PPL Holtwood, LLC, Dennis J. Murphy, VP/COO, 2 North 9th Street, Allentown, PA 18101, Martic Township, **Lancaster County**, United States Army Corps of Engineers, Baltimore District.

PPL Hydroelectric Plant is located on the Susquehanna River (WWF) in Martic Township, Lancaster County. PPL proposes to construct a new powerhouse, install new turbines, construct a new skimmer wall and increase the forebay capacity, and reconfigure the project facilities to enhance upstream fish passage through modification of existing facilities and excavations in the tailrace channel (Holtwood, PA Quadrangle N: 14 inches; W: 11.5 inches, Latitude: 39° 49' 37.7" N; Longitude: 76° 19' 50.4" W). The licensed installed capacity at the project would increase from 107.2 MW to a proposed 195.5 MW. To improve migratory fish passage at the project, PPL proposes to: (1) modify the existing fish lift; (2) reroute the discharge of Unit 1 in the existing powerhouse; and

(3) excavate the project tailrace (33.49 acres), the forebay (4.63 acres) and Piney Channel (6.68 acres). PPL also proposes to provide minimum flows, perform studies and evaluations of the effectiveness of the fish passage improvements and flow releases, improve existing and construct new recreational facilities, and protect special status plants and wildlife and cultural resources during construction. The project will cumulatively impact 1.24 acres of palustrine emergent and forested wetlands (approximately 0.50 acre of temporary impacts and approximately 0.73 acre of permanent impacts), approximately 7.60 acres of shallow water habitat and approximately 14.60 acres of deep water habitat. To mitigate for impacts associated with the project, PPL proposes to: (1) construct 0.25 acre emergent wetland, 1.96 acres forested wetland and establish 1.57 acres forested riparian buffer, and 1.8 acres upland forest at the RLPS Architect's property located west-southwest of the intersection of Oregon Pike (PA-272) and Valleybrook Drive in Manheim Township, Lancaster County (Lancaster, PA Quadrangle N: 15.96 inches; W: 5.37 inches, Latitude: 40° 05' 16.332" N; Longitude: 76° 17' 18.2004" W) in the floodway of Landis Run (WWF); (2) construct and maintain a 3,200.0-foot stream restoration project in and along Pequea Creek (WWF) (New Holland and Gap, PA Quadrangles Latitude: 40° 00' 01.1" N; Longitude: 76° 06' 11.1" W) located in Paradise and Leacock Townships, Lancaster County. The project shall include riparian plantings along 5,000.0 feet of Pequea Creek, 3,300.0 feet of streambank fencing providing a minimum of a 25-foot buffer on each side of the Pequea Creek, bank grading, two cattle crossings, one cattle access, four areas of habitat boulder placement, five rock cross vanes, nine J-hooks, three stream bank rock deflectors with logs, five root wads, four mudsill fish enhancement structures; (3) plant 3.2 acres of an existing agricultural field adjacent to the Susquehanna River with native tree species at a point just north of the intersection of Prescott and River Roads (SR 441) (York Haven, PA Quadrangle Latitude: 40° 06' 35.70" N; Longitude: 76° 41' 18.36" W) in Conoy Township, Lancaster County; (4) remove three dams: (a) D36-306, Levi Fisher Dam, located on Pequea Creek (HQ-CWF) at a point just west of the intersection of Mount Vernon and Buena Vista Roads (Honey Brook, PA Quadrangle Latitude: 40° 1' 9.12" N; Longitude: 75° 59' 4.56" W) in Salisbury Township, Lancaster County; (b) Smucker Dam located on Goff Run (WWF) at a point just west of the intersection of Tabor Road and Custer Avenue (New Holland, PA Quadrangle Latitude: 40° 4' 9.84" N; Longitude: 76° 5' 8.52" W) in Earl Township, Lancaster County; and (c) Zimmerman Dam located on Conestoga River (WWF) at a point just southwest of the intersection of Cabin Road and Twenty-Eighth Division Highway (SR 322) (Ephrata PA Quadrangle; Latitude: 40° 9' 1.44" N; Longitude: 75° 8' 11.49" W) in Earl Township, Lancaster County; (5) expand the existing Pequea Boat Launch to include the addition of 18 trailer spaces, three car parking spaces, a boat ramp measuring 129.0 feet long and 20.0 feet wide and a 25.0-foot by 20.0-foot ADA accessible fishing platform and dock in and along the Susquehanna River (Conestoga, PA Quadrangle N: 2.5 inches; W: 16.5 inches, Latitude: 39° 53' 17.4" N; Longitude: 76° 22' 0.5" W); (6) extend the two existing boat ramps at the York Furnace Boating Access into the Susquehanna River (Safe Harbor, PA Quadrangle N: 0.75 inch; W: 1.0 inch; Latitude: 39° 52' 20.8" N; Longitude: 76° 22' 48.3" W); (7) construct additional parking along the existing McCall's Ferry Road, which is located in the floodway of the Susquehanna River (Holtwood, PA Quadrangle N: 13.0 inches; W: 12.5 inches, Latitude: 39° 49' 15.6" N; Longitude: 76° 20' 16.5"

W), to provide parking for the white water boating community use, which additional parking includes widening McCall's Ferry Road by 27.5 feet for a distance of 137 feet; and (8) construct and maintain a bridge over the railroad tracks along the left bank of the Susquehanna River for the purpose of allowing recreational access to a new parking area, measuring 200.0 feet long by 50.0 feet wide, located between the railroad right-of-way and the Holtwood Tailrace (Holtwood, PA Quadrangle N: 13.25 inches; W: 11.0 inches, Latitude: 39° 49' 22.6" N; Longitude: 76° 19' 35.3" W). This parking area would include parking for 18 cars, with three spaces reserved for ADA access. From the parking area an ADA accessible trail would provide access to a 40.0-foot by 10.0-foot fishing platform along the Holtwood Tailrace. The fishing platform would be retrofitted from the abutment to the lower tailrace bridge.

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

EA17-006. Emigh Run/Lakeside Watershed Association, Inc., P. O. Box 204, Morrisdale, PA 16858. Acid mine drainage abatement project on Hubler Run in Graham Township, **Clearfield County**, United States Army Corps of Engineers, Baltimore District (Frenchville, PA Quadrangle Latitude: N: 41° 0' 59"; Longitude: W: 78° 13' 27").

The applicant has requested a restoration waiver to rehabilitate and improve an existing AMD abatement project. The original Hubler Run 1 AMD Treatment System was authorized in 2000 through EA17-002NC. The designated use for Hubler Run is CWF. Improvements to the Hubler Run 1 AMD Treatment System will result in 3.5 acres of disturbance and 0.03 acre of PEM wetland impact.

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-0062952 (Industrial Waste)	Laminations, Inc. 101 Power Boulevard Archbald, PA 18403	City of Scranton Lackawanna County	Meadow Brook 05A	Y

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>
PA0246890 (SEW)	Dennis and Janice McClure 3469 McAlevys Fort Road Petersburg, PA 16669	Huntingdon County Jackson Township	11-B UNT Laurel Run	Y
PA0029602 (Sew)	Juniata Valley School District 7775 Juniata Valley Pike P. O. Box 318 Alexandria, PA 16611-0318	Huntingdon County Porter Township	Dry swale to the Frankstown Branch Juniata River	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>
PA0112470 SP	Upper Augusta Township 2087 Snyderstown Road Sunbury, PA 17801	Northumberland County Upper Augusta Township	UNT of Susquehanna River 5E	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>
PA0001759 Industrial Waste	Omnova Solutions, Inc. 1001 Chambers Avenue Jeannette, PA 15644-3207	Westmoreland County City of Jeannette	Brush Creek	Y
PA0026891 Sewage	Authority of the Borough of Charleroi 325—327 McKean Avenue Charleroi, PA 15022	Washington County Charleroi Borough	Monongahela River	N

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>
PA0239488	Eldred Township Warren County 2915 Newton Road Pittsfield, PA 16340-1537	Eldred Township Warren County	Caldwell Creek 16-E	Y
PA0103896	County Landfill, Inc. 5600 Niagara Falls Boulevard Niagara Falls, NY 14304-1532	Farmington Township Clarion County	UNT to Walley Run 16-F	N

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. PA0244422, Industrial Waste, **Norfolk Southern Railway Company**, 110 Franklin Road, SE, P. O. Box 13, Roanoke, VA 24042-0013. This proposed facility is located in Upper Merion Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge stormwater runoff into Crow Creek and UNTs to the Schuylkill River in Watershed 3F.

NPDES Permit No. PA0050776, Sewage, **Coventry Terrace MHC, LLC**, 10006 Hammock Bend, Chapel Hill, NC 27517. This proposed facility is located in East Coventry Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage into Pigeon Creek in Watershed 3D.

NPDES Permit No. PA0026018, Sewage, **Borough of West Chester**, 401 East Gay Street, West Chester, PA 19380. This proposed facility is located in East Bradford Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage from Taylor Run STP into a tributary to Taylor run in Watershed 3H.

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

Special Public Notice

Chesapeake Bay Point Source Nutrient Reduction Strategy

In accordance with the 2000 Chesapeake Bay Agreement, this Commonwealth has agreed to develop a Tributary Strategy to reduce total nitrogen and phosphorus to the Bay by about 40% from both point and nonpoint sources by 2010. This reduction is projected to improve the water quality in the Bay to allow it to be removed from the impaired waters list. The point source part of the strategy requires that the existing dischargers monitor for total nitrogen and phosphorus. The following dischargers have been identified as significant contributors of nutrients. These dischargers are being notified by letter that their NPDES permits will be modified to include monitoring requirements for nutrients. The monitoring requirements concern Ammonia-N, Total Nitrogen (calculated as the sum of Kjeldahl-N, Nitrite-N and Nitrate-N) and Total Phosphorus.

Comments should be directed to Program Manager, Water Management, Department of Environmental Protection, 2 Public Square, Wilkes-Barre, PA 18711.

NPDES Permit Number Permittee

PA-0070041	Mahanoy City Sewer Authority, Schuylkill County
PA-0070386	Shenandoah Municipal Sewer Authority, Schuylkill County
PA-0046272	Porter Tower Joint Municipal Authority, Schuylkill County
PA-0023558	Borough of Ashland, Schuylkill County
PA-0023736	Tri-Borough Municipal Authority, Susquehanna County
PA-0062201	Schuylkill County Municipal Authority, Schuylkill County
PA-0060801	Montrose Municipal Authority, Susquehanna County
PA-0060135	Shickshinny Borough Sewer Authority, Luzerne County
PA-0029432	Commonwealth of Pennsylvania (Clarks Summit State Hospital), Lackawanna County

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

NPDES Permit No. PA0008281, Amendment No. 1, Industrial Waste, PPL Brunner Island, LLC, Two North Ninth Street, GENPL-6, Allentown, PA 18101-1179. This proposed facility is located in East Manchester Township, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to Susquehanna River, Hartman Run and Conewago Creek in Watersheds 7F and 7-H.

NPDES Permit No. PA0261131, Sewage, Frederick W. Steudler, 2599 Old Philadelphia Pike, Bird-In-Hand, PA 17505. This proposed facility is located in Providence Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT to Huber Run in Watershed 7-K.

NPDES Permit No. PA0260959, CAFO, J. Richard Noll, 1100 Old Line Road, Manheim, PA 17545. This proposed facility is located in Penn Township, **Lancaster County**.

Description of Size and Scope of Proposed Operation/Activity: Termination of permit due to transfer of ownership.

NPDES Permit No. PA0261084, CAFO, Ann Fithian, 195 Fort Swatara Road, Jonestown, PA 17038. This proposed facility is located in Union Township, **Lebanon County**.

Description of Size and Scope of Proposed Operation/Activity: Termination of permit due to number of housed animals.

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

PA0228427, CAFO, SIC 0213, Country View Family Farms, LLC, 6360 Flank Drive, Suite 100, Harrisburg, PA 17112-2766. This existing facility is located in Wells Township, **Bradford County**.

Description of Proposed Activity: The Pine Hill Farm CAFO is an existing swine operation that will be expanding its operation. Upon completion of the proposed expansion the facility will include approximately 5,050 sows, 12 boars, 750 sow/litter pairs, 2,000 gilts and 19,200 piglets, totaling 3,244 Animal Equivalent Units.

The water body nearest to this facility is Mill Creek located in the Tioga Watershed (SWP-04A) and has a designated use of TSF.

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

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

1. Compliance with the Farm's Nutrient Management Plan.
2. Compliance with the Farm's Preparedness, Prevention and Contingency Plan.
3. Compliance with the Farm's Erosion and Sedimentation Control Plan for plowing and tilling.
4. Erosion and Sedimentation Control Plan requirements for stormwater during construction activities.
5. Animal mortality handling and disposing requirements.
6. Certification requirements for manure storage facilities.

7. Requirements for storage of feed and other raw materials.
8. Best Management Practices requirements.
9. Groundwater monitoring well maintenance requirement.

The EPA waiver will not be in effect.

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

NPDES Permit No. PA0253723, Industrial Waste, **Shallenberger Construction, Inc.**, 2611 Memorial Boulevard, Connellsville, PA 15425. This proposed facility is located in German Township, **Fayette County**.

Description of Proposed Action/Activity: Permit issuance to discharge from Ronco Treatment Facility.

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

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

WQM Permit No. 6706201, Industrial Waste, **PPL Brunner Island, LLC**, Two North Ninth Street, GENPL-6, Allentown, PA 18101-1179. This proposed facility is located in East Manchester Township, **York County**.

Description of Proposed Action/Activity: Construction/Operation of industrial wastewater treatment facilities with a design hydraulic capacity of 0.52 mgd and an anticipated annual average flow of 0.33 mgd.

WQM Permit No. 3608402, Sewage, **Tamarack Mobile Home Park**, 515 Beechnut Drive, New Providence, PA 17560. This proposed facility is located in Providence Township, **Lancaster County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of sewerage facilities consisting of equalization tank, anoxic tank, aeration tank, clarifier, chlorination and dechlorination tanks, metering and polishing tank, post aeration tank, sludge holding tank and influent and effluent pump station.

WQM Permit No. 2808405, Sewage, **Richard and Angel Wenger**, P. O. Box 175, Shade Gap, PA 17255. This proposed facility is located in Fannett Township, **Franklin County**.

Description of Proposed Action/Activity: Permit approval for the construction of sewerage facilities consisting of a small flow sewage treatment facility with a dual compartment septic tank, dose tank, subsurface sand filter and chlorine disinfection.

WQM Permit No. 3608203, CAFO, **Jason Brandt**, 3501 North Colebrook Road, Manheim, PA 17545. This proposed facility is located in Mount Joy Township, **Lancaster County**.

Description of Proposed Action/Activity: Permit approval for the construction of manure storage facilities.

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

WQM Permit No. 0808202, CAFO Operation, SIC 0213, **Country View Family Farms, LLC**, 6360 Flank Drive, Suite 100, Harrisburg, PA 17112-2766. This proposed facility is located in Wells Township, **Bradford County**.

Description of Proposed Action/Activity: A WQM permit has been issued to Pine Hill Farm, an existing swine farm, for the construction and operation of two concrete underbarn manure storage facilities and for the renovation of four existing underbarn manure storage facilities. One facility will measure 85 feet by 736 feet by 2 feet deep and will service a proposed farrowing barn. The second facility will measure 125.5 feet by 920 feet by 9 feet deep and will service a proposed gestation barn. The two underbarn manure storage facilities will provide a total holding capacity, minus appropriate freeboard, of approximately 7 million gallons. The renovations to the existing underbarn manure storage facilities will consist of the replacement of pit walls, floors, drains and footers.

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

WQM Permit No. 0208202, Industrial Waste, **Allegheny County Airport Authority**, Pittsburgh International Airport, Landside Terminal, 4th Floor Mezzanine, P. O. Box 12370, Pittsburgh, PA 15231. This proposed facility is located in Moon and Findlay Townships, **Allegheny County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of deicing wastewater treatment facilities.

WQM Permit No. WQG016166, Sewerage, **Richard H. Michelini**, 179 Ford City Road, Freeport, PA 16229. This proposed facility is located in South Buffalo Township, **Armstrong County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a single-residence sewage treatment plant.

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

WQM Permit No. 2008201, CAFO Operation, SIC 0241, **Bortnick Dairy, LLC**, 21820 Palmer Road, Conneautville, PA 16406. This proposed facility is located in Beaver Township, **Crawford County**.

Description of Proposed Action/Activity: A Water Quality Management permit was issued for the construction and operation of an anaerobic digester to produce methane, which will be used as fuel in an electrical generator for the purpose of powering farm operations.

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

WQM Permit No. 4603417, Sewerage, Amendment, **Horsham Water and Sewer Authority**, 617 Horsham Road, Horsham, PA 19044. This proposed facility is located in Horsham Township, **Montgomery County**.

Description of Action/Activity: An increase in average daily flow.

WQM Permit No. WQG02460817, Sewerage, **Lower Salford Township Authority**, 57 Main Street, P. O. Box 243, Harleysville, PA 19438. This proposed facility is located in Lower Salford Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a low pressure force main and associated grinder pumps to serve one new twin dwelling and two new single-family dwellings.

WQM Permit No. 4608406, Sewerage, **Lower Salford Township Authority**, 57 Main Street, P. O. Box 243, Harleysville, PA 19438-2309. This proposed facility is located in Lower Salford Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of 5,400 linear feet of 8", 12" and 16" gravity sewers and associated appurtenances.

WQM Permit No. WQG02150819, Sewerage, **New Garden Township Sewer Authority**, 299 Starr Road, Landenberg, PA 19350. This proposed facility is located in New Garden Township, **Chester County**.

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

WQM Permit No. 4608405, Sewerage, **Salford Township**, P. O. Box 54, 139 Ridge Road, Tylersport, PA 18971. This proposed facility is located in Salford Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a sanitary pump station to convey the sewage from the Country View at Salford Development.

WQM Permit No. WQG02460814, Sewerage, **Valley Forge National Park Service**, 1400 North Outerline Drive, King of Prussia, PA 19406. This proposed facility is located in Upper Merion Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a pump station to serve a "comfort station" at Washington's Headquarters in VFNP.

WQM Permit No. 1598201, Industrial, Renewal, **Herr Foods, Inc.**, P. O. Box 300, Nottingham, PA 19362-0300. This proposed facility is located in West Nottingham Township, **Chester County**.

Description of Action/Activity: Approval for renewal of existing permit for modifications and continued operations of the Herr Foods, Inc. Wastewater Treatment Plant.

WQM Permit No. WQG010023, Sewerage, **Janet Berry**, 372 Yankee Road, Quakertown, PA 18951. This proposed facility is located in Richland Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a small flow sewage treatment plant to serve five bedroom dwelling.

WQM Permit No. WQG02230816, Sewerage, **Concord Township Sewer Authority**, 664 Concord Road, Glen Mills, PA 19342. This proposed facility is located in Concord Township, **Delaware County**.

Description of Action/Activity: Installation of a low pressure sanitary sewer force main.

WQM Permit No. 4608405, Sewerage, **Salford Township**, P. O. Box 54, 139 Ridge Road, Tylesport, PA 18971. This proposed facility is located in Salford Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a sanitary pump station to convey the sewage from the Country View at Salford Development.

WQM Permit No. WQG02460814, Sewerage, **Valley National Park Service**, 1400 North Outerline Drive, King of Prussia, PA 19406. This proposed facility is located in Upper Merion Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a pump station to serve a "comfort station" at Washington's Headquarters in VFNP.

WQM Permit No. 1598201, Industrial, Renewal, **Herr Foods, Inc.**, P. O. Box 300, Nottingham, PA 19362-0300. This proposed facility is located in West Nottingham Township, **Chester County**.

Description of Action/Activity: Approval for renewal of existing permit for modifications and continued operations of the Herr Foods, Inc. Wastewater 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 1506061	Wooldridge Construction of PA, Inc. 1389 Boot Road West Chester, PA 19380	Chester	East Goshen Township	Tributary Ridley Creek HQ

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1506091	Megill Homes, LLC 276A Dilworthtown Road West Chester, PA 19382	Chester	Upper Oxford Township	Big Elk Creek HQ-TSF-MF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023908012	CSGM Development, LLC 4972 Medical Center Circle Allentown, PA 18106	Lehigh	Lower Macungie Township	Cedar Creek HQ-CWF Little Lehigh Creek HQ-CWF
PAI024007003	Keith Linn 174—R. R. 1 Wapwallopen, PA 18660	Luzerne	Slocum Township	Tributary to Pond Creek CWF

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

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

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Groundwater Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

General Permit Type—PAG-2

Facility Location:

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
East Nottingham Township Chester County	PAG200 1504019	Brown Partnership 125 Limestone Road Oxford, PA 19363	Northeast Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Caln Township Chester County	PAG200 1503088-R	D.H.L.P. Kings Grant, LP 435 Devon Park Drive Building 200 Wayne, PA 19087	UNT Beaver Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Sadsbury Township Chester County	PAG200 1508046	JD Eckman, Inc. 141 Lower Valley Road Atglen, PA 19310-9724	Valley Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

NOTICES

5701

<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>
Chester Township Delaware County	PAG200 2308028	Jeffrey B. Rotwitt 63 Concord Road Aston, PA 19014	Baldwin Run Chester Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG201 5108022	The Barnes Foundation 300 North Latches Lane Merion, PA 19066	Schuylkill River CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Allentown Lehigh County	PAG2003908011	Keith Flickenger Allentown Classic Motor Cars, Inc. 805 North Fenwick Street Allentown, PA 18109	Lehigh River TSF	Lehigh County Conservation District (610) 391-9583
Northampton Borough Northampton County	PAG2004808014	Steven Yavorski Clearwater Properties, LLC 3151 Apple Butter Road Danielsville, PA 18038	Hokendauqua Creek CWF Lehigh River TSF	Northampton County Conservation District (610) 746-1971
Smithfield Township Monroe County	PAG2004508004	East Stroudsburg Area School District Attn: Leonard Kresefski P. O. Box 298 East Stroudsburg, PA 18301	Sambo Creek CWF, MF	Monroe County Conservation District (570) 629-3060
Eldred Township Monroe County	PAG2004508002	Heidi Rebollo 388 Conestoga Road Malvern, PA 18355	Borger Creek CWF	Monroe County Conservation District (570) 629-3060
Harrisburg City Dauphin County	PAG2002208028	Department of Transportation District 8-0 2140 Herr Street Harrisburg, PA 17103-1699	Paxton Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Cumberland Township Adams County	PAG2000103018R	Anthony Zuccolotto S & A Custom Built Homes, Inc. 2121 Gatesburg Road Suite 200 State College, PA 16803	UNT to Marsh Creek UNT to Willoughby Run CWF-WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636
Hamilton Township Adams County	PAG2000108002	Randall S. Faloon 1171 Eichelberger Street Hanover, PA 17331	Pine Run WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325 (717) 334-0636
Colebrookdale Township Berks County	PAG2000608007	Dennis Malloy Fred Beans Ford of Boyertown, Inc. P. O. Box 524 Boyertown, PA 19512	West Swamp Creek CWF-MF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201

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

PAR10C348-1R

Larry Gardner
Larken Assoc.
P. O. Box 6989
Hillsborough, NJ 08844Willow
Creek—Schuylkill
River
CWFBerks County
Conservation District
1238 County Welfare
Road
Suite 200
Leesport, PA
19533-9710
(610) 372-4657,
Ext. 201Penn Township
York County

PAG2006708076

South Hanover Partners, LP
120 North Pointe Boulevard
Suite 301
Lancaster, PA 17601UNT to Plum Creek
WWFYork County
Conservation District
118 Pleasant Acres
Road
York, PA 17402
(717) 755-0301Penn Township
York County

PAG2006703010-R

Tony Forbes
Bon Ton Builders
1060 Baltimore Street
Hanover, PA 17331Plum Creek
WWFYork County
Conservation District
118 Pleasant Acres
Road
York, PA 17402
(717) 755-0301Penn and West
Manheim Townships
York County

PAG2006703021-R

Woodhaven Building &
Development, Inc.
4175 Hanover Pike
Manchester, MD 21102Plum Creek—Indian
Run
WWFYork County
Conservation District
118 Pleasant Acres
Road
York, PA 17402
(717) 755-0301Tioga County
Richmond Township

PAG2005908005

Dave Howicz
TS Mansfield, LLC
3548 Sweet Maggie Lane
Naperville, IL 60564Tioga River
CWFTioga County
Conservation District
50 Plaza Lane
Wellsboro, PA 16901
(570) 724-1801, Ext. 3Tioga County
Charleston Township

PAG2005908006

Daryl Sobol
East Resources, Inc.
38 SR 660
Mansfield, PA 16933North Elk Run
CWFTioga County
Conservation District
50 Plaza Lane
Wellsboro, PA 16901
(570) 724-1801, Ext. 3Allegheny County
Ohio Township
Franklin Park
Borough

PAG2000204082-R

Colbalt Development Corp.
101 Commerce Boulevard
Lawrence, PA 15055Kilbuck Run
WWFAllegheny County
Conservation District
(412) 241-7645Allegheny County
Pittsburgh

PAG2000204108-2

Port Authority of Allegheny
County
345 Sixth Avenue
Pittsburgh, PA 15222Allegheny River
WWFAllegheny County
Conservation District
(412) 241-7645Allegheny County
Penn Hills Oakmont
Boroughs

PAG2000205046-1

Brooks and Blair Waterfront
Prop.
5541 Walnut Street
Pittsburgh, PA 15232Plum Creek
WWFAllegheny County
Conservation District
(412) 241-7645Allegheny County
West Mifflin Borough

PAG2000206044-1

Allegheny County Airport
Authority
12 Allegheny County Airport
West Mifflin, PA 15122Monongahela River
WWFAllegheny County
Conservation District
(412) 241-7645Allegheny County
Moon Township

PAG2000207103

Moon Township
1000 Beaver Grade Road
Coraopolis, PA 15108Meeks Run
TSFAllegheny County
Conservation District
(412) 241-7645Allegheny County
Ohio and Ross
Townships
Franklin Park
Borough

PAG2000208026

Department of Transportation
45 Thoms Run Road
Bridgeville, PA 15017Bear and Lowries
Runs and Ohio River
TSFAllegheny County
Conservation District
(412) 241-7645

NOTICES

5703

<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>
Allegheny County Jefferson Hills Borough	PAG2000208031	T. J. Football Boosters, Inc. 376 Saratoga Drive Pittsburgh, PA 15236	Lick Run WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Collier Township	PAG2000208041	Collier Township 2418 Hilltop Road Presto, PA 15142	Robinson Run WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County North Fayette Township	PAG2000208044	A R Building Company 5541 Walnut Street Pittsburgh, PA 15232	North Branch of Robinson Run WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Pittsburgh and Greentree Borough	PAG2000208051	South Star Development Partners of PA 2867 Beaver Grade Road Coraopolis, PA 15108	Sawmill Run WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Monroeville	PAG2000208052	Oxford Development Company One Oxford Centre Pittsburgh, PA 15219	Thompson Run WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Ross Township	PAG2000208057	McKnight Property Management 330 Grant Street Pittsburgh, PA 15219	Girtys Run WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Pittsburgh	PAG2000208058	Oxford Development Co. One Oxford Centre Pittsburgh, PA 15219	Allegheny River WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Robinson Township	PAG2000208060	HVL, Inc. 600 Boyce Road Pittsburgh, PA 15205	Campbells Run WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Hampton Township	PAG2000208063	Carl Schaier 2161 Linwood Drive Allison Park, PA 15101	Pine Creek TSF	Allegheny County Conservation District (412) 241-7645
Allegheny County Pittsburgh	PAG2000208066	Board of Public Education 341 South Bellefield Pittsburgh, PA 15213	Saw Mill Run WWF	Allegheny County Conservation District (412) 241-7645
Fayette County Bullskin Township	PAG2002608013	Dave Panzella Connellsville Soccer Club 264 Bellview Road Connellsville, PA 15425	UNT to Mounts Creek WWF	Fayette County Conservation District (724) 438-4497
Washington County Chartiers Township	PAG2006305026-2	Villas of Arden Mills 102 West Pike Street Suite 200 Houston, PA 15342	UNT to Chartiers Creek WWF	Washington County Conservation District (724) 229-6774
Washington County Robinson Township	PAG2006308016	Golden Triangle Construction Co., Inc. Charles Niederriter 40 Partridge Lane Imperial, PA 15126	UNT to Raccoon Run WWF	Washington County Conservation District (724) 228-6774
Slippery Rock Township Butler County	PAG2001008020	James Revesz Slippery Rock University of Pennsylvania Facilities and Planning Department Slippery Rock, PA 16057-1326	Slippery Rock Creek CWF	Butler County Conservation District (724) 284-5270
Hempfield Township Mercer County	PAG2004308006(2)	Mitch Properties c/o Spiro L. Pappan P. O. Box 1567 Beaver Falls, PA 15010	UNT Little Shenango TSF	Mercer County Conservation District (724) 662-2242
City of Hermitage Mercer County	PAG2004308010	Edward J. Ackerman Amber Jo Enterprises 6276 Downs Road Warren, OH 44481	UNT Pint Hollow Run WWF	Mercer County Conservation District (724) 662-2242

*Facility Location:
Municipality &
County*Pine Township
Mercer County*Permit No.*

PAG2004308011

*Applicant Name &
Address*Grove City College
100 Campus Drive
Grove City, PA 16127*Receiving Water/Use*UNT Wolf Creek
CWF*Contact Office &
Phone No.*Mercer County
Conservation District
(724) 662-2242*General Permit Type—PAG-3**Facility Location:
Municipality &
County*St. Clair Borough
Schuylkill County*Permit No.*

PAR202244

*Applicant Name &
Address*Leed Foundry, Inc.
Wade Road
St. Clair, PA 17970*Receiving Water/Use*Mill Creek
CWF*Contact Office &
Phone No.*DEP—NERO
Water Management
Program
2 Public Square
Wilkes-Barre, PA
18711-2511
(570) 826-2511Wright Township
Luzerne County

PAR702218

Mountaintop Anthracite
1550 Crestwood Drive
Mountaintop, PA 18707Bow Creek
CWFDEP—NERO
Water Management
Program
2 Public Square
Wilkes-Barre, PA
18711-2511
(570) 826-2511*General Permit Type—PAG-4**Facility Location:
Municipality &
County*South Buffalo
Township
Armstrong County*Permit No.*

PAG046387

*Applicant Name &
Address*Richard H. Michelini
179 Ford City Road
Freeport, PA 16229*Receiving Water/Use*UNT of the
Allegheny River*Contact Office &
Phone No.*Southwest
Regional Office
Water Management
Program Manager
400 Waterfront Drive
Pittsburgh, PA
15222-4745
(412) 442-4000Columbus Township
Warren County

PAG048586

Michael J. Munsee
295 Picidilli Hill Road
Corry, PA 16407-4005UNT to Hare Creek
16-BDEP—NWRO
Water Management
230 Chestnut Street
Meadville, PA
16335-3481
(814) 332-6942*General Permit Type—PAG-9**Facility Location:
Municipality &
County*Middleburg and
Center Townships
Snyder County*Permit No.*

PAG094839

*Applicant Name &
Address*Dave Zook
346 Sunrise Garden Lane
Middleburg, PA 17842*Site Name &
Location*Mark Zook Farm
230 Trozelville Road
Middleburg and
Center Townships
Snyder County*Contact Office &
Phone No.*Northcentral
Regional Office
Water Management
Program
208 West Third
Street
Suite 101
Williamsport, PA
17701
(570) 327-3664**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

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

Permit No. 2640032, Operations Permit, Public Water Supply.

Applicant	Aqua Pennsylvania, Inc. 762 West Lancaster Avenue Bryn Mawr, PA 19010 Waymart Borough
County	Wayne
Type of Facility	PWS
Consulting Engineer	Brennan T. Kelly, P. E. Aqua Pennsylvania, Inc. 762 West Lancaster Avenue Bryn Mawr, PA 19010
Permit to Operate Issued	September 2, 2008

Permit No. 2450133, Operations Permit, Public Water Supply.

Applicant	Pennsylvania American Water 800 West Hersheypark Drive Hershey, PA 17033 Stroud Township
County	Monroe
Type of Facility	PWS
Consulting Engineer	Daniel Rickard, P. E. Pennsylvania American Water 100 North Pennsylvania Avenue Wilkes-Barre PA 18701
Permit to Operate Issued	August 11, 2008

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

Permit No. 6707514, Public Water Supply.

Applicant	The York Water Company
Municipality	West Manheim Township
County	York
Type of Facility	Construction of the West Manheim Booster Station with fluoridation.
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 23, 2008

Permit No. 2108506, Minor Amendment, Public Water Supply.

Applicant	United Water Pennsylvania
Municipality	Upper Allen Township
County	Cumberland
Type of Facility	Construction of a new Mt. Allen booster pump station.
Consulting Engineer	Renee A. Szczepanski, P. E. Navarro & Wright Consulting Engineers, Inc. 151 Reno Avenue New Cumberland, PA 17070
Permit to Construct Issued	September 26, 2008

Permit No. 0508503 MA, Minor Amendment, Public Water Supply.

Applicant	Bedford Township Municipal Authority
Municipality	Bedford Township
County	Bedford
Type of Facility	Sweet Root Road Extension.
Consulting Engineer	Timothy A. Cooper, P. E. Stiffler McGraw & Associates, Inc. 19 North Juniata Street Hollidaysburg, PA 16648
Permit to Construct Issued	September 22, 2008

Operations Permit issued to **Brush Wellman, Inc.**, 3060677, Shoemakersville Borough, **Berks County** on September 22, 2008, for the operation of facilities approved under Construction Permit No. 0607514.

Operations Permit issued to **IFCO Systems North America, Inc.**, 7010942, Butler Township, **Adams County** on September 26, 2008, for the operation of facilities approved under Construction Permit No. 0108507.

Operations Permit issued to **Everett Area School District**, 4050870, West Providence Township, **Bedford County** on September 22, 2008, for the operation of facilities approved under Construction Permit No. 0508502 MA.

Operations Permit issued to **Hillandale Gettysburg, LP**, 7011004, Tyrone Township, **Adams County** on September 29, 2008, for the operation of facilities approved under Construction Permit No. 0108512 MA.

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

Permit No. M.A. 1896501—Operation, Public Water Supply.

Applicant **Kettle Creek State Park**
 Township or Borough Leidy Township
 County **Clinton**
 Responsible Official John Norbeck
 Department of Conservation and Natural Resources
 Bureau of State Parks
 P. O. Box 8551
 Harrisburg, PA 17105-8551
 Type of Facility Public Water Supply—Operation
 Consulting Engineer Mark Lonergan
 Senior Civil Engineer
 400 Market Street
 Harrisburg, PA 17105-8451
 Permit Issued Date September 24, 2008
 Description of Action Addition of Aqua-Mag for corrosion control to the existing system.

Permit No. M.A.—Operation, Public Water Supply.

Applicant **Kipps Run Mobile Home Park**
 Township or Borough Riverside Borough
 County **Northumberland**
 Responsible Official Karl Drescher
 46 Stacey Drive
 Barto, PA 19504
 Type of Facility Public Water Supply—Operation
 Consulting Engineer N/A
 Permit Issued Date September 29, 2008
 Description of Action Operation of the polyphosphate and finished water storage tank.

Permit No. 5908501—Operation, Public Water Supply.

Applicant **Somers Lane Mobile Home Park**
 Township or Borough Lawrence Township
 County **Tioga**
 Responsible Official Charles Wilcox, Jr., Owner
 Somers Lane Mobile Home Park
 229 Upper Somers Lane
 Lawrenceville, PA 16929
 Type of Facility Public Water Supply—Operation
 Consulting Engineer N/A
 Permit Issued Date September 30, 2008

Description of Action Operation of a manganese and arsenic removal system, including sodium hypochlorite and ferric chloride chemical feed systems, three Macrolite filters, two 300-gallon pressure detention tanks; and two 1,200-gallon finished water storage tanks.

Permit No. M.A.—Operation, Public Water Supply.

Applicant **Clearfield Municipal Authority**
 Township or Borough Lawrence Township
 County **Clearfield**
 Responsible Official Jeffrey S. Williams, Manager
 Clearfield Municipal Authority
 107 East Market Street
 Clearfield, PA 16830
 Type of Facility Public Water Supply—Operation
 Consulting Engineer N/A
 Permit Issued Date September 30, 2008
 Description of Action Operation of a blended polyphosphate chemical feed system at Moose Creek Well No. 3 Treatment Building for hydrogen sulfide sequestering and operation of pre- and post-sodium hypochlorite chemical feed systems at the Montgomery Run Treatment Plant.

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

Operations Permit issued to **Pennsylvania American Water Company—Ellwood**, PWSID No. 6370011, Ellwood City, Wayne Township, **Lawrence County**, on September 24, 2008, for operation of the recently renovated Aiken Reservoir according to specifications approved by construction permit 3784502-T1-MA3, issued January 25, 2008.

Operations Permit issued to **Mt. Jewett Borough Authority**, PWSID No. 6420018, Mt. Jewett Borough, **McKean County**. Emergency Operations Permit issued September 29, 2008, for the use of Spring "B" as an emergency source of supply for a time period not to exceed 60 days.

HAZARDOUS SITES CLEAN-UP UNDER THE ACT OF OCTOBER 18, 1988

Notice of Prompt Interim Response

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305) has initiated a prompt interim response at the Hemlock Road Site, one of the disposal areas that make up the Bear Creek Area Chemical Site. This response has been initiated pursuant to sections 501(a) and 505(b) of the HSCA (35 P. S. §§ 6020.501(a) and 6020.505(b)).

The Bear Creek Area Chemical Site includes, among other things, at least 24 areas where the Department knows or has evidence to suggest that industrial wastes were historically disposed, and the surface water, ground-

water, soils and sediments that have been contaminated from hazardous substances and contaminants that have migrated from the disposal areas. The individual disposal areas are located in Concord, Fairview and Parker Townships, Butler County and Perry Township, Armstrong County. In the site area, the Department has provided approximately 800 homes and businesses with a permanent water system as part of the Groundwater Operable Unit for the Bear Creek Area Chemical Site. A more detailed description of the location for each of the 24 individual disposal areas is located in the administrative record compiled for this response.

The Hemlock Road Site is located in a sparsely populated residential area with undeveloped woodlands that has been subject to surface and deep mining for coal. Active and inactive oil and gas wells are common in the area. The disposal area at the Hemlock Road Site consists of two separate deposit areas with a combination of wastes deposited on the ground surface and beneath the waters of two small ponds. The thickness of the deposited waste ranges from a thin veneer to areas up to 4 feet thick on the ground surface, while the submerged deposits are up to 9 feet thick. The total volume of waste is estimated to be approximately 5,900 cubic yards. Any potential surface water runoff and transport off the disposal area would drain into unnamed tributaries of the South Branch of Bear Creek.

The following hazardous substances have been found in waste and environmental media at one or more of the disposal areas and are present at the Hemlock Road Site: resorcinol, xylene, benzene, acetone, phenols, formaldehyde, chloromethane, bromomethane, methyl ethyl ketone, carbon disulfide, trichloroethane, ethyl benzene, nickel, lead, chromium, copper, aluminum sulfate and arsenic.

To date, no peer-reviewed, or health or environmental agency-approved health-based advisory levels or maximum contaminant levels exist for resorcinol and the above-mentioned site-related contaminants for water or soils. The 5 parts per billion threshold Medium Specific Concentration (MSC) for resorcinol contained in 25 Pa. Code § 250, Appendix A, table 6 is a default value and was not derived from actual toxicological data used in the development of Statewide Health Standards under the Land Recycling Act. Accordingly, the risks associated with the presence of these compounds in drinking water, wastes, and contaminated soils are not known. Further, the Department can not conclude that the presence of these substances does not threaten human health and the environment. As a result, the Department has decided that a response action is appropriate to protect public health and safety.

For this prompt interim response, the Department considered three alternatives for the Hemlock Road Site.

Alternative 1—No Action:

This alternative would involve no further action to eliminate or reduce threats posed by the site.

Alternative 2—Removal of Wastes:

- Excavation of contaminated wastes and soils;
- Solidification of liquid wastes;
- Offsite disposal in an approved facility;
- Regrading and revegetation of excavated areas or reestablishment of ponds, pending landowner request.

Alternative 3—Ex-Situ Solidification/Stabilization, On-Site Disposal

- Excavation of contaminated wastes and soils;
- Solidification of liquid wastes;
- Onsite disposal beneath a soil cap;
- Regrading and revegetation of excavation and disposal areas.

Each alternative was evaluated with respect to four comparison criteria of: (1) the extent to which each alternative protects the public health and the environment; (2) the extent to which each alternative complies with or otherwise addresses Applicable or Relevant and Appropriate Requirements; (3) the extent to which each alternative is feasible, effective, implementable and permanent; and (4) the relative cost of each alternative. The comparative analysis identified advantages and disadvantages of each alternative, so that tradeoffs between the alternatives could be determined.

Based on the comparative analysis the Department chose to implement Alternative 2—Removal and solidification of wastes for offsite disposal at the Hemlock Road Site. The prior provision of safe drinking water to the public in the area of the Hemlock Road site (as well as all over the Bear Creek Area Chemical Site), made the release of contaminants to the groundwater is less of a concern from the human health perspective (that is, exposure through drinking groundwater). The only other significant routes of potential exposure to Hemlock Road waste constituents are by means of direct contact, surface water runoff into streams, and the groundwater to surface water pathway. The removal alternative will effectively eliminate the direct contact, groundwater and surface water runoff routes. The cost of Alternative 2 is estimated at \$949,482. This alternative was selected because it protects, in the most cost-effective manner, the public and ecological receptors from direct contact with wastes or surface water runoff contaminated with site-related hazardous substances.

This notice is being provided pursuant to section 506(b) of HSCA. The administrative record, which contains the information that forms the basis and documents the selection of this response, is available for public review and comment. The administrative record is located at the Department's Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, and is available for review Monday through Friday from 8 a.m. to 4 p.m. Telephone before hand for an appointment (814) 332-6648.

The administrative record will be open for comment from October 11, 2008 until January 9, 2009. Persons may submit written comments into the record during this time only, by sending them to Charles Tordella, Project Manager, at the Department's Northwest Regional Office at 230 Chestnut Street, Meadville, PA 16335, or by delivering them to the office in person. In addition, the Department will hold a public meeting on November 20, 2008, from 5 p.m. to 7 p.m. at the Fairview Township Municipal Building, 1571 Hooker Road, Karns City, PA 16041, if requested by one or more members of the public. The meeting's purpose will be for the Department to answer the public's questions concerning the response at the Hemlock Road Site. Also, the public will have an opportunity to present oral comments, for inclusion into the administrative record, regarding the chosen prompt interim response, at a public hearing following the public meeting. Persons wishing to present oral comments must register with Gary Mechtly at the Department's Northwest Regional Office before November 6, 2008, by tele-

phone or in writing. If no one requests a meeting or hearing, they will not be held. Persons interested in finding out if anyone has requested a public meeting or registered to present oral comments at the public hearing, should contact Gary Mechtly. Persons with a disability who wish to attend the meeting and require auxiliary aid, service or other accommodations to participate in the proceedings, should call Gary Mechtly or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

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:

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

Wyoming Seminary Residential Property (191 South Sprague Avenue), Kingston Borough, Luzerne County. Martin P. Gilgallon, Pennsylvania Tectonic,

Inc., 826 Main Street, Peckville, PA 18452 has submitted a Final Report (on behalf of his client, Wyoming Seminary, 201 North Sprague Avenue, Kingston, PA 18704-3593), concerning the remediation of soils found to have been impacted by No. 2 fuel oil as a result of a release that occurred during the filling of an aboveground storage tank. The report was submitted to document attainment of the Statewide Health Standard. A public notice regarding the submittal of the Final Report was published in *The Citizens' Voice* on August 14, 2008.

George V. Seiple & Son Co., Inc.—Lot 55 (321 South Nulton Avenue), Palmer Township, Northampton County. Louis F. Vittorio, Jr., P. G., EarthRes Group, Inc., P. O. Box 468, Pipersville, PA 18947 has submitted a Final Report (on behalf of his client, Thomas P. Stitt, George V. Seiple & Son Co., Inc., P. O. Box 483, Easton, PA 18044-0483), concerning the remediation of soils and groundwater found to have been impacted by arsenic and pesticides. The report was submitted to document attainment of both the Statewide Health Standard for soil and the Site-Specific Standard for soil and groundwater. A public notice regarding the submittal of the Final Report was published in *The Express Times* on January 23, 2008.

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

Buckeye Tuckerton Station, Muhlenberg Township, Berks County. Groundwater & Environmental Services, 440 Creamery Way, Suite 500, Exton, PA 19341, on behalf of Buckeye Partners, LP, 9999 Hamilton Boulevard, TEK Park 5, Breinigsville, PA 18031, submitted a final report within 90 days of a release concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to the Statewide Health Standard.

Priority Transport/National Guard Armory, City of York, York County. Earth Tech AECOM, 2 Market Plaza Way, Mechanicsburg, PA 17055, on behalf of Priority Transport, c/o XL Environmental, 505 Eagleview Boulevard, Exton, PA 19341 and Department of Military and Veterans Affairs, Fort Indiantown Gap, Environmental Building 11-19, Annville, PA 17003 submitted a Final Report concerning remediation of site soils contaminated with diesel fuel. The report was submitted within 90 days of the release and 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.

R & L Carriers I-80 MM 190.5W Accident, Green Township, Clinton County. Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of R & L Carriers, 600 Gilliam Road, Wilmington, OH 45177 has submitted a Final Report concerning remediation of site soil contaminated with diesel fuel within 90 days of the release. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Yellow Freight Diesel Release, Armstrong Township, Lycoming County. Northridge Group Incorporated, 1172 Ridge Road, Northumberland, PA 17857 on behalf of Yellow Freight, 3576 Old Route 15, New Columbia, PA 17886 has submitted a Final Report within 90 days of the release concerning remediation of site soil contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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 Final Report within 90 days of the release concerning remediation of site soil contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Penske Truck Leasing Truck Accident, Monroe Township, **Snyder County**. Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Penske Truck Leasing, 233 Sardis Road, Ashville, NC 28806 has submitted a Final Report within 90 of the release concerning Remediation of site soil contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

Honeywell Wax Manufacturing Facility OLD, Emlenton Borough, **Venango County**. MACTEC Engineering and Consulting, Inc., 800 North Bell Avenue, Suite 200, Pittsburgh, PA 15106 on behalf of Shell Lubricants, d/b/a SOPUS Products, P. O. Box 744, Clarion, PA 16214 and Honeywell International, P. O. Box 1139, 101 Columbia Road, Morristown, NJ 07962-1139 has submitted a Revised Remedial Investigation/Risk Assessment Report concerning remediation of site soil contaminated with mercury, benzene, toluene, trimethylebenzene and site groundwater contaminated with benzene, toluene, ethylebenzene and xylene compounds. The Report is intended to document remediation of the site to meet the Site-Specific Standards.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media,

benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Cambridge Square Condominium II, Lower Merion Township, **Montgomery County**. Stephan Brower, Environmental Standards, Inc., 1140 Valley Forge Road, P. O. Box 810, Valley Forge, PA 19482 on behalf of Peter Monaghan, Sibley Avenue Associates, LP, 1008 Upper Gulph Road, Wayne, PA 19807 has submitted a Final Report concerning the remediation of site soil contaminated with pcb's. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on August 28, 2008.

Haven Peniel Senior Citizens Residence, City of Philadelphia, **Philadelphia County**. William G. Murray, URS Corporation, 335 Commerce Drive, Suite 300, Fort Washington, PA 19034 on behalf of Faye Wilson, Haven Peniel Development Corporation, 2301 West Oxford Street, Philadelphia, PA 1912 has submitted a Final Report concerning the remediation of site soil contaminated with lead and pch's. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on September 10, 2008.

Estate of Cecilia C. and Leslie B. Schramm, East Bradford Township, **Chester County**. David Farrington, Brickhouse Environmental, 515 South Franklin Street, West Chester, PA 19382 on behalf of Austin Lee Executor, The Estate of Cecilia C. and Leslie B. Schramm, 600 Willow Valley Square, G107, Lancaster, PA 17602 has submitted a Final Report concerning the remediation of site groundwater contaminated with unleaded gasoline. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on September 19, 2008.

Tri County Performing Arts, Borough of Pottstown, **Montgomery County**. Robert White, Lewis Environmental Group, P. O. Box 639, Royersford, PA 19468 on behalf of Marta Kiesling, Tri-County Performing Arts Center, 245 East High Street, Pottstown, PA 19464 has submitted a 90 day Final Report concerning the remediation of site groundwater and soil contaminated with No 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on August 20, 2008.

9222 Old Easton Road, Nockamixon Township, **Bucks County**. Charlene Drake, REPSG, Inc., 6901 Kingsessing Avenue, Philadelphia, PA 19142 on behalf of George McLuckey, 9222 Old Easton Road, Ferndale, PA 18921 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Standard and was approved by the Department of Environmental Protection on September 11, 2008.

Neiman Residence, Lower Merion Township, **Montgomery County**. Richard Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pottstown, PA 18073 on behalf of Myrtle Neiman, 505 Oreland Mill Road, Oreland, PA 19075 has submitted a Final Report concerning the remediation of site environmental media contaminated with contaminant. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on September 3, 2008.

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

Teel Property (366 Herb Button Road), Springville Township, **Susquehanna County**. Dawn L. Wash, Resource Environmental Management, Inc., 8 Ridge Street, Montrose, PA 18801 submitted a Final Report (on behalf of her client, Cleo Teel, R. R. 6, Box 6184, Montrose, PA 18801), concerning the remediation of soil found to have been impacted by diesel fuel as a result of an accidental release from an aboveground storage tank. The report documented attainment of the Statewide Health Standard and was approved on September 22, 2008. The report was originally submitted within 90 day of the release.

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

GF Capital—901 North 7th Street, Harrisburg City, **Dauphin County**. RT Environmental Services, Inc., Pureland Complex, Suite 306, 510 Heron Drive, Bridgeport, NJ 08014, on behalf of GF Capital Real Estate Investment VI, LP, 767 Fifth Avenue, 46th Floor, New York, NY 10153, submitted a Final Report concerning remediation of site soils and groundwater contaminated by kerosene. The Final Report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department of Environmental Protection on September 23, 2008.

Stone Pointe Center/former Agere Systems, Muhlenberg Township, **Berks County**. Environmental Resources Management, Inc., 350 Eagleview Boulevard, Suite 200, Exton, PA 19341, on behalf of AGR133 LLC, 3360 Visitation Road, Collegeville, PA 19426 and LSI Corporation, 555 Union Boulevard, Allentown, PA 18109, submitted a Final Report concerning remediation of site soils contaminated with chlorinated solvents. The Final Report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department of Environmental Protection on September 24, 2008

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

Makdad Industrial Supply (Keystone refrigeration), Sandy Township, **Clearfield County**. ATC Associates, Inc., 103 North Meadows Drive, Suite 215, Wexford, PA 15090 on behalf of Roger McCoy, 245 East Mountain Road, Port Matilda, PA 16870 has submitted a Remedial Investigation Report and Cleanup Plan concerning the remediation of site soil contaminated with lead and groundwater contaminated with benzene, ethylbenzene, naphthalene, 1,2,4-TMB and 1,3,5-TMB. The Remedial Investigation Report and Cleanup Plan were approved by the Department of Environmental Protection on September 23, 2008.

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

American Meter, City of Erie, **Erie County**. Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 on behalf of American Meter Company, 2 West Liberty Boulevard, Suite 180, Malvern, PA 19355 has submitted a Remedial Investigation Report concerning the remediation of site soil contaminated with antimony, arsenic, lead and site groundwater contaminated with trichloroethene. The Remedial Investigation Report was approved by the Department of Environmental Protection on September 25, 2008.

Honeywell Farmers Valley South of Cole Creek, Keating Township, **McKean County**. MACTEC Engineering and Consulting, Inc., 800 North Bell Avenue, Suite 200, Pittsburgh, PA 15106 on behalf of Honeywell International, Inc., 101 Columbia Road, Morristown, NJ 07962 and Shell Lubricants, 260 Elm Street, P. O. Box 99, Oil City, PA 16301 has submitted a Remedial Investigation Report and Risk Assessment Report concerning the remediation of site soil and site groundwater contaminated with compounds related to petroleum refining. The Remedial Investigation Report and Risk Assessment Report were approved by the Department of Environmental Protection on September 26, 2008.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Permits Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage or Disposal Facility.

Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701.

Permit No. PAD003053758. Tecumseh Redevelopment, Inc. (formerly Bethlehem Steel Corporation), 4020 KinRoss Lakes, Richfield, OH 44286. The postclosure permit for the Tecumseh Redevelopment, Inc. facility located along the east side of the Burger King parking lot on Maynard Street in the City of Williamsport, Lycoming County was issued on October 1, 2008.

Persons interested in reviewing the permit should contact David Garg, P. E., Environmental Engineer Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653. TDD users should contact the Department of Environmental Protection through the Pennsylvania Relay Service, (800) 654-5984.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

GP3-46-0075: Haines & Kibblehouse, Inc. (2052 Lucon Road, Skippack, PA 19474) on September 24, 2008, to operate a portable nonmetallic mineral in Upper Providence Township, **Montgomery County**.

GP9-46-0029: Haines & Kibblehouse, Inc. (2052 Lucon Road, Skippack, PA 19474) on September 24, 2008, to operate a diesel/No. 2 fuel-fired internal in Upper Providence Township, **Montgomery County**.

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

58-399-003GP5: Epsilon Energy USA, Inc. (3766 US 31 South, Traverse, PA 49684) on September 22, 2008, to construct and operate a Natural Gas Compressor Station at their site in Rush Township, **Susquehanna County**.

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

GP3-49-00054: Meckley's Limestone Products, Inc. (R. R. 1, Box 1682, Herndon, PA 17701) on June 30, 2008, to authorize the construction and operation of a portable nonmetallic crushing plant under the General Plan Approval and General Operating Permit for Portable Nonmetallic Mineral Processing Plants (BAQ-GPA/GP-3) located in Lower Mahanoy Township, **Northumberland County**.

GP9-49-00054: Meckley's Limestone Products, Inc. (R. R. 1, Box 1682, Herndon, PA 17701) on June 30, 2008, to authorize the construction and operation of two diesel-fired engines under the General Plan Approval and General Operating Permit for Diesel or No. 2- Fuel-Fired Internal Combustion Engines (BAQ-GPA/GP-9) located in Lower Mahanoy Township, **Northumberland County**.

GP5-18-179A: Texas Keystone, Inc. (130 Raymond Drive, Indiana, PA 15701) on September 16, 2008, to authorize the construction and operation of a 275 brake horsepower natural gas compression engine, catalyst and glycol dehydrator with a rated boiler heat input of 0.12 mmBtu/hr under the General Plan Approval and General Operating Permit for Natural Gas Production Facilities (BAQ-GPA/GP-5) located in Beech Creek Township, **Clinton County**.

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

GP5-63-00933: MarkWest Liberty Gas Gathering, LLC (1515 Arapahoe Street, Tower 2, Suite 700, Denver, CO 80202-2126) on September 26, 2008, received authorization under GP-5 to install and operate four Caterpillar G3516-LE compressor engines, each with a Miratech ZHS-30 x 31-12-H1 catalytic converter and two NATCO

triethylene glycol dehydrators, at their Johnston Compressor Station in Chartiers Township, **Washington County**.

GP5-63-00946: Atlas Pipeline Pennsylvania, LLC (P. O. Box 611, 1550 Coraopolis Heights Road, Floor 2, Moon Township, PA 15108-0611) on September 26, 2008, received authorization under GP-5 to install and operate one Caterpillar G3516-LE compressor engine and one NATCO 90-200 triethylene glycol dehydrator at their Deemston compressor station in Deemston Borough, **Washington County**.

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

GP-10-062A: Slippery Rock University (Slippery Rock University, Slippery Rock, PA 16057) on September 23, 2008, for a Cleaver-Brooks Boiler (BAQ-GPA/GP-1) in Slippery Rock Borough, **Butler 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.

15-0125: PPL Renewable Energy, LLC (Swedesford Road and Valley Creek Boulevard, Exton, PA 19341) on September 23, 2008, to install two natural gas-fired Caterpillar reciprocating internal combustion engines in East Whiteland Township, **Chester County**. The pollutants of concern from the proposed operation include NOx, VOC, CO and PM emissions. NOx and VOC emissions will have the potential to exceed Title V thresholds, however, the facility will utilize air pollution control devices to maintain emissions below 25 tpy. The Plan Approval will contain recordkeeping and operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

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

39-327-004: Sumitomo (SHI) Cryogenics of America, Inc. (1833 Vultee Street, Allentown, PA 18103) on September 23, 2008, to construct a new batch vapor degreaser in Allentown, **Lehigh County**.

58-302-008: Donald Dean & Sons, Inc. (P. O. Box 246, Montrose, PA 18801-0246) on August 14, 2008, to construct and operate a wood fired boiler at their site in Bridgewater Township, **Susquehanna County**.

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

11-00523A: Jigging Technologies, LLC (1008 Club Drive, Johnstown, PA 15905) on September 24, 2008, to construct and operate a steel slag processing facility at their 220-acre Tecumseh Redevelopment, Inc., Riders Disposal Area (formerly owned and operated by Bethlehem Steel Corporation) in the City of Johnstown and East Taylor Township, **Cambria County**.

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

10-171C: Butler Color Press (119 Bonnie Drive, Butler, PA 16003) on September 25, 2008, to construct a new web offset lithography press line with an integrated dryer and afterburner in Summit Township, **Butler County**. This is a State-only 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.

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

09-0037F: CMS Gilbreth Packaging Systems, Inc. (3001 State Road, Croydon, PA 19021) on September 26, 2008, to operate a ten unit rotogravure in Bristol Township, **Bucks County**.

15-0104C: Tasty Baking Oxford, Inc. (700 Lincoln Avenue, Oxford, PA 19363) on September 26, 2008, to operate two Sveba-Dahlen V42 rack ovens in Oxford Borough, **Chester County**.

46-313-146: Penn Color, Inc. (2755 Bergey Road, Hatfield, PA 19440) on September 26, 2008, to operate a base pigment dispersion facility in Hatfield Township, **Montgomery County**.

09-0117B: Heucotech, LTD (99 Newbold Road, Fairless Hills, PA 19030-4932) on September 26, 2008, to operate a pigment mixing operations in Falls Township, **Bucks County**.

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

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

15-00104: Tasty Baking Oxford, Inc. (700 Lincoln Street, Oxford, PA 19363) on September 23, 2008, a Title V Operating Permit is being issued for manufacturing of pastries and donuts in Oxford Borough, **Chester County**. Primary sources of air pollution include three fryers, a conveyor oven and a rack oven. The facility also operates various smaller combustion units. The Title V Operating incorporates requirements from RACT Operating Permit No. OP-15-0104 and Plan Approval No. 15-0104C. The facility is subject to a site wide emission limit of 49.40 tpy for VOC. The facility is not subject to NSR, PSD, NSPS or NESHAP. The Title V Operating Permit contains monitoring and recordkeeping requirements designed to keep the facility operating within the allowable emission rate and all applicable air quality requirements.

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

V06-015: Rohm and Haas Co. (5000 Richmond Street, Philadelphia, PA 19137) for operation of a chemical manufacturing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two 48.4 mmBtu/hr boilers, one emergency river pump, one fire water pump, a UB process, a GOAL process, an ambersorb process, wastewater treatment and

groundwater remediation and storage tanks. Control devices include scrubbers, cyclone collectors and dust collectors.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

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

54-00033: Waste Management and Proc., Inc. (P. O. Box K, Frackville, PA 17931-0609) on August 14, 2008, to operate a Facility State-only Natural Minor Operating Permit for the operation of a coal prep plant in Frackville Borough, **Schuylkill County**.

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

29-03002: P & W Excavating, Inc. (882 Pigeon Cove Road, P. O. Box 128, Warfordsburg, PA 17267) on September 22, 2008, to operate a batch asphalt plant in Bethel Township, **Fulton County**. This is a renewal of the State-only operating permit.

44-03007: Hoenstine Funeral Home, Inc. (75 Logan Street, Lewistown, PA 17044-1860) on September 29, 2008, to operate their human crematory in Lewistown Borough, **Mifflin County**. This is a renewal of the State-only operating permit.

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

20-00296: Homerwood Hardwood Flooring (1026 Industrial Drive, Titusville, PA 16354) on September 29, 2008, to operate the facility's air contamination source consisting of: a surface coating operation and a wood-working operation. The facility has a facility-wide VOC limit of 49 tpy to remain a State-only. The facility manufactures hardwood flooring in the City of Titusville, **Crawford County**.

25-00053: Urick Foundry Co., Inc. (1501 Cherry Street, P. O. Box 6027, Erie, PA 16512) on September 25, 2008, to operate this foundry operation in the City of Erie, **Erie County**.

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.

67-05092: Starbucks Coffee Co. (3000 Espresso Way, York, PA 17402-8035) on September 25, 2008, to operate their York Roasting Plant in East Manchester Township, **York County**. This State-only operating permit was administratively amended to incorporate plan approval 67-05092E. This is Revision No. 1.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—396.19a); 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

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

56070201 and NPDES Permit No. PA0262501, Robindale Energy Services, Inc., 224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920, commencement, operation and restoration of a bituminous surface coal refuse reprocessing and beneficial use of coal ash mine, in Brothersvalley Township, **Somerset County**, affecting 23 acres. Receiving streams: UNT of Buffalo Creek and Buffalo Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received September 27, 2007. Permit issued September 17, 2008.

11823003 and NPDES No. PA0608211. Cooney Brothers Coal Company, P. O. Box 246, Cresson, PA 16630, permit renewal for reclamation only of a bituminous surface mine in Summerhill Township, **Cambria County**, affecting 125.6 acres. Receiving streams: Beaverdam Run classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 28, 2008. Permit issued September 22, 2008.

11920103 and NPDES No. PA0599450. T. J. Mining, Inc., P. O. Box 370, Carrolltown, PA 15722, permit renewal for reclamation only of a bituminous surface and auger mine in Jackson Township, **Cambria County**, affecting 61.0 acres. Receiving streams: UNTs to South Branch Blacklick Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 22, 2008. Permit issued September 22, 2008.

11860107 and NPDES No. PA0597830. Cooney Brothers Coal Company, P. O. Box 246, Cresson, PA 16630, permit renewal for reclamation only of a bituminous surface mine in Dean Township, **Cambria County**, affecting 201 acres. Receiving streams: Clearfield Creek; UNTs to Clearfield Creek; Brubaker Run; UNT to Brubaker Run classified for the following uses: WWF; CWF; CWF; CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 28, 2008. Permit issued September 22, 2008.

56930108 and NPDES No. PA0212539. PBS Coals, Inc., P. O. Box 260, Friedens, PA 15541, permit renewal for the continued operation and restoration of a bituminous surface and coal refuse reprocessing mine in Stonycreek Township, **Somerset County**, affecting 86.0 acres. Receiving streams: UNT to/and Schrock Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 3, 2008. Permit issued September 23, 2008.

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

33020107 and NPDES Permit No. PA0242233. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767) Renewal of an existing bituminous strip and auger operation in Oliver Township, **Jefferson County** affecting 138.7 acres. This renewal is issued for reclamation only. Receiving streams: Hadden Run. Application received July 21, 2008. Permit issued September 25, 2008.

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

54970101R2 and NPDES Permit No. PA0223832. Premium Fine Coal, Inc., (P. O. Box 2043, Hazleton, PA 18201), renewal of an existing anthracite surface mine, coal refuse disposal and reprocessing operation and NPDES Permit for discharge of treated mine drainage in Schuylkill Township, **Schuylkill County** affecting 632.0 acres, receiving stream: Schuylkill River. Application received July 5, 2007. Renewal issued September 26, 2008.

35910102R3 and NPDES Permit No. PA0596051. Silverbrook Anthracite, Inc., (1 Market Street, Laflin, PA 18702), renewal of an existing anthracite surface mine operation and NPDES Permit for discharge of treated mine drainage in Archbald Borough, **Lackawanna County** affecting 1,000.0 acres, receiving stream: UNT to Aylesworth Creek. Application received January 25, 2008. Renewal issued September 26, 2008.

54951301R2. R & R Anthracite Coal Company, (538 West Center Street, Donaldson, PA 17981), renewal of an anthracite underground mine operation in Hegins Township, **Schuylkill County** affecting 3.0 acres, receiving stream: none. Application received September 26, 2005. Application denied September 25, 2008.

Noncoal Applications Returned

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

08080805. Darlene W. Ellis (R. R. 2, Box 213, Wyalusing, PA 18853), commencement, operation and restoration of a bluestone quarry operation in Wilmot Township, **Bradford County**, affecting 5 acres. Receiving streams: Sugar Run Creek, tributary to Susquehanna. Application received May 29, 2008. Application returned September 10, 2008.

Noncoal Permits Actions

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

37082804. Beyond Corp., LLC (2905 Hillsville Road, Edinburg, PA 16116) Commencement, operation and restoration of a Small Industrial Mineral limestone operation in Mahoning Township, **Lawrence County** affecting 5.0 acres. Receiving streams: Marshall Run. Application received June 23, 2008. Permit issued September 22, 2008.

37070303 and NPDES Permit No. PA0258491. Allegheny Mineral Corporation (P. O. Box 1022, Kittanning, PA 16201) Commencement, operation and restoration of a Large Industrial Mineral limestone operation in Slippery Rock Township, **Lawrence County** affecting 80.1 acres. Receiving streams: UNT to Slippery Rock Creek. Application received November 19, 2007. Permit issued September 22, 2008.

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

17072801. RES Coal LLC (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920). Transfer of an existing small industrial minerals (topsoil, shale) permit application from Sky Haven Coal, Inc. The site is located in Lawrence Township, **Clearfield County**, affecting 6.0 acres. Receiving streams: UNT to the West Branch Susquehanna River, tributary to Susquehanna River. Application received July 2, 2008. Transfer issued September 4, 2008.

14082801. Cynthia G. Russell (2640 Greenville Pike, Grampian, PA 16838). Commencement, operation and restoration of a small industrial minerals (field stone) operation in Liberty Township, **Centre County**, affecting 5.0 acres. Receiving stream: tributary to Bald Eagle. Application received April 14, 2008. Permit issued September 15, 2008.

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

8074SM2C6. Highway Materials, Inc., (1750 Walton Road, Blue Bell, PA 19422), incidental boundary correction and occupied dwelling variances for a quarry operation in Whitemarsh Township, **Montgomery County** affecting 334.0, receiving stream: Lorraine Run. Application received April 9, 2008. Correction issued September 23, 2008.

58080845. RD Smith Flagstone, (115 Montrose Terrace Park, Montrose, PA 18801), commencement, operation and restoration of a quarry operation in Springville Township, **Susquehanna County** affecting 1.0 acre, receiving stream: none. Application received July 10, 2008. Permit issued September 26, 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.

31084103. Douglas Explosives, Inc., P. O. Box 77, Philipsburg, PA 16866-0077, blasting activity permit issued for single dwelling development in Warriors Mark Township, **Huntingdon County**. Blasting activity permit end date is October 30, 2008. Permit issued September 18, 2008.

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

26084005. New Enterprise Stone & Lime Co., Inc. (P. O. Box 77, New Enterprise, PA 16664). Blasting activity permit for construction of the Mon/Fayette Expressway, SR 0043, Section 51F, 166 North, located in Redstone and Luzerne Townships, **Fayette County**. The duration of blasting is expected to be 60 days. Blasting permit issued September 25, 2008.

63084008. Shallenberger Construction (2611 Memorial Avenue, Connellsville, PA 15425). Blasting activity permit for construction of the Cowden 50 Atlas Well Site, located in Cross Creek Township, **Washington County**. The duration of blasting is expected to be 180 days. Blasting permit issued September 25, 2008.

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

24084004. Veolia Waste Services (635 Toby Road, Brockway, PA 15824) Blasting activity permit for stone removal in Fox Township, **Elk County**. This blasting activity permit will expire on September 24, 2010. Application received September 19, 2008. Permit issued September 24, 2008.

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

14084011. Douglas Explosives, Inc. (P. O. Box 77, Philipsburg, PA 16866), construction blasting for Ivan Beiler-(manure pit) located in Miles Township, **Centre County**. Permit issued September 16, 2008. Permit expires September 30, 2008.

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

64084112. Holbert Explosives, Inc., (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for Sterling Business Park in Sterling Township, **Wayne County** with an expiration date of September 30, 2009. Permit issued September 23, 2008.

06084127. J. Roy's, Inc., (Box 125, Bowmansville, PA 17507), construction blasting for Alvernia College in the City of Reading, **Berks County** with an expiration date of September 24, 2009. Permit issued September 24, 2008.

06084128. J. Roy's, Inc., (Box 125, Bowmansville, PA 17507), construction blasting for a single dwelling on Apple Lane in Alsace Township, **Berks County** with an expiration date of September 22, 2009. Permit issued September 24, 2008.

35084122. ER Linde Construction Corp., (9 Collan Park, Honesdale, PA 18431), construction blasting for Jessup Industrial Road in Jessup Borough, **Lackawanna County** with an expiration date of September 30, 2009. Permit issued September 24, 2008.

360841103. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Lowe's East Lancaster in the City of Lancaster, **Lancaster County** with an expiration date of September 22, 2009. Permit issued September 24, 2008.

13084105. Hayduk Enterprises, Inc., (257 Riverside Drive, Factoryville, PA 18419), construction blasting at Cloverfield Farm in Lehigh Township, **Carbon County** with an expiration date of October 31, 2009. Permit issued September 25, 2008

46084121. Allan A. Myers, Inc. d/b/a Independence Construction Materials, (P. O. Box 98, Worcester, PA 19490), construction blasting for Smithfield Beef Render-

ing Facility in Franconia Township, **Monroe County** with an expiration date of September 1, 2009. Permit issued September 26, 2008.

45084002. Joao & Bradley Construction, (P. O. Box 20345, Lehigh Valley, PA 18002) and **AJT Blasting, LLC**, (P. O. Box 20412, Bethlehem, PA 18002), construction blasting for Stokes Avenue Apartments in Stroud Township, **Monroe County** with an expiration date of December 31, 2008. Permit issued September 29, 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.

E51-223. City of Philadelphia, Capital Program Office, Fairmount Park Commission, One Parkway, 1515 Arch Street, 10th Floor, Philadelphia, PA 19102, **City and County of Philadelphia**, United States Army Corps of Engineers, Philadelphia District.

To perform the following water obstructions and encroachments in and along the Schuylkill River (WWF-MF):

1. To construct and maintain a 54-foot-long (parallel to river bank) and 40-foot-wide (perpendicular to river bank) floating dock, gangways and platforms with piling foundation.
2. To construct and maintain paving, landscaping and fencing on park esplanade leading to boat dock entrance.
3. To construct and maintain an approximately 40-foot-long floating debris screen with piling foundation upstream of the dock.
4. To construct and maintain electrical conduit for walk and dock lighting.

This project is located adjacent to the Fairmount Water Works, approximately 800 feet downstream of the Fairmount Park Dam in Philadelphia. The nearest intersection is Waterworks and Kelly Drives (Philadelphia, PA-NJ, Quadrangle North: 16.3 inches; West: 8.3 inches).

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.

E17-445. Paris Cleaners, Inc., 67 Hoover Avenue, DuBois, PA 15801. Water Obstruction and Encroachment Joint Permit Application for proposed construction of a 50,000 ft² industrial building and appurtenant structures in the City of DuBois, **Clearfield County**, United States Army Corps of Engineers, Pittsburgh District (Luthersburg, PA Quadrangle N: 21.5 inches; W: 16.5 inches).

The applicant is authorized to place and maintain fill within 0.17 acre of PEM wetlands for the purposes of constructing a 50,000 ft² industrial building and appurtenant structures on a 4.5 acre site. The watershed has a Chapter 93 water use protection designation of TSF and the wetlands are classified as "other wetlands" by the Department of Environmental Protection. The permit applicant has met the wetland replacement requirement by participating in the Pennsylvania Wetland Replacement Project.

E19-272. Department of Transportation, Engineering District 3-0, 715 Jordan Avenue, Montoursville, PA 17754-0218. SR 4020 shoulder widening, in Orange Township, **Columbia County**, United States Army Corps of Engineers, Baltimore District (Bloomsburg, PA Quadrangle N: 41° 04' 58"; W: 76° 25' 29").

The Department of Transportation proposes to place approximately 6,129 tons of R-7 rip-rap, 857 tons of R-3 rip-rap, 655 tons of Class 2A subbase, lined with 4,492 square yards of Class 2 Type A Geotextile in a combination of the floodway-flood fringe area of Green Creek. The project will total approximately 1,950 ft, but will only impact the right stream bank of green Creek for 230 ft. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E19-273. Department of Transportation, Engineering District 3-0, P. O. Box 218, Montoursville, PA 17754-0218. SR 4025 Segment 0020 Offset 0621 Bridge structure replacement over a UNT to the East Branch of Chillisquaue Creek, Madison Township, **Columbia County**, United States Army Corps of Engineers, Susquehanna River Basin District (Millville, PA Quadrangle N: 41° 06' 05"; W: 76° 36' 44").

The proposed project will replace an existing concrete arch bridge over a UNT to the East Branch of Chillisquaue Creek with a single cell precast box culvert. The existing structure is 15 ft wide with a clear span of 30 ft. The proposed structure is 57 ft long with a clear span of 31.74 ft. The project will impact 80 linear ft of stream and will impact 0.01 acre of palustrine wetland.

This project proposes to have a minimal impact on the UNT to the East Branch of Chillisquaue Creek, which is designated a WWF. This project proposes to impact 0.01 acre of jurisdictional wetlands. This permit also includes 401 Water Quality Certification.

E41-592. Charles T. Nork III, 1607 Quenshukney Road, Linden, PA 17744. Small Projects Water Obstruction and Encroachment Joint Permit, in Piatt Township, **Lycoming County**, United States Army Corps of Engineers, Susquehanna River Basin District (Linden, PA Quadrangle N: 41° 11' 45"; W: 77° 10' 32").

To construct and maintain a concrete retaining wall measuring 18 feet high, 130 feet long and 1-foot wide, maintain residential structure measuring 50 feet long by 10 feet wide, pavilion measuring 12 feet by 16 feet, as well as a woodshed measuring 12 feet by 14 feet within the floodway of the West Branch of the Susquehanna River located along Windswept Drive in Piatt Township, Lycoming County. This project does not propose to impact any wetlands. This permit was issued under section 105.13(e) "Small Projects."

E55-219. Keith A. Herrold, 857 Peffer Valley Road, Port Trevorton, PA 17864 Herrold Camp site, in Union Township, Snyder County, United States Army Corps of Engineers, Baltimore District (Pillow, PA Quadrangle Latitude: 40° 42' 26"; Longitude: 76° 51' 51.5").

To construct, operate and maintain a primitive camping facility in the floodway of the Susquehanna River, which carries a water quality designation of WWF. The permit authorizes the installation and maintenance of a 1,200 linear foot roadway that is 20 feet wide. This roadway shall be no higher than the existing grades surrounding it and at no times will its elevation be greater than those surrounding grades. Stable wearing surface application is authorized under this permit. Clearing of under story vegetation is authorized under this permit, thus retaining the over story. This permit does not authorize the installation of any sewage facilities nor any water source facilities. This permit also authorizes the operation and maintenance of an existing boat launch area that extends not more than 50 feet riverward and 30 feet wide along the shoreline. This permit was issued under section 105.13(e) "Small Projects."

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

E32-483. Commonwealth of Pennsylvania, Department of General Services, Bureau of Engineering and Architecture, 18th and Herr Streets, Room 201, Harrisburg, PA 17120. To place fill in watershed and maintain and construct a box culvert in White Township, **Indiana County**, United States Army Corps of Engineers, Pittsburgh District (Indiana, PA Quadrangle N: 20.2 inches; W: 5.1 inches Latitude: 40° 36' 40" Longitude: 79° 09' 42"). To place and maintain fill in a de minimis wetland (0.04 acre) in the Marsh Run (CWF) Watershed, to construct and maintain a 20' by 7' box culvert 53' long in Marsh Run, to construct and maintain a 760' stream enclosure on a UNT to Whites Run (CWF) with a drainage area of less than 100 acres, the placement of fill in the floodway of Whites Run and Marsh Creek, the removal of an existing 506' stream enclosure in Marsh Run and restore and relocate approximately 700 feet of the same channel and construct and maintain outfall structures, for the purpose of constructing a convocation center and associated parking lots. To compensate for the stream impacts the permittee will restore 450' of Whites Run and 1,264' of Marsh and Stony Runs.

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>
08-67-006	Recycling Technologies International, LLC 76 Acco Drive York, PA 17404 Attn: John McFalls	York	York Township	4 ASTs storing Isocyanates	25,000 gallons total
08-51-016	Sunoco, Inc. (R & M) 3144 Passyunk Avenue Philadelphia, PA 19145-5299 Attn: Michael G. McKee	Philadelphia	City of Philadelphia	1 AST storing crude oil	6,304,200 gallons

SPECIAL NOTICES

Notice of Certification to Perform Radon-Related Activities in Pennsylvania

In the month of September 2008, the Department of Environmental Protection of the Commonwealth of Pennsylvania, under the authority contained in the Radon Certification Act, (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the persons listed to perform radon-related activities in Pennsylvania. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in Pennsylvania and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
A-1 Realty Services, Inc.	99 Kohler Road Kutztown, PA 19530	Testing
John Bertone	420 William Street Downingtown, PA 19335	Testing
James Bucciarelli Certified Testing Services, Inc.	474 Easton Road Horsham, PA 19044	Testing
Nathaniel Burden, Jr. Fidelity Inspection & Consulting Services	626 Jacksonville Road Suite 200 Warminster, PA 18974	Testing
J. L. Camp Inspection Services, Inc.	6006 Forest Drive Monaca, PA 15061	Testing
Certified Testing Services, Inc.	474 Easton Road Horsham, PA 19044	Mitigation
Andrew Dionne	421 West Chocolate Avenue Hershey, PA 17033	Testing
Paul Edwards	215 Kelso Circle Collegeville, PA 19426	Testing
Stephen Fiorelli	700 Braxton Road Ridley Park, PA 19078	Testing
John Gogal Keystone Inspection Service	P. O. Box 204 Sciota, PA 18354	Testing
Douglas Kaup	263 Sewickley Oakmont Road Pittsburgh, PA 15237	Testing
Robert Klebanoff	6 Greenwood Place Wyncote, PA 19095	Testing
Richard D. Malin & Associates, Inc.	2075 Haymaker Road Monroeville, PA 15146	Testing
Deborah Mancini-Wilson Safe-Gard Consolidated Inspection Services, Inc.	P. O. Box 748 Ingomar, PA 15127	Testing
John Moreck	201 Cooper Street Courtdale, PA 18704	Testing
Wesley Morgan	338 Rockhill Road Pittsburgh, PA 15243	Testing
David Mull	14 Crestmont Court Lititz, PA 17543	Testing
Penoco, Inc.	485 East College Avenue Pleasant Gap, PA 16823	Testing
Jeffrey Schlaline	800 Locust Grove Road York, PA 17402	Testing
Kimberly Skladanowski	5140 Amherst Road Erie, PA 16506	Testing
James Wandless	1424 West 30th Street Erie, PA 16508	Mitigation
Philip Yang, Ph.D.	1067 Treeline Drive Allentown, PA 18103	Testing

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

EGS No. 11003. Altoona City Authority. 3172 Route 764, Duncansville, PA 16635. A stream diversion located on properties owned by the Game Commission located on State Game Lands No. 108 and No. 158 in Reade Township, **Cambria County.** Project received June 2, 2008. Project issued August 19, 2008.

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

Act 181 Solicitation Notice

Under Act 181 of 1984, the Department of Environmental Protection is soliciting interest/reclamation proposals from landowners, licensed mine operators and/or eligible reclamation contractors for the reclamation of the following abandoned strip mine:

Project	Municipality	County	Acres
Bernice Mining Co, Inc. Bliss Mine SMP 57813001	Cherry Township	Sullivan	80

A preproposal site meeting is scheduled for Wednesday, October 22, 2008, at 10 a.m. to tour the reclamation area with all interested parties.

To assure an adequate number of specification packages at the site meeting, preregistration is necessary by means of a letter of interest or verbal confirmation. Preregister through Eric Rosengrant, Mining Permit and Compliance Specialist, Moshannon District Office, Department of Environmental Protection, 186 Enterprise Drive, Philipsburg, PA 16866, no later than 3:30 p.m., October 20, 2007. Telephone inquiries shall be directed to Eric Rosengrant at (814) 342-8200.

Only proposals from those in attendance will be considered for this contract.

Project Overview Reclamation of site consists of removing and properly disposing of large quantities of trash and tires, demolition and removal of buildings and loading facilities, dewatering four sedimentation ponds and pit, backfilling three pit areas totaling over 730,000 cubic yards in volume, major and minor regrading of approximately 80 acres, lime neutralization, relocation and encapsulation of refuse material, implementation of E & S controls and removal of those controls when stabilization is achieved.

[Pa.B. Doc. No. 08-1851. Filed for public inspection October 10, 2008, 9:00 a.m.]

Agricultural Advisory Board; Meeting Cancellation

The Agricultural Advisory Board (Board) meeting scheduled for October 15, 2008, has been cancelled. The next meeting is scheduled on December 17, 2008, at 10 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105.

Questions concerning the cancelled or next scheduled meeting of the Board can be directed to Frank Schneider at (717) 772-5972 or fschneider@state.pa.us. The agenda and materials for the December 17, 2008, 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 Keyword: Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (717) 783-6118 or through 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. 08-1852. Filed for public inspection October 10, 2008, 9:00 a.m.]

Alternative Disposal of Radioactive Material Request

Under the requirements at 25 Pa. Code § 215.1(e), the United States Environmental Protection Agency (EPA) has submitted a request to the Department of Environmental Protection (Department) for approval to dispose of building demolition debris from the Safety Light Corporation site in Bloomsburg, Columbia County, PA at a hazardous waste landfill in Idaho. The landfill is permitted to receive low concentrations of certain radioactive materials if the material is approved for disposal by the appropriate regulatory body. The Safety Light Corporation Site is on the National Priorities List and is being remediated by EPA under the Comprehensive Environmental Response, Compensation, and Liability Act and the National Contingency Plan. The EPA believes the building demolition debris from the Safety Light Corporation Site contains minimum levels of radioactive contamination, making it acceptable for disposal at a hazardous waste landfill, if approved by the Department.

The EPA's Alternative Disposal of Radioactive Material Request for the Safety Light Corporation Site in Bloomsburg is available for public review and comment. The Department will accept written comments on the EPA's request until November 10, 2008. Comments should be submitted to Director, Bureau of Radiation Protection, Rachel Carson State Office Building, P. O. Box 8469, Harrisburg, PA 17105 or RA-EPDecommissioning@state.pa.us. Following the public comment period, the Department will make a final determination regarding the EPA's request. Notice of the Department's final determination will be published in a future edition of the *Pennsylvania Bulletin*.

For additional information concerning the EPA's request, individuals may contact the Bureau of Radiation Protection at (717) 787-2480 or RA-EPDecommissioning@state.pa.us. Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department directly at (717) 787-2480 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. 08-1853. Filed for public inspection October 10, 2008, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at www.depweb.state.pa.us (DEP Keywords:

Technical Guidance). The "Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2008.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Final Technical Guidance

DEP ID: 394-2000-002. Title: Pennsylvania's Nonpoint Source Management Program Update. Description: This guidance outlines the Commonwealth's plan to address nonpoint source (NPS) pollution through 2012, contingent upon having adequate resources including necessary personnel. This technical guidance enhances Pennsylvania's NPS Management Program, approved by EPA in 1999 in compliance with Section 319(b) of the Federal Water Pollution Control Act (Clean Water Act) as amended by P. L. 100-4 on February 4, 1987. This technical guidance also establishes the overall strategy Pennsylvania will use to implement the watershed protection aspects of Pennsylvania's Growing Greener program. Notice of the availability of the draft Pennsylvania Nonpoint Source Management Program Update was published at 36 Pa.B. 3039 (June 17, 2006), with provision for a 45-day public comment period that ended on August 1, 2006.

The Department received comments from seven commentators, which are addressed in a separate Comment and Response Document. Several comments related to individual NPS categories and recommended further clarification of the objectives in those categories. More specific comments were received concerning atmospheric deposition, which were addressed by expanding Section II of the document to include atmospheric deposition. Several NPS category objectives having 2005, 2006, and 2007 end dates were deleted or new end dates were included. Finally, revisions were made to Sections III and IV in order to update program descriptions, regulatory programs and web sites. Contact: Stephen Lathrop, Department of Environmental Protection, Bureau of Watershed Management, Rachel Carson State Office Building, 10th Floor, P. O. Box 8555, Harrisburg, PA 17105-8555, (717) 772-5618, slathrop@state.pa.us. Effective Date: October 11, 2008.

Draft Technical Guidance

DEP ID: 273-4000-005. Title: Compliance Assurance Policy for Continuous Emission Monitoring Systems (CEMS) on Combustion Units. Description: The Depart-

ment of Environmental Protection (Department) proposes to revise its Enforcement Policy—CEMS and Coal Sampling/ Analysis Systems, (273-4000-005), which was adopted by the Department in June 1985 and became effective on July 1, 1985. The proposed revised title of the guidance is Compliance Assurance Policy for CEMS on Combustion Units. Its scope is proposed to be expanded to apply to all averaging periods, air contaminants and parameters for all combustion units subject to Continuous Source Monitoring requirements. The proposed revised Policy incorporates provisions of the Department's March 1992 Interim CSMS Penalty Guidelines, Hourly Based Emission Standards. Base penalty amounts are adjusted for inflation. Penalty provisions are proposed to be revised to reflect improvements in source performance relative to emissions since 1985, and to provide consistent statewide considerations in conformance with the Department's more recent Compliance Assurance Policies for Continuous Source Monitoring Systems, Revision Number 8 to the Department's Continuous Source Monitoring Manual, (274-0300-001), and Federal requirements applicable to Continuous Emission Monitoring Systems. Written Comments: Interested persons may submit written comments on this draft technical guidance document by November 10, 2008. The Department will accept comments submitted by e-mail, but comments submitted by facsimile will not be accepted. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Ronald Gray, Chief, Continuous Compliance Section, Department of Environmental Protection, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468, rongray@state.pa.us. Effective Date: The proposed revised guidance document will be effective January 1, 2009, and will be applied to Continuous Source Monitoring System Quarterly Reports for the first quarter, 2009 and thereafter. Contact: Questions regarding the draft technical guidance document should be directed to Ronald Gray, (717) 772-4482 or Doug Haulik, (717) 772-3976.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-1854. Filed for public inspection October 10, 2008, 9:00 a.m.]

Consumer and Small Business Solar Energy Projects; Stakeholder Meeting

The Department of Environmental Protection (Department) will convene a meeting, on Monday, October 27, 2008, of stakeholders to discuss the creation of a loan, grant, reimbursement or rebate program for solar energy projects within this Commonwealth, under the enactment of the Alternative Energy Investment Act, act of July 9, 2008, Special Session, No. 1, P. L. _____. The meeting will convene at 9 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The input received from stakeholders at the meeting will guide the Department in establishing program guidelines for consumer and small business solar energy projects.

Questions concerning the meeting agenda can be directed to Rebecca Campbell, Office of Energy and Technology Deployment at (717) 783-8411 or recampbell@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 may accommodate their needs.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-1855. Filed for public inspection October 10, 2008, 9:00 a.m.]

Oil and Gas Well Permit Application Modifications

The Department of Environmental Protection (Department) announces modifications to the well permit application for Marcellus Shale gas well development.

Effective October 11, 2008, applicants for well permits for gas wells to the Marcellus Shale must use the revised "Application Addendum for Marcellus Shale Gas Well Development" (Document 5500-PM-OGO00083) in addition to the conventional well permit application. The addendum was revised to assist the applicant in providing the supplemental information, including the water management plan, associated with the development of Marcellus Shale Gas Wells. The complete permit application, including the addendum for Marcellus Shale Gas Well Development, is available on the Department's web site at www.dep.state.pa.us (DEP Keywords: Gas and Oil Wells).

Questions concerning the permit application and processing time modifications may be directed to Ronald Gilius, Bureau of Oil and Gas Management at (717) 772-2199, rgilius@state.pa.us

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-1856. Filed for public inspection October 10, 2008, 9:00 a.m.]

Processing and Beneficial Use of Gypsum Wallboard; General Permit WMGM038

Under the regulatory authority of 25 Pa. Code § 271.811 (relating to authorization for general permit) of the municipal waste regulations and the statutory authority of the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Department of Environmental Protection (Department) is proposing a General Permit for the processing and beneficial use of unpainted and untreated standard gypsum wallboard.

This proposed General Permit will provide for the beneficial use of ground (that is, processed) gypsum wallboard as a component of mushroom growing media, as a soil additive material or soil amendment and will allow for utilization of the backing paper as an animal bedding material. Proposed General Permit WMGM038 will reduce the amount of gypsum wallboard being disposed of in landfills by providing a mechanism to divert the waste to a more productive, beneficial use. This General Permit will provide potential end uses with a streamlined set of operating conditions.

Comments concerning the General Permit should be directed to Cuong Vu, Division of Municipal and Residual Waste, Bureau of Waste Management, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA

17105-8472, (717) 787-7381. The Department must receive public comments on the proposed General Permit by November 10, 2008.

Persons interested in obtaining more information or a paper copy of proposed General Permit WMGM038 should contact Peter Arnt of the Division of Municipal and Residual Waste at the previous telephone number. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984. The General Permit WMGM038 document is also accessible on the Department's web site at www.depweb.state.pa.us (DEP Keywords: "Participate"; then "Proposals Open for Comment," or DEP Keywords "Municipal Waste").

The Department will provide public notice upon final publication of General Permit WMGM038.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-1857. Filed for public inspection October 10, 2008, 9:00 a.m.]

Residential Consumer Energy Conservation Projects; Stakeholder Meeting

The Department of Environmental Protection (Department) will convene a meeting, on Friday, October 17, 2008, of stakeholders to discuss the creation of a Consumer Energy Conservation Program to provide incentives for the purchase and installation of residential energy conservation measures in owner-occupied primary residences in accordance with the Alternative Energy Investment Act, act of July 9, 2008, Special Session, No. 1, P. L. _____. The meeting will convene at 9 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. Stakeholders will be invited to provide their input into aspects of the program guidelines.

Questions concerning the meeting agenda can be directed to Libby Dodson, Office of Energy and Technology Deployment at (717) 772-8907 or ldodson@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 may accommodate their needs.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-1858. Filed for public inspection October 10, 2008, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Eynon Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Eynon Surgery Center has requested an exception to the requirements of 28 Pa. Code § 555.31(a) (relating to principle).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-1859. Filed for public inspection October 10, 2008, 9:00 a.m.]

Healthcare Associated Infection Prevention Section Infection Control Training Funds 2008-2009 Nursing Home Mini-Grant Award Guidelines for Infection Control and Surveillance Training

The Department of Health, Healthcare Associated Infection Prevention Section (HAIP) is offering mini-grants of up to \$1,000 per long-term care nursing facility (nursing home) licensed in this Commonwealth to support training for identification, reporting and prevention of health care-associated infections occurring in nursing homes. HAIP will award one mini-grant of up to \$1,000 to each eligible nursing home that submits an acceptable completed Nursing Home Mini-Grant Award Notice and Acceptance Attestation by November 26, 2008. The 2008-2009 Nursing Home Mini-Grant Award Guidelines for Infection Control and Surveillance Training document is electronically accessible through the HAIP web site at: www.dsf.health.state.pa.us/health/cwp/browse.asp?a=188&bc=0&c=38963.

Persons with a disability who require an alternative format of the 2008-2009 Nursing Home Mini-Grant Award Guidelines for Infection Control and Surveillance Training (for example, large print, audiotape, Braille) should contact William Cramer, Director, Healthcare Associated Infection Prevention, 8th Floor, Forum Place, 555 Walnut Street, Harrisburg, PA 17101, (717) 425-5422 or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

A. EVERETTE JAMES,
Acting Secretary

[Pa.B. Doc. No. 08-1860. Filed for public inspection October 10, 2008, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Snow Dough '08 Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Snow Dough '08.

2. *Price:* The price of a Pennsylvania Snow Dough '08 instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania Snow Dough '08 instant lottery game ticket will contain one play area featuring a "FROSTY'S NUMBERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "FROSTY'S NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR) and 25 (TWYFIV). The play symbols and their captions, located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), Snow Man symbol (SNMAN) and Moneybag symbol (MNYBAG).

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$40\$ (FORTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$400 (FOR HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$10,000 (TEN THO) and \$100,000 (ONEHUNTHO).

5. *Prizes:* The prizes that can be won in this game are: \$5, \$10, \$20, \$25, \$40, \$50, \$100, \$400, \$500, \$1,000, \$10,000 and \$100,000. The player can win up to ten times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 8,400,000 tickets will be printed for the Pennsylvania Snow Dough '08 instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of "FROSTY'S NUMBERS" play symbols and a prize symbol of \$100,000 (ONEHUNTHO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of "FROSTY'S NUMBERS" play symbols and a prize symbol of \$10,000 (TEN THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10,000.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of "FROSTY'S NUMBERS" play symbols and a prize symbol of \$1,000

(ONE THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Moneybag symbol (MNYBAG) and a prize symbol of \$500 (FIV HUN) appears under that Moneybag symbol (MNYBAG), on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of "FROSTY'S NUMBERS" play symbols and a prize symbol of \$500 (FIV HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of "FROSTY'S NUMBERS" play symbols and a prize symbol of \$400 (FOR HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$400.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowman symbol (SNMAN) and a prize symbol of \$400 (FOR HUN) appears under that Snowman symbol (SNMAN), on a single ticket, shall be entitled to a prize of \$400.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Moneybag symbol (MNYBAG) and a prize symbol of \$100 (ONE HUN) appears under that Moneybag symbol (MNYBAG), on a single ticket, shall be entitled to a prize of \$200.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of "FROSTY'S NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowman symbol (SNMAN) and a prize symbol of \$100 (ONE HUN) appears under that Snowman symbol (SNMAN), on a single ticket, shall be entitled to a prize of \$100.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Moneybag symbol (MNYBAG) and a prize symbol of \$50\$ (FIFTY) appears under that Moneybag symbol (MNYBAG), on a single ticket, shall be entitled to a prize of \$100.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of "FROSTY'S NUMBERS" play symbols and a prize symbol of \$50\$ (FIFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowman symbol (SNMAN) and a prize symbol of \$50\$ (FIFTY) appears under that Snowman symbol (SNMAN), on a single ticket, shall be entitled to a prize of \$50.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Moneybag symbol (MNYBAG) and a prize symbol of \$25\$ (TWY FIV) appears under that Moneybag symbol (MNYBAG), on a single ticket, shall be entitled to a prize of \$50.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of "FROSTY'S NUMBERS" play symbols and a prize symbol

of \$40\$ (FORTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowman symbol (SNMAN) and a prize symbol of \$40\$ (FORTY) appears under that Snowman symbol (SNMAN), on a single ticket, shall be entitled to a prize of \$40.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Moneybag symbol (MNYBAG) and a prize symbol of \$20\$ (TWENTY) appears under that Moneybag symbol (MNYBAG), on a single ticket, shall be entitled to a prize of \$40.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of "FROSTY'S NUMBERS" play symbols and a prize symbol of \$25\$ (TWY FIV) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowman symbol (SNMAN) and a prize symbol of \$25\$ (TWY FIV) appears under that Snowman symbol (SNMAN), on a single ticket, shall be entitled to a prize of \$25.

(t) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of "FROSTY'S NUMBERS" play symbols and a prize symbol of \$20\$ (TWENTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(u) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowman symbol (SNMAN) and a prize symbol of \$20\$ (TWENTY) appears under that Snowman symbol (SNMAN), on a single ticket, shall be entitled to a prize of \$20.

(v) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Moneybag symbol (MNYBAG) and a prize symbol of \$10⁰⁰ (TEN DOL) appears under that Moneybag symbol (MNYBAG), on a single ticket, shall be entitled to a prize of \$20.

(w) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of "FROSTY'S NUMBERS" play symbols and a prize symbol of \$10⁰⁰ (TEN DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(x) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowman symbol (SNMAN) and a prize symbol of \$10⁰⁰ (TEN DOL) appears under that Snowman symbol (SNMAN), on a single ticket, shall be entitled to a prize of \$10.

(y) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Moneybag symbol (MNYBAG) and a prize symbol of \$5⁰⁰ (FIV DOL) appears under that Moneybag symbol (MNYBAG), on a single ticket, shall be entitled to a prize of \$10.

(z) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of "FROSTY'S NUMBERS" play symbols and a prize symbol of \$5⁰⁰ (FIV DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(aa) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Snowman symbol (SNMAN) and a prize symbol of \$5⁰⁰ (FIV DOL) appears under that Snowman symbol (SNMAN), on a single ticket, shall be entitled to a prize of \$5.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>When Any Of Your Numbers Match Any Of Frosty's Numbers, Win with Prize(s) Of:</i>	<i>Win:</i>	<i>Approximate Odds Are 1 In:</i>	<i>Approximate No. Of Winners Per 8,400,000 Tickets</i>
\$5	\$5	15	560,000
\$5 w/SNOWMAN	\$5	20	420,000
\$5 × 2	\$10	60	140,000
\$5 w/MONEYBAG	\$10	60	140,000
\$10 w/SNOWMAN	\$10	60	140,000
\$10	\$10	60	140,000
\$5 × 4	\$20	300	28,000
\$10 × 2	\$20	300	28,000
\$10 w/MONEYBAG	\$20	300	28,000
\$20 w/SNOWMAN	\$20	300	28,000
\$20	\$20	300	28,000
\$5 × 5	\$25	300	28,000
(\$5 w/MONEYBAG) + (\$5 × 3)	\$25	300	28,000
(\$10 w/MONEYBAG) + \$5	\$25	300	28,000
\$25 w/SNOWMAN	\$25	300	28,000
\$25	\$25	300	28,000
\$5 × 8	\$40	600	14,000
\$10 × 4	\$40	600	14,000
\$20 w/MONEYBAG	\$40	600	14,000
\$40 w/SNOWMAN	\$40	600	14,000
\$40	\$40	600	14,000
\$5 × 10	\$50	600	14,000
\$10 × 5	\$50	600	14,000
\$25 w/MONEYBAG	\$50	600	14,000
\$50 w/SNOWMAN	\$50	600	14,000
\$50	\$50	600	14,000
\$10 × 10	\$100	2,400	3,500
\$20 × 5	\$100	2,400	3,500
\$50 × 2	\$100	2,400	3,500
\$50 w/MONEYBAG	\$100	2,400	3,500
\$100 w/SNOWMAN	\$100	2,400	3,500
\$100	\$100	2,400	3,500
\$40 × 10	\$400	20,000	420
\$100 × 4	\$400	20,000	420
(\$100 w/MONEYBAG) + (\$100 × 2)	\$400	20,000	420
\$400 w/SNOWMAN	\$400	20,000	420
\$400	\$400	20,000	420
\$50 × 10	\$500	24,000	350
\$100 × 5	\$500	24,000	350
(\$100 w/MONEYBAG) + (\$100 × 3)	\$500	24,000	350
\$500	\$500	20,000	420
\$100 × 10	\$1,000	24,000	350
\$500 × 2	\$1,000	24,000	350
\$500 w/MONEYBAG	\$1,000	24,000	350
\$1,000	\$1,000	24,000	350
\$10,000	\$10,000	560,000	15
\$100,000	\$100,000	560,000	15

Snowman (SNMAN) = Win prize shown under it automatically.
Moneybag (MONEYBAG) = Win double the prize shown under it.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Snow Dough '08 instant lottery game tickets. The conduct of the game will be governed by 61

Pa. Code § 819.222 (relating to retailer bonuses and incentive).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Snow Dough '08, prize money from winning Pennsylvania Snow Dough '08 instant lottery game tickets will be retained by the

Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Snow Dough '08 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Snow Dough '08 or through normal communications methods.

THOMAS W. WOLF,
Secretary

[Pa.B. Doc. No. 08-1861. Filed for public inspection October 10, 2008, 9:00 a.m.]

DEPARTMENT OF STATE

Interstate Compact for Juveniles

Under the authority of the Interstate Compact for Juveniles Act (11 P. S. §§ 890.1—890.6), the Secretary of the Commonwealth provides public notice that the Compact has become operative and effective. The date on which the compact became effective and operative between the Commonwealth of Pennsylvania and any other ratifying states in accordance with the act is August 26, 2008.

PEDRO A. CORTÉS,
Secretary of the Commonwealth

[Pa.B. Doc. No. 08-1862. Filed for public inspection October 10, 2008, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Application for Lease of Right-of-Way

The Department of Transportation (Department), under the authority contained in section 2002(c) of The Administrative Code of 1929 (71 P. S. § 512(c)) and 67 Pa. Code § 495.4(d) (relating to application procedure), gives notice that an application to lease highway right-of-way has been submitted to the Department by West Shore Eye and Ear Center, 1857 Center Street, Camp Hill, PA 17011, seeking to lease highway right-of-way located at 1857 Center Street, East Pennsboro Township, Cumberland County, Camp Hill, PA 17011, 7,200 square meters/hectares +/- adjacent to LR 21015 Section 2A, for the purpose of parking only.

Interested persons are invited to submit, within 30 days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to R. Scott Christie, P. E., District Engineer, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103-1699.

Questions regarding this application or the proposed use may be directed to George D. Achenbach, Right-of-Way Representative, 2140 Herr Street, Harrisburg, PA 17103-1699, (717) 772-5117.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 08-1863. Filed for public inspection October 10, 2008, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

Ronald C. Kamzelski v. DEP and AES Armenia Mountain Wind, LLC, Permittee; EHB Doc. No. 2008-288-L

Ronald Kamzelski has appealed the issuance by the Department of Environmental Protection of NPDES permit to AES Armenia Mountain Wind, LLC for stormwater discharges associated with construction activities in Richmond, Sullivan, Ward and Armenia Townships, Tioga and Bradford Counties.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

THOMAS W. RENWAND,
Acting Chairperson

[Pa.B. Doc. No. 08-1864. Filed for public inspection October 10, 2008, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Meeting Cancellation

The October 21, 2008, meeting of the Environmental Quality Board (EQB) is cancelled. The next regularly scheduled meeting of the EQB is scheduled for Tuesday,

November 18, 2008, at 9 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105. An agenda and meeting materials for the November 18, 2008, meeting will be available on the Department of Environmental Protection's web site at www.depweb.state.pa.us (DEP Keywords: EQB).

Questions concerning the EQB's next scheduled meeting may be directed to Michele Tate at (717) 783-8727 or mtate@state.pa.us.

JOHN HANGER,
Acting Secretary

[Pa.B. Doc. No. 08-1865. Filed for public inspection October 10, 2008, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Filing of Final Rulemaking

The Independent Regulatory Review Commission (Commission) received the following regulations. They are 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>
57-264	Pennsylvania Public Utility Commission Net Metering and Interconnection	9/25/08	11/6/08
57-261	Pennsylvania Public Utility Commission Telecommunications Relay Service System and Relay Service Fund	9/25/08	11/6/08
3-43	Department of Banking Proper Conduct of Lending and Brokering in the Mortgage Loan Business	9/25/08	11/6/08
2-102	Department of Agriculture Amusement Rides and Attractions Erected Permanently or Temporarily at Carnivals, Fairs and Amusement Parks	9/25/08	11/6/08
125-85	Pennsylvania Gaming Control Board Licensed Facility	9/30/08	11/6/08
125-88	Pennsylvania Gaming Control Board Slot Machine Testing and Control; Possession of Slot Machines; Accounting and Internal Controls; and Commencement of Slot Operations	9/30/08	11/6/08
125-89	Pennsylvania Gaming Control Board Employees; Slot Machine Licenses; and Accounting and Internal Controls	9/30/08	11/6/08

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-1866. Filed for public inspection October 10, 2008, 9:00 a.m.]

INSURANCE DEPARTMENT

Applications for Approval of the Consolidation of Highmark, Inc. and Independence Blue Cross and to Acquire Control of the Pennsylvania Domiciled Insurance Subsidiaries of Highmark, Inc. and Independence Blue Cross; Amended Notice of Closing of Public Comment Period

The purpose of this notice is to announce, in accordance with the requirements of Act 62 of 2008 that the Insurance Department (Department) will close the public comment period on October 14, 2008. This amends the notice published at 38 Pa.B. 5237 (September 20, 2008) and extends the date for the closing of the public comment

period, as published on September 20, 2008, by 4 days. The reason for this amendment is that the September 20, 2008, notice was inadvertently published with lines of the caption omitted. Persons wishing to comment on the grounds of public or private interest are invited to submit a written statement to the Department. Each written statement must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed, and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Chief, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

The closing of the public comment period begins the 45-day period in which the Banking and Insurance Committee of the Senate and the Insurance Committee of the House of Representatives may submit written comments and recommendations, as set forth in Act 62 of 2008. Under Act 62 of 2008, the Department may issue its final order and determination on or after 105 days following the close of the public comment period. This means the legislative review period will extend through November 28, 2008, and that the Department may issue its final order on or after January 27, 2009.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 08-1867. Filed for public inspection October 11, 2008, 9:00 a.m.]

PATIENT SAFETY AUTHORITY

Public Meeting

The Patient Safety Authority (Authority), established by section 303 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P.S. § 1303.303), enacted on March 20, 2002, announces a meeting of the Authority's Board on Tuesday, October 28, 2008, at 9:30 a.m. to be held at the Radisson Penn Harris Hotel and Convention Center, 1150 Camp Hill Bypass, Camp Hill, PA.

Individuals having questions regarding this meeting, which is open to the public, should contact the Authority at (717) 346-0469.

MICHAEL C. DOERING,
Executive Director

[Pa.B. Doc. No. 08-1868. Filed for public inspection October 10, 2008, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Authorization to Sell Accounts Receivable

A-2008-2065751. Metropolitan Edison Company. Application of Metropolitan Edison Company for authorization to sell accounts receivable.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before October 27, 2008. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Metropolitan Edison Company

Through and By Counsel: Bradley A. Bingaman, Esquire, FirstEnergy Service Company, 2800 Pottsville Pike, P. O. Box 16001, Reading, PA 19612-6001

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1869. Filed for public inspection October 10, 2008, 9:00 a.m.]

Authorization to Sell Accounts Receivable

A-2008-2065761. Pennsylvania Electric Company. Application of Pennsylvania Electric Company for authorization to sell accounts receivable.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before October 27, 2008. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Pennsylvania Electric Company

Through and By Counsel: Bradley A. Bingaman, Esquire, FirstEnergy Service Company, 2800 Pottsville Pike, P. O. Box 16001, Reading, PA 19612-6001

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1870. Filed for public inspection October 10, 2008, 9:00 a.m.]

Authorization to Sell Accounts Receivable

A-2008-2065758. Pennsylvania Power Company. Application of Pennsylvania Power Company for authorization to sell accounts receivable.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before October 27, 2008. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Pennsylvania Power Company

Through and By Counsel: Bradley A. Bingaman, Esquire, FirstEnergy Service Company, 2800 Pottsville Pike, P. O. Box 16001, Reading, PA 19612-6001

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1871. Filed for public inspection October 10, 2008, 9:00 a.m.]

Local Exchange Carrier Service

A-2008-2065503. Citynet Pennsylvania, LLC. Application of Citynet Pennsylvania, LLC for approval to offer, render, furnish or supply telecommunications services to the public as a Competitive Local Exchange Carrier in the service territory of Windstream Pennsylvania, LLC.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before October 27, 2008. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Citynet Pennsylvania, LLC

Through and By Counsel: Jeffrey A. Ray, General Counsel, Citynet Pennsylvania, LLC, 113 Platinum Drive, Suite B, Bridgeport, WV 26330

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1872. Filed for public inspection October 10, 2008, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by October 27, 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-2008-2063911. Millcreek Paramedic Service, Inc. (3608 West 26th Street, Erie, Erie County, PA 16506)—persons, in paratransit service, from points in the County of Erie to points in Pennsylvania, and return. *Attorney:* William A. Gray, Vuono & Gray, LLC, 310 Grant Street, Suite 2310, Pittsburgh, PA 15219.

A-2008-2064873. Raymond Dunkle, t/a Dunkle Transportation (16703 Timmons Road, Spring Run, Franklin County, PA 17262)—persons, in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster, to points in Pennsylvania, and return.

Applications 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 persons by transfer of rights as described under each application.

A-2008-2065319. Altoona VIP Limousine and Car Service, LLC (201 East 22nd Avenue, Altoona, Blair County, PA 16601)—a limited liability company of the Commonwealth—persons in limousine service, between points in Pennsylvania, which is to be a transfer of all rights authorized under the certificate issued at A-00115270 to Robert P. Kawtoski and Stephen P. Romanowicz, co-partners, t/d/b/a VIP Limousine Service Altoona, subject to the same limitations and conditions. *Attorney:* McNeese, Wallace & Nurick, LLC, J. Corey Reader, 330 Innovation Boulevard, Suite 301, State College, PA 16803.

A-2008-2065647. Active Limousine, LLC (2604 Cove Road, Pennsauken, Camden County, NJ 08109)—a limited liability company of the Commonwealth—persons in limousine service, between points in Pennsylvania, which is to be a transfer of all rights authorized under the certificate issued at A-00116325 to Golden Limousine Service, Inc., subject to the same limitations and conditions. *Attorney:* David P. Temple, 1760 Market Street, Suite 1100, Philadelphia, PA 19103.

Applications of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under each application.

A-2008-2041603. Limousines For Less, Inc. (315 Clermont Avenue, Stroudsburg, Monroe County, PA 18360)—a corporation of the Commonwealth—persons in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in Monroe County, to points in Pennsylvania, and return.

A-2008-2061302. PJA, Inc. t/a Hansen's Errand Service (P. O. Box 8503, Erie, Erie County, PA 16505-0503)—a corporation of the Commonwealth—persons in airport transfer service, from the Counties of Crawford, Erie, Venango and Warren, to the Erie International Airport, a/k/a Tom Ridge Field, located in Erie County.

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 as described under the application.

A-2008-2065117. Move Way, Inc. (1352 Maple Avenue, Croydon, Bucks County, PA 19021)—household goods in use, from points in the City and County of Philadelphia, to points within 30 airline miles of Philadelphia City Hall, and vice versa.

Application of the following for the approval of the transfer of stock as described under the application.

A-2008-2062240. Charles E. Groff & Sons, Inc. (1284 Cloverleaf Road, Mount Joy, Lancaster County, PA 17552), a corporation of the Commonwealth—stock transfer—for the approval of the transfer of 2,000 shares of outstanding stock as follows: 200 shares of outstanding stock held by Wilbur Groff to Leslie E. Brosius, Jr. and 1,000 shares of outstanding stock held by Kevin Groff and 800 shares

of outstanding stock held by Wilbur Groff to be purchased by the corporation and held as treasury stock. *Attorney:* Craig A. Doll, 25 West Second Street, P. O. Box 403, Hummelstown, PA 17036-0403.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1873. Filed for public inspection October 10, 2008, 9:00 a.m.]

Telecommunications

A-2008-2066503. The United Telephone Company of Pennsylvania, d/b/a Embarq and MCImetro Access Transmission Services, LLC. Joint petition of The United Telephone Company of Pennsylvania, d/b/a Embarq and MCImetro Access Transmission Services, LLC for approval of a master interconnection, collocation and resale agreement under section 252(e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania, d/b/a Embarq and MCImetro Access Transmission Services, LLC, by its counsel, filed on September 29, 2008, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a master interconnection, collocation and resale 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 The United Telephone Company of Pennsylvania, d/b/a Embarq and MCImetro Access Transmission Services, 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.

By the Commission

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 08-1874. Filed for public inspection October 10, 2008, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) requests qualifications for a public relations firm (Project No. 08-124.P). The Qualification documents will be accepted until 2 p.m. on Wednesday, October 29, 2008. 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 Tuesday, October 14, 2008. The cost of the document is \$35 (includes 7% PA Sales Tax). Payment must be in the form of a company check (no cash accepted). The cost is nonrefundable. PRPA is an equal opportunity employer. Firms must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 08-1875. Filed for public inspection October 10, 2008, 9:00 a.m.]

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will select a firm to conduct a strategic assessment of PRPA facilities (Project No. 08-102.P). The proposal documents will be accepted until 2 p.m. on Friday, November 7, 2008. 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 Tuesday, October 14, 2008. The cost of the document is \$35 (includes 7% PA Sales Tax). Payment must be in the form of a company check (no cash accepted). The cost is nonrefundable. PRPA is an equal opportunity employer. Firms must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 08-1876. Filed for public inspection October 10, 2008, 9:00 a.m.]

