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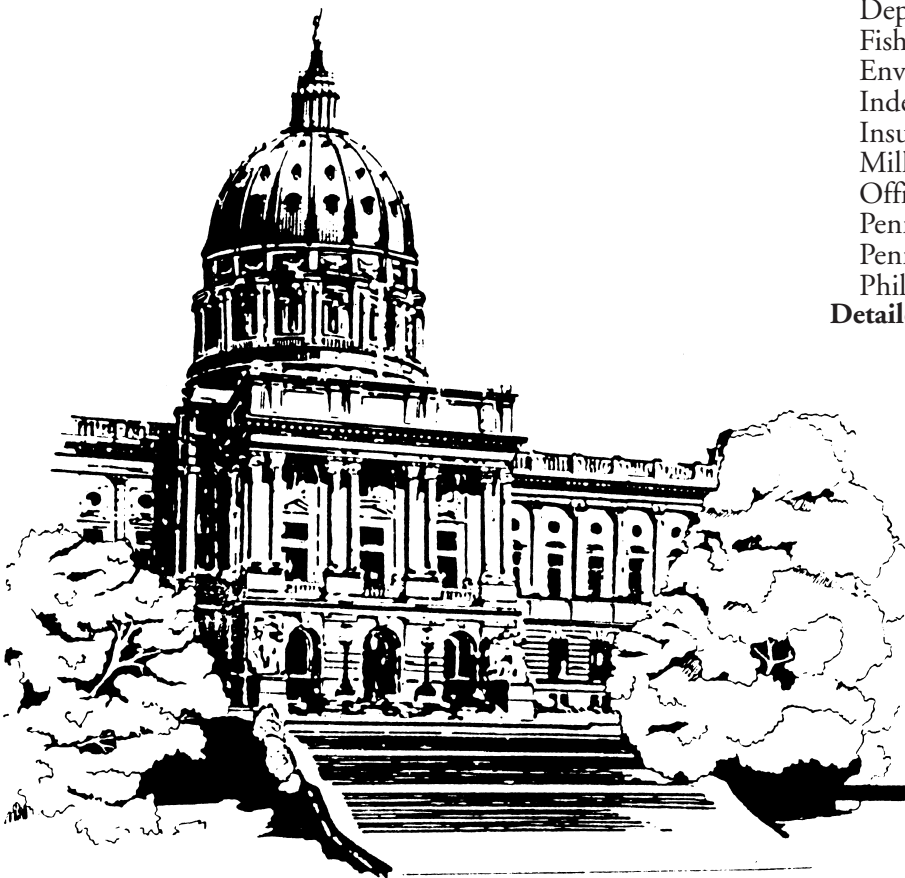
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PENNSYLVANIA BULLETIN

Volume 39
Saturday, October 24, 2009 • Harrisburg, PA
Number 43
Pages 6211—6314

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The Courts
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Independent Regulatory Review Commission
Insurance Department
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Pennsylvania Public Utility Commission
Pennsylvania Stimulus Oversight Commission
Philadelphia Regional Port Authority
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**Latest Pennsylvania Code Reporter
(Master Transmittal Sheet):**

No. 419, October 2009

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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

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

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THE GENERAL ASSEMBLY

Recent Actions during the 2009 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2009 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2009 GENERAL ACTS OF REGULAR SESSION ENACTED—ACT 046 through 052					
046	Oct 9	HB0792	PN2676	Immediately	Conveyance—Commonwealth property in Ryan Township, Schuylkill County
047	Oct 9	HB1468	PN2745	60 days	Fred B. Rooney Highway and William Henry Atherton Bridge—designations
048	Oct 9	HB1531	PN2748	Immediately*	Tax Reform Code of 1971—omnibus amendments
049	Oct 9	HB1607	PN2747	Immediately*	Judicial Code (42 Pa.C.S.) and Law and Justice (44 Pa.C.S.) and Vehicle Code (75 Pa.C.S.)—omnibus amendments
050	Oct 9	HB1614	PN2799	Immediately*	The Fiscal Code—omnibus amendments
051	Oct 9	SB0369	PN1478	Immediately	Emergency and Law Enforcement Personnel Death Benefits Act—death benefit eligibility
052	Oct 9	SB0607	PN0657	60 days	Rural Pennsylvania Revitalization Act—board of directors and grants
2009 APPROPRIATION ACTS OF REGULAR SESSION ENACTED—ACT 010A					
010A	Oct 9	HB1416	PN2772	Immediately	General Appropriation Act of 2009—enactment

* denotes an effective date with exceptions

Effective Dates of Statutes

The effective dates specified previously for laws and appropriation acts were contained in the applicable law or appropriation act. Where no date is specified or where the effective date specified is prior to the date of enactment, the effective date is 60 days after final enactment except for statutes making appropriations or affecting budgets of political subdivisions. See 1 Pa.C.S. §§ 1701—1704 (relating to effective dates of statutes).

Advance Copies of Statutes

Section 1106 of Title 1 of the *Pennsylvania Consolidated Statutes* provides that the prothonotaries of each county shall file advance copies of statutes in their offices for public inspection until the *Laws of Pennsylvania* are generally available. Section 2406(h) of The Administrative Code of 1929 provides that the Department of General Services (Department) shall distribute advance sheets of the *Laws of Pennsylvania* to each law judge of the courts, to every county and public library of this Commonwealth and to each member of the General Assembly. These copies shall be furnished without charge. The Department shall also mail one copy of each law enacted during any legislative session to any person who pays to it the sum of \$20.

Requests for annual subscriptions for advance copies of statutes should be sent to the State Bookstore—PHMC, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0053, accompanied by a check or money order in the sum of \$20, payable to the “Commonwealth of Pennsylvania.”

ROBERT W. ZECH, Jr.,
Director
Legislative Reference Bureau

[Pa.B. Doc. No. 09-1981. Filed for public inspection October 23, 2009, 9:00 a.m.]

THE COURTS

Title 249—PHILADELPHIA RULES

In Re: The Abandoned and Blighted Property Conservatorship Act; General Court Regulation No. 2009-01

On November 26, 2008, the Governor signed Act 135, known as *The Abandoned and Blighted Property Conservatorship Act*, which became effective on February 24, 2009. The Act provides a mechanism to transform abandoned and blighted properties into productive reuse by authorizing the filing of a petition with the Court of Common Pleas by certain named interested parties seeking the appointment of a Conservator who will be authorized to take possession of the property, undertake its rehabilitation and, as appropriate, ultimately sell the premises unless reclaimed by the owner(s).

In light of the important rights of the various interested parties involved in such an action, the Court adopts this General Court Regulation to provide detailed procedural guidance in the filing and processing of petitions filed pursuant to Act 135, which has been codified in 68 P. S. § 1101—1111.

1) Initiation of Action. Actions filed pursuant to Act 135 involving abandoned and blighted properties located in Philadelphia County are “*in rem*” proceedings, and as such, shall be commenced by the electronic filing of a *Petition for the Appointment of a Conservator* (as a “Petition Action”) with the Prothonotary of Philadelphia County as provided in Philadelphia Civil Rule *205.4 in the Court of Common Pleas, Trial Division—Civil, and the requisite filing fee shall be paid at the time of the filing of the petition. A separate action must be filed for each property that has a specific Board of Revision of Taxes (“BRT”) number. The *Petition for the Appointment of a Conservator* shall be substantially in the format attached hereto as Attachment “A.” Upon filing, if it appears that the owner of the property at issue is deceased or is a nonprofit corporation, the action shall be administratively assigned to a Judge of the Orphans’ Court Division, designated by the Administrative Judge of the Orphans’ Court Division; however all legal papers shall continue to be filed through the Civil Electronic Filing System in the Civil Trial Division.

2) Petitioner. The petition may be filed by an eligible “party in interest” as defined in Section 1103 of the Act.

3) Conservator. The petitioner must establish that the proposed Conservator is entitled to appointment pursuant to the Act. Moreover, a nonprofit corporation wishing to serve as Conservator should attach to the Petition a Certification to Serve as Conservator, certifying, *inter alia*, whether the Internal Revenue Service has granted the nonprofit corporation tax exempt nonprofit status under § 501(c)(3) of the Internal Revenue Code; that the nonprofit corporation is located in Philadelphia and has a current Philadelphia Business Privilege License; that the nonprofit corporation is eligible to receive a Certificate of Good Standing from the Department of State; that the nonprofit has participated in a project within a 1-mile radius of the property; and that the nonprofit corporation has passed a resolution authorizing the filing of the Petition for the Appointment of a Conservator and, if the nonprofit corporation is named as

the proposed Conservator, that the nonprofit corporation has passed a resolution authorizing its acceptance of a court appointment as Conservator for the specific property or properties at issue and is authorized to perform all of the duties required of a Conservator.

4) Respondent(s). The petitioner must name as Respondent the “owner” of the property at issue, who is defined in Section 1103 of the Act as “The holder or holders of title to, or of a legal or equitable interest in, a residential, commercial or industrial building. The term shall include an heir, assignee, trustee, beneficiary and lessee provided the ownership interest is a matter of public record.” In light of the above definition, the petitioner should undertake a substantial examination of the public record to determine all parties who may be deemed to be an owner—and not merely rely on the last recorded deed. For instance, one of the named “owners” on the deed may be deceased, and if so, the petitioner should name as “owners” decedent’s heirs (or the decedent’s estate).

5) Lienholders. The petitioner must identify all lienholders and other secured creditors of the owners (including judgment creditors as may be disclosed in a judgment search or title report), as well as their address, both in the body of the petition and in relevant screens of the Civil Electronic Filing System to facilitate a determination of whether they were served with the required notices of the pendency and status of proceedings as may be applicable.

6) Identification of the Abandoned and Blighted Property. The petitioner shall provide the street address of the property at issue with the zip code and extended zip code, if available, and shall provide the Philadelphia Board of Revision of Taxes Account Number (“BRT #”).

7) Content of the Petition. The petition shall be in a form substantially as attached hereto as Attachment “A,” shall comply with Section 1104(b) and must provide detail and documentation to support the allegations contained in the Petition. The Court will not accept petitions that merely allege that the statutory requirements are met without providing further substantiation. Where applicable and available, the petition should be accompanied by the following evidence, whether through affidavits, exhibits, or detailed averments within the petition itself:

a) A copy of the title report;

b) A copy of deed or other documentation, showing that neither the building or land is owned by or held in trust for the Federal Government and regulated under the United States Housing Act of 1937 (50 Stat. 888, 42 U.S.C. § 1437 et seq.) and regulations promulgated under that act;

c) Proof that the owner is not in the armed services (either from the Military web site or with letters from all five branches of the military confirming that the owner is not on active duty);

d) A copy of citations showing violations of municipal code or declaration of the building to be a public nuisance, as provided in Section 1104(b)(1);

e) A copy of citations declaring building a public nuisance, as provided in Section 1104(b)(1);

f) Preliminary Plan with initial cost estimates, as provided in Section 1104(b)(3);

g) Evidence that the building has not been legally occupied for the previous 12 months, as provided in Section 1105(d)(1);

h) Evidence that the building has not been “actively marketed” in the last 60 days, as provided in Section 1105(d)(2). As provided in Section 1103, that might include, evidence of the following:

(1) That a “For Sale” sign is not placed on the property (a photograph of the premises showing that it does not have a “For Sale” sign must be attached);

(2) For a residential property, a printout from www.realtor.com, or other proof, that it is not listed on the Multiple Listing Service. For commercial property, an Affidavit setting forth the efforts made to determine whether the commercial property has been listed with realtors in the immediate neighborhood;

(3) That there have not been weekly or more frequent advertisements in print or electronic media. The petitioner must attach an Affidavit stating which papers have searched which reveals that there is no evidence that the property has been listed for sale during the last sixty (60) days; and

(4) An Affidavit from one or more neighbors regarding their knowledge that no printed advertisements have been distributed within the last sixty (60) days.

i) Evidence that the building is not subject to an existing foreclosure action as required by Section 1105(d)(3). The Petitioner must determine the name of the owner from Philadox and then search the Court of Common Pleas docket using the name of the owner to determine whether a foreclosure action has been filed.

j) Evidence from Philadox that the owner has not acquired the building within the last 6 months as required by Section 1105(d)(4).

k) Evidence that the property meets at least three of the following requirements for conservatorship:

(1) that the City of Philadelphia has declared the building to be a public nuisance, as provided in Section 1105(d)(5)(i);

(2) that no permits for rehabilitation work have been issued in the past 12 months, and that the building is in “need of substantial rehabilitation” as established by photos or affidavits of persons with knowledge based on exterior or interior inspections, as provided in Section 1105(d)(5)(ii);

(3) documentation, photos or affidavits of persons with knowledge establishing that the building is unfit for human habitation, occupancy, or use, as provided in Section 1105(d)(5)(iii);

(4) documentation showing that the building increases the risk of fire to adjacent properties. If there have previously been fires in the property, must attach proof from the Fire Department or an affidavit from neighbors, as provided in Section 1105(d)(5)(iv);

(5) documentation showing that unauthorized entry is possible. If petitioner is claiming that the City of Philadelphia has secured the building, attach proof from the City to this effect, as provided in Section 1105(d)(5)(v);

(6) photos showing that the conditions are an attractive nuisance to children. If possible, attach an affidavit from a neighbor showing that children have been illegally entering the property as required by Section 1105(d)(5)(vi);

(7) code citations that address the presence of vermin, debris, uncut vegetation and deterioration of the structure or grounds. If no code citations, then attach photos and affidavits from neighbors, community groups, and/or others knowledgeable about the property which address conditions as required by Section 1105(d)(5)(vii);

(8) photos of the property being proposed for conservatorship, as well as photos of the neighboring properties on both sides of the block. This will allow the Court to understand the effect the blighted property has had on the economic well-being of the community as required by Section 1105(d)(5)(viii); or

(9) police reports showing that police have been called about illicit activity at property. If no police reports, then affidavits from neighbors, community groups, and/or others knowledgeable about the property can be used as required by Section 1105(d)(5)(ix).

8) Notice of Filing of a Petition to Appoint a Conservator. The petitioner shall attach to the Petition for the Appointment of a Conservator a *Notice of the Filing of a Petition for the Appointment of a Conservator*, substantially as attached hereto as Attachment “B.”

9) Order to Show Cause. *Lis Pendens.* The petitioner shall attach an *Order to Show Cause*, substantially as attached hereto as Attachment “C,” and shall file a *Lis Pendens*, substantially as attached hereto as Attachment “D,” with the City of Philadelphia Department of Records and a copy thereof with the Prothonotary.

10) Review of the Petition. Issuance of an Order to Show Cause. The court may deny the *Petition for the Appointment of a Conservator* without prejudice if it appears that a prima facie entitlement to the appointment is not established by, or sufficient documentation is not attached to, the Petition. The Court may issue an *Order to Show Cause* if it appears that a prima facie entitlement to the appointment of a conservator may have been established, but the issue of entitlement will not be finally determined until after the hearing required by Section 1105 is held.

11) Posting of the Notice of the Filing of a Petition to Appoint a Conservator: The Petitioner shall post the *Notice of the Filing of a Petition for the Appointment of a Conservator* on the premises as may be required by the Court in the Order to Show Cause.

12) Service of the Petition to Appoint a Conservator. Notice of the filing of the Petition to Appoint a Conservator. The petitioner shall:

a) serve a copy of the *Notice, Petition for the Appointment of a Conservator* and all exhibits on the owner(s) as required by Pa.R.C.P. No. 400.1 and shall file a return of service as soon as possible upon service;

b) mail a copy of the *Notice, Petition for the Appointment of a Conservator* and all exhibits by registered or certified mail on the City of Philadelphia as provided in Section 1103 at the following address: c/o City Solicitor, 1515 Arch Street, Philadelphia, PA (or any other address designated from time to time by the City of Philadelphia) and shall file a return of service as soon as possible upon service. At petitioner’s discretion, service may also be accomplished as provided by Pa.R.C.P. No. 400.1; and

c) mail a copy of the *Notice, Petition for the Appointment of a Conservator* and exhibits on all lienholders (including judgment creditors) and other secured creditor(s) of the owner(s), as identified in the *Peti-*

tion for the Appointment of a Conservator, by registered or certified mail, to their last known address, as provided in Section 1103 and shall file a return of service as soon as possible upon service. At petitioner's discretion, service may also be accomplished as provided by Pa.R.C.P. No. 400.1.

13) Response Period. Petition to Intervene. The record owners, lienholders and other secured creditors of the record owner(s), and other parties in interest may file an answer or other responsive pleading, or petition to intervene as may be provided by the Court in the *Order to Show Cause*.

14) Hearing. A hearing on the *Petition for the Appointment of a Conservator* will be held on a date certain within 120 days of the filing of the petition as required by Section 1105. On the hearing date, any party in interest who has filed the appropriate answer or other responsive pleading, or petition to intervene shall be permitted to present evidence to support or contest the petition. For good cause shown, the Court may permit a party in interest who has not filed the required answer or other responsive pleading, or petition to intervene to do so, and the hearing may be postponed as appropriate.

15) Order Granting Request for Period to Abate Nuisance. Within 30 days after the hearing, the Court may enter an order, as appropriate, providing the owner a reasonable period of time to abate and remedy the violations or nuisance which gave rise to the filing of the petition, as provided in Section 1105(f)(1).

16) Order Appointing a Conservator. Within 30 days after the hearing, the Court may enter an order, as appropriate, appointing a Conservator. If a Conservator is appointed, the order shall set forth in detail the powers, duties and obligations of the Conservator including requirements which must be met before the Conservator may exercise any authorized powers and duties, such as securing any necessary bond and/or insurance. The Court may also require the Conservator, and any other parties who must enter the premises to assist with the preparation of the Final Plan, to execute Right of Entry Authorizations and provide such Certificates of Additional Insurance as may be required by the Court

17) Filing of Final Plan. The Conservator shall file a *Final Plan for Abatement* on or before the date established in the court order appointing the Conservator. The Final Plan must fully comply with Section 1106(b), shall specifically set forth the Scope of Work to be performed, and shall set forth in detail the financing for the costs of rehabilitation and other relevant terms, including whether the Court is requested to grant a lien or security interest with priority, as provided in Section 1108(b), to facilitate the borrowing of funds to rehabilitate or demolish the property. The Conservator may not enter into any binding agreement concerning the financing until the financing is approved by the Court.

18) Hearing and Approval of Final Plan. Upon receipt of the *Final Plan for Abatement*, the court shall issue a scheduling order which will provide whether the Conservator must serve on the owner of the Property and/or lienholders and/or other secured creditors of the owner the scheduling order and Final Plan, or only a Notice of the filing of the Final Plan and the scheduling of a hearing thereon, and that comments to the Final Plan must be filed before the hearing date, or presented on the day of the hearing. After the hearing, the Court must approve the Final Plan or require that it be amended, and if the Court orders the Plan to be

amended, the Court shall schedule a subsequent hearing for approval of the Final Plan. Once the Final Plan is approved, no changes may be made unless authorized by the Court after the filing of a petition.

19) Status Reports. From time to time, the Court may request status reports from the Conservator.

20) Filing of an Account. Upon conclusion of the rehabilitation or demolition, the Conservator shall file a full Account of all funds expended by the Conservator. The Account shall include a summary of actions taken by the Conservator, and a detailed report verifying that each of the items in the Scope of Work approved by the Court was in fact completed, and if not completed, the Conservator must provide sufficient justification for not completing any of the items.

21) Sale of Property at Issue. Distribution of Proceeds. The Conservator may, upon petition, seek the sale of the property at public or private sale as provided in Section 1109. The reasons for seeking the sale of the Property must be set forth in detail, together with the proposed terms of the sale and estimated proceeds and distribution. The Court will issue a scheduling order and the Conservator must serve the scheduling order and petition on the owner, lienholders and other secured creditors of the owner. After the hearing, the Court may issue an order authorizing the sale of the premises and further authorizing the Conservator or the Prothonotary to execute the deed conveying title to the purchaser. The proceeds of the sale shall be applied and distributed as set forth in Section 1109.

22) Termination of Conservatorship. The Court may terminate the conservatorship as required by Section 1110.

23) Appointment of Master-Judge Pro Tem. At any time, the Court may appoint a master-judge *pro tem* to review the pleadings filed, conduct any hearing or status hearing authorized by Act 135 and this General Court Regulation, and issue orders or recommendations as directed by the Court and as may otherwise be necessary. Court costs necessary for the payment of the master-judge *pro tem* must be deposited with the Prothonotary by the Petitioner or Conservator as may be ordered from time to time by the Court.

This General Court Regulation is issued pursuant to *The Abandoned and Blighted Property Conservatorship Act*, 68 P.S. §§ 1101—1111 and shall become effective immediately. The original General Court Regulation shall be filed with the Prothonotary in a Docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas of Philadelphia County, shall be published in the *Pennsylvania Bulletin*, and copies shall be submitted to the Administrative Office of Pennsylvania Courts and to the Civil Procedural Rules Committee. Copies of the General Court Regulation will be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library, and the Law Library for the First Judicial District of Pennsylvania, and posted on the web site of the First Judicial District of Pennsylvania at <http://courts.phila.gov>.

By the Court

HONORABLE PAMELA PRYOR DEMBE,
President Judge

ATTACHMENT "A"

RESPONDENT

[By: Attorney
Bar No.
Email Address
Firm Name
Street Address
Telephone Number]

THIS IS NOT AN
ARBITRATION MATTER.
AN ASSESSMENT OF
DAMAGES HEARING IS
NOT REQUIRED.

[Petitioner] :
: COURT OF COMMON PLEAS
Petitioner, :
: PHILADELPHIA COUNTY
:
v. : CIVIL TRIAL DIVISION
:
[Owner(s) of : _____ TERM, 20 _____
Property at Issue]
:
Respondent(s). : No.: _____

PETITION FOR THE APPOINTMENT OF A
CONSERVATOR

Petitioner, _____, by and through counsel, respectfully petitions this Court to appoint a conservator to take possession and to undertake the rehabilitation of certain property, and in support thereof avers as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction pursuant to the Abandoned and Blighted Property Conservatorship Act, P. L. 1672, No. 135, 68 P. S. § 1101 et seq. (2008) (the "Act").

2. The Property is located in Philadelphia County, Pennsylvania and venue is pursuant to Section 1104(a) of the Act because the Property is located in Philadelphia County, Pennsylvania.

PROPERTY

3. The Property subject to this Petition is a [Residential/commercial/industrial] building located at:

_____, BRT No. _____
(the "Property"). A Copy of Deed is attached as Exhibit "A," the Title Report is attached as Exhibit "B;" and the Legal Description is attached as Exhibit "C."

PETITIONER

4. Petitioner is [the owner] [a lienholder or other secured creditor of the owner] [a resident or business owner within 500 feet of the building] [a nonprofit corporation within the City and County of Philadelphia that has as one of its purposes to create and stimulate economic development while improving the quality of life for residents within the _____ community, where the Property is located], a party in interest, as defined by Section 1103 of the Act.

5. [Petitioner] has participated in the following projects [if proposed Conservator is a nonprofit corporation, add: within a one-mile radius of the Property]: [List in detail the qualifying projects petitioner has participated in.]

6. The Petitioner avers that the property is owned by _____ (the "Owner(s)"). The name of the record owner on the last recorded deed is:

[If the owner is an individual, describe efforts made by the Petitioner to identify the owner of the property and to determine whether the owner is deceased and if so, efforts to locate the deceased owner's heirs.]

[If the owner is a corporation or other legal entity, describe efforts made by the Petitioner to determine whether the corporation, partnership, fictitious entity or other business entity, its successors and/or assigns is/are active].

7. The Owner has not vacated the Property to perform military service in time of war or armed conflict or in order to assist with relief efforts during a declared federal or state emergency as a member of the United States Armed Forces or reserve.

8. The Property is not held in trust for the federal government and regulated under the United States Housing Act of 1937, 50 Stat. 888, 42 U.S.C. § 1437 et. seq.

LIENHOLDERS AND OTHER SECURED CREDITORS

9. Petitioner has identified the following lienholders and other secured creditors with a potential interest in the Property through an examination of the title report for the Property and any additional search or sources necessary to identify the lienholders and other secured creditors, their addresses, as well as the identities and addresses of any successors and/or assigns:

[List the name and address of all lienholders and other secured creditors or attach as exhibit].

See Title Report, Ex. "B," [include and attach other search or sources used to identify the lienholders and secured creditors]:

CONDITIONS FOR CONSERVATORSHIP

10. The Property has not been legally occupied for at least twelve (12) months before the date of the filing of this Petition. [Add any relevant description.]

11. The Property has not been actively marketed during the sixty (60) days before the date of the filing of this Petition. [Describe efforts and attach relevant documents]

12. No "For Sale" sign has been placed on or in front of the Property during the sixty (60) days before the date of the filing of this Petition. [Describe efforts and attach relevant documents]

13. The Property has not been advertised as for sale through distributed print advertisements, print or electronic media, or through engagement of a real estate professional [for residential property add: to place the Property in a Multiple Listing Service or] to otherwise market the Property. [Add any relevant description.]

14. According to inspection of public records, the Property appears not to be subject to an existing foreclosure action.

15. According to inspection of public records, [**Owner**] has not acquired the Property within the preceding six (6) months prior to the date of the filing of this Petition.

[MUST INCLUDE AT LEAST 3 OF THE FOLLOWING PARAGRAPHS (Nos. 16 - 24):]

16. The Property has been declared to be a public nuisance by _____. **[Indicate whether the property has been declared to be a public nuisance by a City of Philadelphia entity such as the Department of Licenses & Inspections or Fire Department, or by a court and attach relevant documentation.]** The Owner of the Property has been cited with being in violation of **[municipal-fire-building code]**. **[Add any relevant description.]** A copy of the citation[s] is/are attached as Exhibit _____.

17. The Property is in need of substantial rehabilitation and no rehabilitation has taken place during the previous twelve (12) months prior to the date of the filing of this Petition. Photographs of the Property are attached as Exhibit _____. **[Add any relevant description and attach any relevant documents. Please note that Electronic Filing rules require all legal papers (including exhibits) to be filed in a pdf format.]**

18. The Property is unfit for human habitation, occupancy or use because . . . **[Add any relevant description and attach any relevant documents.]**

19. The conditions and vacancy of the Property materially increase the risk of fire to the Property and adjacent properties because . . . **[Add any relevant description and attach any relevant documents.]**

20. The Property is subject to unauthorized entry leading to potential health and safety hazards and the Owner has failed to take reasonable and necessary measures to secure the Property. **[OR]** The Property is subject to unauthorized entry leading to potential health and safety hazards and the **[Municipality]** has secured the Property to prevent such hazards after the Owner failed to do so. **[Add any relevant description and attach any relevant documents.]**

21. The Property is an attractive nuisance to children, including, but not limited to, the presence of [abandoned wells, shafts, basements, excavations, and unsafe structures]. **[Add any relevant description and attach any relevant documents.]**

22. The presence of vermin and the accumulation of debris, uncut vegetation or physical deterioration of the structure and grounds have created potential health and safety hazards, and the Owner has failed to take reasonable and necessary measures to remove the hazards. **[Add any relevant description and attach any relevant documents.]**

23. The dilapidated appearance and condition of the Property negatively affects the economic well-being of residents and businesses in close proximity to the Property, including decreases in property value and loss of business, and the Owner has failed to take reasonable and necessary measures to remedy the appearance and condition. Specifically, **[Add any relevant description and attach any relevant documents.]**

24. The Property is an attractive nuisance for illicit purposes, including [prostitution, drug use and vagrancy]. **[Add any relevant description and attach any relevant documents.]**

PROPOSED CONSERVATOR

25. Petitioner recommends that _____ **[Name of proposed conservator]** be appointed Conservator. The proposed Conservator has the financial resources and experience to properly rehabilitate the Property. **[Explain and provide detail concerning the proposed Conservator's financial resources and experience.]** **[If a non-profit Corporation is the proposed Conservator, attach a Certification to Serve as Conservator and required documentation as set forth in General Court Regulation No. 2009-01.]**

26. Petitioner's Preliminary Plan with initial cost estimates for rehabilitation of the Property to bring it into compliance with all municipal codes and duly adopted plans for the area in which the Property is located and anticipated funding sources are attached as Exhibit _____. **[Briefly describe the preliminary plan.]**

LIS PENDENS

27. Petitioner will serve or provide notice of the filing of this Petition as provided in General Court Regulation No. 2009-01 and as otherwise ordered by the Court.

28. As required by 68 P. S. § 1104 (c), Petitioner shall file a *Lis Pendens*, substantially in the form attached hereto as Exhibit _____, with the City of Philadelphia Department of Records and shall thereafter file a file-stamped copy with the Prothonotary.

WHEREFORE, Petitioner prays for the following relief:

1. Issue an Order to Show Cause, *inter alia*, as to why a Conservator should not be appointed to abate the public nuisance and rehabilitate [or demolish], as alleged and ultimately proven, at the Property located at _____;
2. Appoint a Conservator as authorized by the Abandoned and Blighted Property Conservatorship Act; and
3. Grant such other and additional relief as may be just and appropriate.

Dated: _____ Respectfully submitted

VERIFICATION OF PETITIONER

I, _____, hereby state:

1. I am **[Title]** for **[Petitioner]**, Petitioner in this action;
2. I verify that the statements contained in the foregoing Petition to Appoint a Conservator are true and correct to the best of my knowledge, information, and belief; and
3. I understand that the statements in the Petition to Appoint a Conservator are subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

[Title]
[Petitioner]

Dated: _____, 20 _____

CERTIFICATION TO SERVE AS CONSERVATOR

The undersigned, being the _____ of the Board of _____ (“the Corporation”), a Pennsylvania non-profit corporation:

1. Certifies that the matters herein certified will be relied upon by the Court of Common Pleas of Philadelphia County, in considering the Corporation’s petition to be appointed Conservator under 68 P. S. § 1101-11.
2. Certifies that on _____ the Internal Revenue Service granted the Corporation tax-exempt nonprofit status under § 501(c)(3) of the Internal Revenue Code.
3. Certifies that the Corporation’s Philadelphia Business Privilege License is: _____ .
4. Certifies that the Corporation is eligible to receive a Certificate of Good Standing from the Pennsylvania Department of State.
5. Understands the Conservator’s requirements to report to the Court and agrees to comply with these requirements.
6. Is familiar with all currently effective agreements to which the Corporation is party or by which it is bound (“Existing Agreements”).
7. Knows of no provision in any Existing Agreements, or in the Corporation’s Articles of Incorporation or By-laws, which would be contravened by any actions or undertakings of the Corporation required if the Court appoints the Corporation as Conservator.
8. Knows of no suit, action or proceedings of any kind including proposed changes in zoning either pending or threatened against or affecting the Corporation or which brings into question the validity of the transactions contemplated by the preliminary plan for the Conservatorship, required by 68 P. S. § 1104(b)(3).
9. Has reviewed the minutes and Bylaws of the Corporation.
10. Certifies that the Corporation has passed a resolution authorizing its acceptance of a Court appointment of Conservator and is authorized to perform all of the duties required of a Conservator. (See “Exhibit A” attached.)

ATTEST: [Corporation]
 _____ By: _____
 Name: _____
 Title: _____

Executed: _____

**EXHIBIT A
 RESOLUTION
 ATTACHMENT “B”**

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA

[Petitioner] :
 : COURT OF COMMON PLEAS
 Petitioner, :
 : PHILADELPHIA COUNTY
 :
 v. : CIVIL TRIAL DIVISION
 :

[Owner(s) of : _____ TERM, 20 _____
Property at Issue]

Respondent(s). : No.: _____

**NOTICE OF FILING OF A
PETITION FOR THE APPOINTMENT OF A
CONSERVATOR**

A petition has been filed under the Abandoned and Blighted Property Conservatorship Act, 68 P. S. §§ 1101-1111 (2008), for appointment of a Conservator to take possession of and rehabilitate or demolish the property located at:
_____, BRT No. _____ .

A hearing on the Petition for the Appointment of a Conservator will be scheduled by the Court. As required by General Court Regulation No. 2009-01, the Petitioner shall serve or mail a copy of this Notice, the *Petition for the Appointment of a Conservator* together with all exhibits, and a copy of the court order scheduling a hearing. A copy of this Notice (without the *Petition for the Appointment of a Conservator*, exhibits or court order) will also be posted at the property.

**YOU ARE RECEIVING THIS NOTICE BECAUSE
PUBLIC RECORDS REVEAL THAT YOU MAY BE
ONE OF THE FOLLOWING:**

Owner of Property at issue. If you are the record owner or an owner claiming a right to title to the premises and want to be heard in this matter, you must file an answer as required by the Court order referenced above. **If you do not file an answer, the court may proceed without you and you may lose your rights to the property.** A conservator may be appointed to take possession of the property, incur expenses that will be a lien against the property, and sell the property. You will still be responsible for your obligations as the owner, including expenses incurred by the conservator.

Lienholder/Secured Creditors. If you are a lienholder or other secured creditor and want to be heard in this matter, you must file a petition to intervene as required by the Court order referenced above and may seek to be appointed as Conservator. **If you do not file an answer, the court may proceed without you and you may lose your rights to the property.** A conservator may be appointed to take possession of the property, incur expenses that will be a lien against the property, and sell the property. The conservator lien may have priority over your lien or other rights.

The City of Philadelphia. As the political subdivision in which the property is located, the City of Philadelphia may file a petition to intervene as required by the Court order referenced above and may seek to be appointed as the conservator.

You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office below to find out where you can get legal help.

Lleve esta demanda a un abogado inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio, vaya en persona o llame por telefono a la oficina cuya direccion se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.

**Philadelphia Bar Association
Lawyer Referral and Information Service**
1101 Market Street,
11th Floor
Philadelphia,
Pennsylvania 19107
(215) 238-6333
TTY (215) 451-6197

**Asociacion de Licenciados de Filadelfia
Servicio de Referencia e Informacion Legal**
1101 Market Street,
11th Floor
Filadelfia, Pennsylvania 19107
(215) 238-6333
TTY (215) 451-6197

ATTACHMENT "C"

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA

[**Petitioner**] :
: COURT OF COMMON PLEAS
Petitioner, :
: PHILADELPHIA COUNTY
:
v. : CIVIL TRIAL DIVISION
:
[**Owner(s) of Property at Issue**] : _____ TERM, 20 ____
:
Respondent(s). : No.: _____

ORDER TO SHOW CAUSE

AND NOW, this ____ day of _____, 20 ____ , upon consideration of the *Petition for the Appointment of a Conservator* pursuant to the Abandoned and Blighted Property Conservatorship Act, 68 P.S. § 1101 *et seq.* (P.L. 1672, No. 135), it appearing that a prima facie showing of entitlement to the relief requested concerning the property located at:

_____, BRT No. _____ may have been made, it is hereby ORDERED and DECREED that:

1. As required by General Court Regulation No. 2009-01, the Petitioner shall promptly:
 - a) Post a copy of the *Notice of Filing of a Petition for the Appointment of a Conservator* at the property;
 - b) Serve a copy of the *Notice, Petition* and all exhibits, and this Order on the owner(s) as required by Pa. R.C.P. No. 400.1 and file a return of service as soon as possible upon service;
 - c) Mail a copy of the *Notice, Petition* and all exhibits, and this Order by registered or certified mail on the City of Philadelphia at [**include address**] and shall file a return of service as soon as possible upon service. Service may also be accomplished as provided by Pa.R.C.P. No. 400.1;
 - d) Mail a copy of the *Notice, Petition* and exhibits, and this Order to all lienholders and other secured creditors as identified in the *Petition*, by registered or certified mail, to their last known address, and file a return of service as soon as possible upon service. Service may also be accomplished as provided by Pa. R.C.P. No. 400.1. The lienholders and other secured creditors as identified in the *Petition* are:

[List here the name of all lienholders and other secured creditors or as attachment]

1. As required by 68 P.S. § 1104 (c), the Petitioner shall file a *Lis Pendens* with the City of Philadelphia Department of Records and a copy with the Prothonotary;
2. Unless otherwise provided upon petition, the owner may file an Answer to the Petition on or before _____ [approximately 60 days];
3. Unless otherwise provided upon petition, the City of Philadelphia, lienholders, other secured creditors, and any other "party in interest" as defined in 68 P.S. § 1103 may file a Petition to Intervene pursuant to Pa.R.C.P. 2236 *et seq.* on or before _____ [approximately 60 days];
4. Answers and responses to any Petitions to Intervene must be filed on or before _____ [approximately 90 days];
5. As required by the Act, a hearing will be held on _____ [within 120 days of the filing of Petition] at _____ o'clock _____ M _____, in Courtroom _____, City Hall, to determine whether the conditions for conservatorship have been met, whether a conservator should be appointed, who should be appointed as conservator, and/or whether other appropriate relief should be granted; and

6. At any time, the Court may appoint a master-judge *pro tem* to review the pleadings filed, conduct any hearing or status hearing authorized by Act 135 and this General Court Regulation, and issue orders or recommendations as directed by the Court and as may otherwise be necessary. Court costs necessary for the payment of the master-judge *pro tem* must be deposited with the Prothonotary by the Petitioner or Conservator as may be ordered from time to time by the Court.

BY THE COURT

J.

ATTACHMENT "D"

[**By: Attorney Bar No. Email Address Firm Name Street Address Telephone Number**]

[**Petitioner**] :
: COURT OF COMMON PLEAS
Petitioner, : OF PHILADELPHIA COUNTY
:
:
v. : CIVIL TRIAL DIVISION
:
: TERM: _____ 20 ____
: No.: _____
[**Owner(s) of Property at Issue**] :
Respondent(s) :

LIS PENDENS**To The Recorder of Deeds:**

Kindly enter the above action as a *Lis Pendens* against the property located at:

_____, BRT No. _____ and meeting the following legal description (the "Property"):

[Include property description in indented paragraph or as attachment.]

I do hereby certify that this action involves title to real estate. It seeks appointment of a conservator to take possession and to undertake the rehabilitation [or demolition] of the Property pursuant to the Abandoned and Blighted Property Conservatorship Act, P. L. 1672, No. 135, 68 P. S. § 1101 *et seq.* (2008).

Attorney for Petitioner

[Pa.B. Doc. No. 09-1982. Filed for public inspection October 23, 2009, 9:00 a.m.]

Title 25—LOCAL COURT RULES

FRANKLIN AND FULTON COUNTY BRANCHES

In Re: Amendment of Local Rule of Civil Procedure 39-212; Miscellaneous Docket; Volume 2009, Page 4345

Order of Court

October 5, 2009, it is hereby ordered that Local Rule of Civil Procedure 39-212 is amended as attached, said rule will be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

DOUGLAS W. HERMAN,
President Judge

Rule 39-212. Pre-Trial Conference.

39-212.1. A Pre-trial Conference shall be scheduled by the Court Administrator in all civil cases not subject to arbitration pursuant to Section 7361 of the Judicial Code, 42 Pa.C.S.A. Section 7361, unless otherwise dispensed with by the Court, for the general purpose of fully exploring the possibility of settlement of the case. Additional consideration shall be given to:

- (a) Simplification of the issues;
- (b) Necessity or desirability of amendments to the pleadings and request for amendments;
- (c) Admission of facts and of documents to avoid unnecessary proof;
- (d) Limitation of the number of expert and other witnesses;
- (e) Reference of issues to a Master, only with the consent of all parties, for findings to be used as evidence in a jury trial; and
- (f) Other matters which may aid in disposing of the action.

39-212.2. No Pre-trial Conference shall be scheduled until all Pre-trial Motions, Petitions, Answers and Objections have been disposed of, discovery is completed and the case is ready for trial.

39-212.3. At least five (5) days prior to the Pre-trial Conference, each party shall exchange and submit to the Court a Pre-trial Memorandum which shall include the following:

- (a) A narrative statement of the facts to be proved at trial;
- (b) A statement of the legal theory upon which the right of recovery or defense is predicated, together with a citation of authority supporting the party's position;
- (c) A statement of any legal issues likely to arise which will require a ruling by the Court with citation to authority supporting the party's position;
- (d) An itemized statement of the damages to be proved at trial, and where applicable, the amount claimed for each item of damage;
- (e) A list of stipulations to which the opposition can reasonably be expected to agree;
- (f) A list of all exhibits which are to be offered at trial, including a brief description of each, together with a statement of the purpose for which each will be offered;
- (g) A copy of written reports from any expert witness expected to testify;
- (h) A list of any hypothetical questions to be used;
- (i) A list of the names and addresses of all witnesses to be called, except in rebuttal. (Such lists shall impose no obligation to call all listed witnesses or procure their attendance at trial);
- (j) The estimated length of trial.

(k) Certification by the attorney submitting same that mediation has been previously pursued or, if not, that the topic of mediation was discussed by the parties and rejected only after good faith consideration.

If a party becomes aware of the necessity or desirability or using a witness or an exhibit not listed in his Pre-trial Memorandum, he shall promptly notify opposing counsel and the Pre-trial Conference Judge of the name and address of the witness or the nature of the exhibit. A party may not call a witness or use an exhibit without first having complied with this section unless permission of the Court is granted upon cause shown.

39-212.4. Each party appearing in the case or having an actual interest in it shall be represented at the Pre-trial Conference by counsel who will be in direct charge and responsible to the Court at trial. Such counsel must be vested with authority to bind his client by stipulation with respect to the trial or settlement of the case. All attorneys shall bring their files, together with any additional appropriate materials to the conference.

39-212.5. Matters resolved or determined by the Court and parties at the Pre-trial Conference shall be incorporated in an Order by the Court and made part of the record for the use of the Court and parties in subsequent proceedings. Such Orders shall control the course of the action unless modified by the Court at trial to prevent manifest injustice.

39-212.6. Unless excused from attendance in advance by the Court, counsel who fails to attend the Pre-trial Conference shall not be permitted to participate in the trial of the case.

If a party or his counsel fails to attend the Pre-trial Conference or fails to comply with the requirements of these Rules or any Pre-trial Order or Stipulation, the Court may, with or without Motion by any party, impose such penalty or sanction as it deems appropriate, including but not limited to the dismissal of the Complaint or Counterclaim, exclusion of a claim or defense or part thereof, exclusion of the use of certain witnesses or exhibits, removal from the trial list or imposition of counsel fees incurred as a result of noncompliance.

[Pa.B. Doc. No. 09-1983. Filed for public inspection October 23, 2009, 9:00 a.m.]

FRANKLIN AND FULTON COUNTY BRANCHES

In Re: Amendment of Local Rule of Civil Procedure 39-214; Miscellaneous Docket; Volume 2009, Page 4346

Order of Court

October 5, 2009, it is hereby ordered that Local Rule of Civil Procedure 39-214 is amended as attached, said rule will be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

DOUGLAS W. HERMAN,
President Judge

Rule 39-214. Preferences on Trial List.

39-214.1. A cause of action shall be listed for trial by filing a Praecipe in the office of the Prothonotary with a copy of the Praecipe to be sent by ordinary mail to opposing counsel of record, and to all parties not represented by counsel, which shall constitute sufficient notice of the listing of the cause. **The Praecipe shall contain a certification that mediation was pursued or, if not, was the subject of good faith consideration by counsel and all parties.**

A cause must be listed for trial at least five (5) full calendar weeks prior to the day on which trial commences.

The Prothonotary shall list the causes for trial in a docket to be provided for that purpose.

39-214.2. In the Franklin County Branch, the Prothonotary shall post a list of causes set down for trial and shall cause the list to be published once a week for three (3) successive weeks immediately following the closing of the trial list in the *Franklin County Legal Journal* and in newspapers of the County of general circulation, one of which shall be published in Chambersburg, one in Waynesboro, one in Greencastle, and one in Mercersburg, if such there shall be.

39-214.3. In the Fulton County Branch, the Prothonotary shall post a list of causes set down for trial and shall cause the list to be published once a week for three (3) successive weeks immediately following the closing of the trial list in a newspaper of the County of general circulation and published in McConnellsburg.

39-214.4. A list containing the names of the jurors summoned for each term of Court, with their exact place of residence and occupation, and a list of the causes for trial in the Court of Common Pleas for that term, giving the names of the parties, number and term, form of action and names of counsel, shall be prepared by the

Court Administrator and supplied by him in sufficient numbers to furnish one copy thereof to any party who requests it.

39-214.5. The parties to a cause at issue may, by mutual consent and with approval of the Court, add it to the trial list at any time.

Any party may apply to the Court for an Order to strike from the trial list any cause which has been irregularly placed on it.

39-214.6. All cases shall be ready for trial on the date set for the selection of juries in each trial term, unless otherwise ordered by the Court. If a case is called and is not ready for trial, the Court may make an appropriate Order pertaining thereto.

[Pa.B. Doc. No. 09-1984. Filed for public inspection October 23, 2009, 9:00 a.m.]

FRANKLIN AND FULTON COUNTY BRANCHES

In Re: Amendment of Local Rule of Civil Procedure 39-250; Miscellaneous Docket; Volume 2009, Page 4347

Order of Court

October 5, 2009, it is hereby ordered that Local Rule of Civil Procedure 39-250 is amended as attached, said rule will be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

DOUGLAS W. HERMAN,
President Judge

Rule 39-250. Statutory Appeals.

Except for those proceedings governed by statute, regulation or other rules, the Pennsylvania Rules of Civil Procedure shall apply to all statutory appeals, including tax assessment appeals and tax exemption appeals filed in the 39th Judicial District of Pennsylvania.

[Pa.B. Doc. No. 09-1985. Filed for public inspection October 23, 2009, 9:00 a.m.]

FRANKLIN AND FULTON COUNTY BRANCHES

In Re: Amendment of Local Rule of Civil Procedure 39-1001; Miscellaneous Docket; Volume 2009, Page 4348

Order of Court

October 5, 2009, it is hereby ordered that Local Rule of Civil Procedure 39-1001 is amended as attached, said rule will be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

DOUGLAS W. HERMAN,
President Judge

Rule 39-1001. Mediation.

a. **General Applicability.** All civil actions, with the exception of those matters arising under Pa.R.C.P. 1901 through 1940.9, filed in the Court of Common Pleas of the 39th Judicial District are eligible for mediation. Prior to filing suit and whenever practicable thereafter, parties and their counsel are encouraged to consider and to pursue mediation options.

b. **Procedure for Mediation in Non-Jury Civil Trials, Civil Jury Trials and Cases Subject to Arbitration.** Parties and their attorneys in all applicable civil cases which will result in a non-jury civil trial, civil jury trial or arbitration may mutually elect to pursue mediation at any point before a case is listed for trial or arbitration. Status conferences conducted by the court in accordance with 39th Judicial District Local Rule 212.7 shall include a discussion of the likely success of mediation and the appropriate point in the life of that case for mediation to take place.

c. **Certifications in Non-Jury Civil Trial, Civil Jury Trials and Cases Subject to Arbitration.** Any Praeceptum to list a case pursuant to 39th Judicial District Local Rule 39-214.1 for a Non-Jury Civil Trial, a Civil Jury Trial or Arbitration shall contain a certification that mediation was pursued or, if not, was the subject of good faith consideration by counsel and all parties. All pre-trial conference memoranda filed in accordance with 39th Judicial District Local Rule 212.3 shall include certification by the attorney submitting same that mediation has been previously pursued or, if not, that the topic of mediation was discussed by the parties and rejected only after good faith consideration.

d. **Mediation Programs.** Parties and their attorneys are encouraged to use mediation to resolve disputes either through the Judge assigned to the case, if offered, or through any other mediation program acceptable to the parties.

[Pa.B. Doc. No. 09-1986. Filed for public inspection October 23, 2009, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 78]

Oil and Gas Wells

The Environmental Quality Board (Board) by this order amends Chapter 78 (relating to Oil and Gas Wells) by adding new definitions and amending § 78.19 (relating to permit application fee schedule) as set forth in Annex A. The Board has the authority to establish fees, by regulation, under section 201 of the Oil and Gas Act (act) (58 P. S. § 601.201). Under this provision, the Board has the authority to set fees at an amount that bears a reasonable relationship to the cost of administering the act.

This order was adopted by the Board at its meeting of July 21, 2009.

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 Ronald Gilius, Director, Bureau of Oil and Gas Management, Rachel Carson State Office Building, 5th Floor, 400 Market Street, P. O. Box 8765, Harrisburg, PA 17105-8461, (717) 772-2199 or Scott Perry, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the Pennsylvania AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department of Environmental Protection's (Department) web site: www.depweb.state.pa.us.

C. Statutory Authority

The final-form rulemaking is adopted under the authority of section 201(d) of the act which authorizes the Department to establish, by regulation, well permit fees that bear a reasonable relationship to the cost of administering the act, section 604 of the act (58 P. S. § 601.604) which directs the Board to adopt regulations necessary to implement the act, and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), authorizing and directing the Board to adopt regulations necessary for the performance of the work of the Department.

D. Background and Purpose

The act was passed on December 19, 1984, and established a \$100 fee for oil and gas well permits. Section 201(d) of the act allows the Department to increase the fee by regulation. Under this provision, fees must be set at a level that "bears a reasonable relationship to the cost of administering" the act. Fees for traditional oil and gas wells have never been increased. However, fees for Marcellus Shale wells were recently increased on April 18, 2009.

At the same meeting that the Board approved the proposed rulemaking that is made final by this order, the Board also approved a final-omit rulemaking that increased permit fees for wells that produce natural gas from the Marcellus Shale formation. The proposed rule-

making also included the new Marcellus Shale permit application fees that were included in the final-omit rulemaking to allow interested persons to comment on the new Marcellus Shale permit application fees as part of the proposed rulemaking. The Board committed to making appropriate changes to the Marcellus Shale permit application fees as part of the proposed rulemaking in response to public comments. On April 18, 2009, the final-omit regulations increasing permit fees for Marcellus Shale wells were published in the *Pennsylvania Bulletin* and became final. See, 39 Pa.B. 1982.

There are three considerations that support a regulation that increases the permit application fees authorized by the act. First, the costs of administering the act have increased significantly since 1984 when the General Assembly established the \$100 fee that the Department currently charges. This \$100 per permit application fee does not currently bear a reasonable relationship to the cost of administering the act. Indeed, in 2008 permit fees only provided 15% of the revenue needed by the Department to administer the act. The remaining 85% was provided through the General Fund.

Second, the number of permit applications that the Department reviews annually has grown dramatically over the past several years. In 2000, 1,354 wells were drilled in this Commonwealth. In 2008, the Department issued 7,927 well permits, of which 7,451 were for traditional oil and gas wells. The Department's current staffing levels for the Oil and Gas Program were established at a time when the Department reviewed considerably fewer permit applications than it reviews today. To properly review the number of applications that the Department currently receives and to inspect the operations at sites that currently possess a permit, the Department needs additional staff that the current \$100 fee cannot support.

Finally, there continues to be significant interest in the development and recovery of natural gas resources from the Marcellus Shale formation that underlies much of this Commonwealth. Despite the recent economic downturn and the decline of natural gas prices, Marcellus Shale well permitting and drilling is increasing. In 2008, the Department permitted 476 Marcellus Shale wells. In the first 5 months of 2009, the Department permitted 569 Marcellus Shale wells.

The drilling and completion techniques that allow recovery of natural gas from the Marcellus Shale present new and expanded environmental considerations that the Department must evaluate to ensure the gas is recovered in an environmentally protective manner. Many of the environmental considerations are directly related to the use of water to recover natural gas from the Marcellus Shale formation. Extracting natural gas from the Marcellus Shale requires a process known as "hydraulic fracturing." Hydraulically fracturing the Marcellus Shale uses far greater amounts of water than traditional natural gas exploration. Large volumes of water are pumped into the formation, along with sand and other materials under high pressure, to fracture the rock surrounding the well bore. A single well can use millions of gallons of water to hydraulically fracture the rock. After the hydraulic fracturing process is completed, the wastewater must be properly managed.

The significantly greater use of water at Marcellus Shale wells creates a series of environmental issues during the drilling and development of a Marcellus Shale well. First, there are a number of considerations associated with withdrawal of water, including the need to monitor and restrict the amount of withdrawal to avoid dewatering streams and causing pollution. Under State water law, a person who withdraws water in the amounts generally associated with Marcellus Shale well development shall register the withdrawal with the Department. Second, there are a number of considerations associated with the use and storage of the water used for hydraulic fracturing at the well site or at other locations. Third, there are a number of considerations associated with the proper management, treatment and disposal of the wastewater.

The Department expends considerable staff resources to review the additional information associated with a Marcellus Shale well permit. The fees provided by the final-omitted regulation provide the revenue needed to recover the Department's costs to properly evaluate a Marcellus Shale well permit application and to inspect the activities associated with Marcellus Shale well drilling. Therefore, the fees provided by the final-omitted regulation will remain unchanged.

E. Summary of Changes Made in the Final-form Rule-making

§ 78.1 (relating to definitions)

In response to comments by the Independent Regulatory Review Commission (IRRC), the Department added definitions for Marcellus Shale well, "nonvertical well" and "vertical well."

§ 78.19(d) (relating to underpayment of fee)

In response to several comments, the Department removed the 10% penalty for wells that are drilled longer than the length applied for. As amended, applicants only need to submit the difference between the correct fee and the previously submitted fee.

§ 78.19(e) (relating to money-back guarantee)

This subsection stated that fees were nonrefundable. It was not the Department's intention to withhold fee refunds when the Department fails to take action on well permits within the time period required by the Department's money-back guarantee policy. This subsection has been deleted.

F. Summary of Comments and Responses on the Proposed Rulemaking

Fees for traditional wells

Several commentators questioned the size of the fee increase for non-Marcellus Shale wells. They contend that for conventional shallow oil and gas well permitting, either no fee increase is needed or at most, a fee increase that tracks inflation since 1983 would be more appropriate. Using the Consumer Price Index published by the United States Department of Labor's Bureau of Labor Statistics, the fee for the wells would increase from the current \$100 as enacted in the act to \$216.

The initial \$100 permit fee did not cover the program costs in 1984. Program staff and most equipment have primarily been funded by the General Fund. Very few positions, equipment, or emergency well plugging has been funded by permit fees. Indeed, revenue provided by permit fees only covered 15% of the Department's administrative costs in 2008 with the remaining 85% funded through the General Fund. Also, permitting has increased

by 398% in just the last 10 years with only recent increases in permitting staff and minimal increases in inspection staff. It is also important to note that the well permit fee is not an annual fee. Therefore, the entire program must be funded through new well permits. To provide the funding needed to employ sufficient staff and provide equipment necessary to carry out the Department's statutory duties through the well permit application fee, as envisioned by section 201(d) of the act, the permit fees must be increased in the amounts provided in the regulation to "bear a reasonable relationship to the cost of administering this act."

Fees based on well bore length

Several commentators questioned the relationship between well bore length and the administrative costs incurred by the Department in reviewing and processing the application.

Section 201(d) of the act states that well permit fees must "bear a reasonable relationship to the cost of administering this act." The Department believes the fee structure satisfies this requirement. While there is not a direct relationship between well bore length and review time, deeper wells do tend to have a greater potential for environmental impacts and this in turn requires greater Department evaluation of the potential impacts. Any set permit fee will necessarily require one group of well drillers to pay more than others if the Department's total costs to administer the program are to be covered by the permit fee as envisioned by the law. The Department believes the ability to bear the cost of increased fees is better able to be borne by operators drilling deeper wells and to do otherwise would place an undue burden on smaller operators.

Penalty for underpayment of fee

Commentators requested deletion of the provision in § 78.19(d) that penalizes the operator if the drilled well bore length exceeds the length specified in the permit application.

This provision has been removed.

Fee refund

Commentators questioned whether the Department would continue to refund permit fees according to its money-back guarantee policy in light of proposed § 78.19(e) which states that fees are nonrefundable.

This subsection has been deleted. It was not the Department's intention to withhold fee refunds where the Department fails to take action on well permits within the time period required by the Department's money-back guarantee policy. However, the Department will not refund permit fees for wells that are permitted but not drilled or for wells that are drilled that have a shorter well bore length than the length permitted.

G. Benefits, Costs and Compliance

Benefits

The residents of this Commonwealth and the regulated community will benefit from these regulations because the Department will be able to continue to uphold the purposes of the act. The purposes of the act are to:

- (1) Permit the optimal development of the oil and gas resources of this Commonwealth consistent with the protection of the health, safety, environment and property of the citizens of this Commonwealth.
- (2) Protect the safety of personnel and facilities employed in the exploration, development, storage and production of natural gas or oil or the mining of coal.

(3) Protect the safety and property rights of persons residing in areas where such exploration, development, storage or production occurs.

(4) Protect the natural resources, environmental rights and values secured by the Pennsylvania Constitution. (58 P. S. § 601.102)

The public will benefit in two general ways. First, the public will benefit from a fiscal perspective when the costs of the regulatory program are imposed on the regulated community, as the act provides. For Marcellus Shale gas well development, the need for timely and special reviews has significantly increased the Department's cost of implementation of the program and it is in the public interest to impose these costs on the regulated community. The public also benefits from an environmental perspective because the Department will be able to hire additional staff to properly inspect new and existing traditional wells and to properly review Marcellus Shale well permit applications.

The regulated community will also benefit because the regulated community wants timely reviews of permit applications, which state law also requires. Having the staff to evaluate well permit applications in a timely and environmentally protective manner will benefit the regulated community and the public.

Costs

This rulemaking will not impose any additional costs on the Department. This proposal will help the Department offset the greater implementation costs to support new and extensive reviews of oil and gas permit applications.

The base fee for vertical wells is \$250 with an additional \$50 per 500 feet of well bore drilled from 2,000 feet to 5,000 feet and an additional \$100 per 500 feet for the well bore drilled past 5,001 feet. Nonvertical wells and Marcellus Shale wells have a base fee of \$900 with an additional \$100 per 500 feet of well bore drilled past 1,500 feet. An applicant for a vertical well with a well bore length of 1,500 feet or less for home use shall pay a permit application fee of \$200.

Compliance Assistance Plan

A compliance assistance plan is not necessary because the new fee structure does not create a situation where a well operator will be out of compliance with the regulation. Well permits that do not contain the appropriate fee are not complete. The Department will return the application to the applicant and tell the applicant what the appropriate fee is. To minimize this circumstance from occurring, the Department will publicize the new permit fee requirements on its web site and inform potential applicants of the new fee structure at upcoming industry trainings.

Paperwork Requirements

No additional paperwork will be required as a result of this rulemaking. However, the Department will need to amend its well permit application form and instructions to incorporate and explain the new permit fee structure.

H. Sunset Review

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

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 4, 2009, the Department

submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 838 (February 14, 2009) to IRRC and 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 these final-form regulations, the Department has considered all comments from IRRC, the Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on September 16, 2009, these final-form regulations were deemed approved by the Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on September 17, 2009, and approved the final-form regulations.

J. 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 at 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

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

(3) These regulations do not enlarge the purpose of the proposal published at 39 Pa.B. 838.

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

K. Order of the Board

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

(a) The regulations of the Department, 25 Pa. Code Chapter 78, are amended by amending §§ 78.1 and 78.19 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

(e) This order shall take effect immediately.

JOHN HANGER,
Chairperson

(Editor's Note: Section 78.15(b) was proposed to be amended at 39 Pa.B. 838. The amendment was adopted pursuant to the rulemaking which appeared at 39 Pa.B. 1982 (April 18, 2009). The proposal to amend § 78.1, amended in this rulemaking, was not included in the proposal at 39 Pa.B. 838.)

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 5812 (October 3, 2009).)

Fiscal Note: Fiscal Note 7-431 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 I. LAND RESOURCES

CHAPTER 78. OIL AND GAS WELLS

Subchapter A. GENERAL PROVISIONS

§ 78.1. Definitions.

(a) The words and terms defined in section 103 of the act (58 P.S. § 601.103), section 2 of the Coal and Gas Resource Coordination Act (58 P.S. § 502), section 2 of the Oil and Gas Conservation Law (58 P.S. § 402), section 103 of the Solid Waste Management Act (35 P.S. § 6018.103) and section 1 of The Clean Stream Law (35 P.S. § 691.1), have the meanings set forth in those statutes when the terms are used in this chapter.

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

* * * * *

Marcellus Shale well—A well that when drilled or altered produces gas or is anticipated to produce gas from the Marcellus Shale geologic formation.

* * * * *

Nonvertical well—

(i) A well drilled intentionally to deviate from a vertical axis.

(ii) The term includes wells drilled diagonally and wells that have horizontal bore holes.

* * * * *

Vertical well—A well with a single vertical well bore.

* * * * *

Subchapter B. PERMITS, TRANSFERS, AND OBJECTIONS

§ 78.19. Permit application fee schedule.

(a) An applicant shall pay a permit application fee according to the following schedule:

<i>Vertical Wells</i>		<i>Nonvertical Wells</i>		<i>Marcellus Shale Wells</i>	
Total Well Bore Length in Feet	Total Fee	Total Well Bore Length in Feet	Total Fee	Total Well Bore Length in Feet	Total Fee
0 to 2,000	\$250	0 to 1,500	\$900	0 to 1,500	\$900
2,001 to 2,500	\$300	1,501 to 2,000	\$1,000	1,501 to 2,000	\$1,000
2,501 to 3,000	\$350	2,001 to 2,500	\$1,100	2,001 to 2,500	\$1,100
3,001 to 3,500	\$400	2,501 to 3,000	\$1,200	2,501 to 3,000	\$1,200
3,501 to 4,000	\$450	3,001 to 3,500	\$1,300	3,001 to 3,500	\$1,300
4,001 to 4,500	\$500	3,501 to 4,000	\$1,400	3,501 to 4,000	\$1,400
4,501 to 5,000	\$550	4,001 to 4,500	\$1,500	4,001 to 4,500	\$1,500
5,001 to 5,500	\$650	4,501 to 5,000	\$1,600	4,501 to 5,000	\$1,600
5,501 to 6,000	\$750	5,001 to 5,500	\$1,700	5,001 to 5,500	\$1,700
6,001 to 6,500	\$850	5,501 to 6,000	\$1,800	5,501 to 6,000	\$1,800
6,501 to 7,000	\$950	6,001 to 6,500	\$1,900	6,001 to 6,500	\$1,900
7,001 to 7,500	\$1,050	6,501 to 7,000	\$2,000	6,501 to 7,000	\$2,000
7,501 to 8,000	\$1,150	7,001 to 7,500	\$2,100	7,001 to 7,500	\$2,100
8,001 to 8,500	\$1,250	7,501 to 8,000	\$2,200	7,501 to 8,000	\$2,200
8,501 to 9,000	\$1,350	8,001 to 8,500	\$2,300	8,001 to 8,500	\$2,300
9,001 to 9,500	\$1,450	8,501 to 9,000	\$2,400	8,501 to 9,000	\$2,400
9,501 to 10,000	\$1,550	9,001 to 9,500	\$2,500	9,001 to 9,500	\$2,500
10,001 to 10,500	\$1,650	9,501 to 10,000	\$2,600	9,501 to 10,000	\$2,600
10,501 to 11,000	\$1,750	10,001 to 10,500	\$2,700	10,001 to 10,500	\$2,700
11,001 to 11,500	\$1,850	10,501 to 11,000	\$2,800	10,501 to 11,000	\$2,800
11,501 to 12,000	\$1,950	11,001 to 11,500	\$2,900	11,001 to 11,500	\$2,900
		11,501 to 12,000	\$3,000	11,501 to 12,000	\$3,000

(b) An applicant for a vertical well exceeding 12,000 feet in total well bore length shall pay a permit application fee of \$1,950 + \$100 for every 500 feet the well bore extends over 12,000 feet. Fees shall be rounded to the nearest 500-foot interval.

(c) An applicant for a nonvertical well or Marcellus Shale well exceeding 12,000 feet in total well bore length shall pay a permit application fee of \$3,000 + \$100 for every 500 feet the well bore extends over 12,000 feet. Fees shall be rounded to the nearest 500-foot interval.

(d) If, when drilled, the total well bore length of the well exceeds the length specified in the permit application, the operator shall pay the difference between the amount paid as part of the permit application and the amount required by subsections (a)—(c).

(e) An applicant for a vertical well with a well bore length of 1,500 feet or less for home use shall pay a permit application fee of \$200.

(f) At least every 3 years, the Department will provide the EQB with an evaluation of the fees in this chapter and recommend regulatory changes to the EQB to address any disparity between the program income generated by the fees and the Department's cost of administering the program with the objective of ensuring fees meet all program costs and programs are self-sustaining.

[Pa.B. Doc. No. 09-1987. Filed for public inspection October 23, 2009, 9:00 a.m.]

Title 34—LABOR AND INDUSTRY

DEPARTMENT OF LABOR AND INDUSTRY [34 PA. CODE CHS. 111 AND 131]

[Correction]

Special Rules of Administrative Practice and Procedure Before the Workers' Compensation Appeal Board; Special Rules of Administrative Practice and Procedure Before Workers' Compensation Judges

An error occurred in the definition of "service" in § 111.3 in the final-form rulemaking which appeared at 39 Pa.B. 6038, 6042 (October 17, 2009). The correct version of the definition is as follows:

Service—Delivery in person, by mail or electronically. If service is by mail, it is deemed complete upon deposit in the United States mail, as evidenced by a United States Postal Service postmark, properly addressed, with postage or charges prepaid.

[Pa.B. Doc. No. 09-1925. Filed for public inspection October 16, 2009, 9:00 a.m.]

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION [52 PA. CODE CH. 21]

[L-2008-2038549/57-262]

Defining the Term Household Goods in Use Carrier

The Pennsylvania Public Utility Commission (Commission) on April 16, 2009, adopted a final rulemaking order which amends 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 amending 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 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, will amend its existing regulation in 52 Pa. Code § 21.1 defining the term "household goods in use carrier." The 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 the buyer's dwelling. The amended regulation 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.

The Commission contact persons are Adam Young, (717) 787-5000 (Law Bureau) and Eric A. Rohrbaugh, (717) 783-3190 (Law Bureau).

Public Meeting held
April 16, 2009

Commissioners Present: James H. Cawley, Chairperson; Tyrone J. Christy, Vice Chairperson; Robert F. Powelson; Kim Pizzingrilli; Wayne E. Gardner

*Rulemaking Re: Amendment to 52 Pa. Code § 21.1;
Defining the Term Household Goods in Use Carrier;
Doc. No. L-2008-2038549*

Final Rulemaking Order

By the Commission:

In accordance with Section 501 of the Public Utility Code, 66 Pa.C.S. § 501, the Commission formally commenced its rulemaking process to amend its existing regulations at 52 Pa. Code § 21.1 defining the term "Household goods in use carrier."

Background and Procedural History

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.¹ In particular, it appears that PODS-type services, in which the customer is responsible for packing and unpacking, 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 amending 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.

The Proposed Rulemaking Order was adopted at our Public Meeting on May 22, 2008 and was approved 4-0. The Proposed Rulemaking Order then went to the Independent Regulatory Review Commission (IRRC) on September 25, 2008, and was published in the *Pennsylvania Bulletin* on October 11, 2008 at 38 Pa.B. 5665. Comments from interested parties were due on November 10, 2008, but no comments were filed, either by any interested parties, or by IRRC.

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 (ALJ). 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 (FMCSA) denied a petition for declaratory order filed by the American Moving and

¹ PODS 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.).

² Household 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.

³ The 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).

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. (U.S. 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, FMCSA 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 FMCSA 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. Federal case law also supports the FMCSA'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, AC-COUNTING, 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 householder with intent to use in his dwelling." *Id.* Thus, the current regulation covers in-

stances 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 his/her dwelling. The current regulation exists in keeping with its Federal counterpart, 49 U.S.C.A. § 13102(10), as it existed prior to the 1999 amendments, which changed the definition from *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 the property is purchased by the householder with intent to use in his dwelling. It is the intent of the Commission not to require such factories or stores to have a household goods carrier certificate for such moves, even in the instance where an agent or employee loads and unloads the item(s).

Conclusion

The Commission, therefore, will amend its existing regulation at 52 Pa. Code § 21.1 defining the term "Household goods in use carrier" consistent with Annex A to this Order. The 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.

Regulatory Review

Under section 5(a) of the Regulatory Review Act, (71 P. S. § 745.5(a)), the agency submitted a copy of the final rulemaking, which was published as proposed at 38 Pa.B. 5665 on October 11, 2008, and served September 25, 2008, to the Independent Regulatory Review Commission (IRRC) and the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure for review and comment. No comments were filed to this final-form rulemaking.

This final-form regulation was deemed approved by the House Committee on Consumer Affairs, the Senate Committee on Consumer Protection and Professional Licensure and IRRC on August 5, 2009, in accordance with section 5(g) of the Regulatory Review Act.

Accordingly, under sections 501 and 1501 of the Public Utility Code, 66 Pa.C.S. § 501 and 1501; section 204 of the Act of July 31, 1968, P. L. 769 No. 240, as amended, 45 P. S. § 1204, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5 (relating to notice of proposed rulemaking required; adoption of regulations; and approval as to legality); the Commission adopts the regulations at 52 Pa. Code § 21.1 as set forth in Annex A; *Therefore,*

It is Ordered That:

1. The regulations of the Commission, 52 Pa. Code Chapter 21, are amended by amending § 21.1 to read as set forth in Annex A.

2. The Secretary shall submit this order and Annex A to the Office of Attorney General for review and approval and to the Governor's Budget Office for fiscal review.

⁴ "The 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).

⁵ Based 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.

⁶ 1999 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."

3. The Secretary shall submit this order and Annex A to the Legislative Standing Committees and to IRRC for review and approval.

4. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for final publication upon approval by IRRC.

5. A copy of this 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.

6. This regulation shall become effective upon publication in the *Pennsylvania Bulletin*.

7. The contact person for this order 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 contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau, (717) 772-4579.

JAMES J. MCNULTY,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 5096 (August 22, 2009).)

Fiscal Note: Fiscal Note 57-262 remains valid for the final adoption of the subject regulation.

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:

Certificate—A certificate of public convenience as issued by the Commission.

Commission—The Pennsylvania Public Utility Commission.

Common carrier of property—A motor common carrier who or which transports property, other than household goods in use.

Corporation—A body corporate, joint stock company or association, domestic or foreign, its lessee, assignee, trustee, receiver or other successor in interest, having the powers or privileges of corporations not possessed by individuals or partnerships, but not including a municipal corporation except as otherwise expressly provided in the act.

Household goods in use—

(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.

Household goods in use carrier—A motor common or contract carrier that transports household goods in use.

Motor carrier—A common or contract carrier by motor vehicle.

Passenger carrier—A motor common or contract carrier that transports passengers.

[Pa.B. Doc. No. 09-1988. Filed for public inspection October 23, 2009, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Year 2010 Dog Control Facility Bill Reimbursement Grant Program

The Department of Agriculture (Department) gives notice that it intends to award up to \$550,000 in grants under its Year 2010 Dog Control Facility Bill Reimbursement Program (Program). The Program will award bill reimbursement grants of up to \$15,000 per recipient to humane societies or associations for the prevention of cruelty to animals that meet the guidelines and conditions of this Program. The Program will be funded from the Dog Law Restricted Account, from funds which are hereby declared to be "surplus" funds for the limited purposes set forth in section 1002(b) of the Dog Law (3 P. S. § 459-1002(b)).

A proposed version of these guidelines and conditions was published at 39 Pa.B. 5324 (September 12, 2009). The Department invited public and legislative review of these proposed guidelines and conditions in accordance with 7 Pa. Code § 23.4 (relating to guidelines and conditions). The Department received no comments on the proposed guidelines and conditions; and intends to establish the proposed guidelines and conditions as the final guidelines and conditions for the Program.

The guidelines and conditions for the Program are set as follows.

Guidelines and Conditions for the Year 2010

Dog Control Facility Bill Reimbursement Grant Program

1. Definitions.

The following words and terms, when used in these guidelines and conditions, have the following meanings:

Department—The Department of Agriculture.

Dog control—The apprehending, holding and disposing of stray or unwanted dogs, or as otherwise defined in the Dog Law (3 P. S. § 459-102).

Eligible Bill—A document seeking payment for materials, services (other than veterinary services and spaying/neutering services) or utilities from a grant recipient, setting forth the following:

- i. The date the document is issued.
- ii. The name and address of the humane society or association for the prevention of cruelty to animals to which the bill is issued.
- iii. If for materials, a description of the materials and the date of delivery. Invoices and/or receipts for materials must set forth or be accompanied by a written description of the intended use of the material and the date the material is used. Materials may not include computers, computer equipment or software. Examples of eligible materials include the following:
 - Cleaning supplies;
 - Office supplies—typical supplies used to carry on daily office duties;

- Materials for building and repair projects; and
- Purchases of medication, needles, and the like.

iv. If for services, the services must be other than veterinary services or spaying/neutering services, and shall include a description of the nature of the services and the dates upon which the services were rendered. Examples of services include the following:

- Labor charges with respect to which the invoice details the exact service performed and the date of performance;
- Cremation services with respect to which the invoice either verifies that only dogs were cremated or—in the event that animals other than dogs were cremated—separates the dogs from those other animals and identifies a charge attributable to only the cremation of the dogs.
- Exterminator services with respect to which the invoice identifies the date of the service and identifies location of the service.
- Property, casualty and liability insurance services (excluding workers compensation insurance).

v. If for utilities (such as electricity, water, sewer, waste disposal and similar purposes), a statement of the period for which the utility, for which payment is sought, was provided.

vi. The name, address and telephone number of the entity issuing the invoice or receipt.

Humane society or association for the prevention of cruelty to animals (SPCA)—A nonprofit society or association duly incorporated under 15 Pa.C.S. Chapter 53, Subchapter A (relating to incorporation generally) for the purpose of prevention of cruelty to animals, or as otherwise defined in the Dog Law (3 P. S. § 459-102).

Program—The Year 2010 Dog Control Facility Bill Reimbursement Program.

2. Eligibility.

A humane society or association for the prevention of cruelty to animals is eligible to apply to receive a grant under the Program if that humane society or association for the prevention of cruelty to animals:

- a. Has been in operation for at least 1 year immediately preceding the application date.
- b. Has performed dog control functions for at least 1 year immediately preceding the application date.
- c. Has, in the performance of its dog control functions, accepted at least 100 stray or unwanted dogs into its facility within the year immediately preceding the application date.
- d. Is not a party to a contract with the Department under which the Department pays that humane society or association for the prevention of cruelty to animals for dog control activities performed in the year 2010.
- e. Agrees—as a condition of receiving any grant money under the Program—to continue to perform dog control activities and to accept stray or unwanted dogs from the Department's State Dog Wardens performing dog control functions, through the year 2010.

f. Agrees—as a condition of receiving any grant money under the Program—to accept stray or unwanted dogs as described in the preceding paragraph without regard to whether the stray or unwanted dog originates from a county other than the county in which the humane society or association for the prevention of cruelty to animals is located.

g. Has a valid Pennsylvania 2010 “Non Profit” kennel license, and operates only a nonprofit kennel at the facility for which grant reimbursement is requested. Facilities which house kennel operations other than a nonprofit facility (that is, boarding kennel and/or commercial kennel) at the same location are not eligible to participate in this program.

h. If the Humane Society/SPCA has a total operating budget of \$350,000 or less for the 2010 calendar year or, if its budget is on a basis other than calendar year, has a total operating budget of \$350,000 or less for each fiscal year comprising any portion of calendar year 2010, the maximum grant amount will not exceed \$15,000.

i. If the Humane Society/SPCA has a total operating budget exceeding \$350,000 for the 2010 calendar year or, if its budget is on a basis of other than calendar year, has a total operating budget over \$350,000 for each fiscal year comprising any portion of calendar year 2010, the maximum grant amount will not exceed \$10,000.

3. Use of Grant Funds.

The Department will allocate a specific maximum grant amount to a successful grant applicant through a written grant agreement. This maximum grant amount will be specified in the grant agreement, and will not exceed \$15,000 with respect to any application.

The maximum grant amount will be retained by the Department and used to reimburse the grant recipient for eligible bills the grant recipient has paid with respect to materials, services or utilities provided to the grant recipient from January 1, 2010, through December 31, 2010. The total reimbursement the Department will pay a grant recipient will not exceed the maximum grant amount. Any money remaining in a grant allocation beyond the termination date of the grant agreement will lapse into the Dog Law Restricted Account. If a bill covers materials, services or utilities provided, in whole or in part, before January 1, 2010, or after December 31, 2010, that bill is not an eligible bill and will not be reimbursed by the Department under the Program.

4. Application Process.

a. *Application required.* A humane society or association for the prevention of cruelty to animals seeking a grant under the Program must complete a written application form and deliver it to the Department no later than 30 days from the date this notice is published in the *Pennsylvania Bulletin*. Applications received by the Department beyond that date will not be considered.

b. *Obtaining an application form.* The Department will provide grant application forms upon request, or the application may be downloaded from the Department's web site: www.agriculture.state.pa.us.

Requests for application forms should be directed to Susan West, Director, Bureau of Dog Law Enforcement,

Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4833, fax (717) 772-4352.

c. *Contents of grant application form.* A grant application form shall require the following information:

i. The name and address of the applicant.

ii. Information to verify that the applicant is a humane society or association for the prevention of cruelty to animals and otherwise meets the eligibility requirements set forth in paragraph 2.

iii. The maximum grant amount sought by the applicant—not to exceed \$15,000 (or \$10,000, if paragraph 2(i) is applicable).

iv. A description of the eligible bills for which the grant applicant intends to seek reimbursement, including a description (and copies, if available) of bills received by the applicant in 2009 for the same type of materials, services (other than veterinary services and spaying/neutering services), or utilities for which reimbursement will be sought under the grant agreement.

v. Verification that, in the event a grant is awarded, the applicant will continue to perform dog control activities, and to accept stray or unwanted dogs from the Department's State Dog Wardens performing dog control functions, through the year 2010.

vi. Other information as the Department might reasonably require.

5. Review and approval of grant application.

a. *Review and notification.* The Department will review each timely grant application and provide the applicant written notification of whether the Department awards the grant, denies the grant or awards a grant in some amount less than the applicant sought. This written notification will be mailed no later than 30 days from the date the Bureau of Dog Law Enforcement receives the grant application, to the address provided by the applicant on the grant application form. If an application is incomplete or the Department requires additional information or documentation to evaluate the grant request, it will so advise the applicant within 30 days from the date it receives the grant application.

b. *Review criteria.* The Department will consider the following, among other factors, in determining whether to award a grant application:

i. The number of applications received and the availability of funds for the grants sought.

ii. The relative contribution of the applicant to dog control activities in the area it serves.

iii. The relative contribution of the applicant to dog control as compared to the relative contribution of other applicants.

iv. The relative importance of the grant to the continued operation of the applicant's dog control facility.

v. The expense or logistical difficulty the Department would encounter if the applicant's dog control facility was no longer in operation.

vi. The relative contribution of the applicant in terms of the number of stray or unwanted dogs it accepts from the Department's State Dog Wardens performing dog control functions.

6. *Grant agreement.*

a. *Grant agreement required.* A successful grant applicant must execute a grant agreement with the Department, setting forth the terms and conditions under which the grant money will be used by the Department to reimburse the grant recipient for payment of eligible bills.

b. *Reimbursement requests.* The grant agreement will set forth the exact procedure by which a grant recipient shall seek reimbursement from the Department for payment of eligible bills. The basic reimbursement request procedure will be as follows:

By July 15, 2010, the grant recipient will: (1) deliver copies of the eligible bills it has paid between January 1, 2010, and June 30, 2010; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 6-month period.

By January 15, 2011, the grant recipient will: (1) deliver copies of the eligible bills it has paid between July 1, 2010, and December 31, 2010; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 6-month period.

c. *Payment by the Department.* The Department will reimburse a grant recipient for eligible bills within 60 days of receiving a complete and timely reimbursement request.

d. *Termination.* The Department may terminate a grant agreement at any time by providing the grant recipient written notice of termination at the address set forth on the grant application.

RUSSELL C. REDDING,
Acting Secretary

[Pa.B. Doc. No. 09-1989. Filed for public inspection October 23, 2009, 9:00 a.m.]

DEPARTMENT OF BANKING

Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending October 13, 2009.

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

BANKING INSTITUTIONS

Branch Applications

De Novo Branches

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
10-5-2009	Graystone Tower Bank Lancaster Lancaster County	2325 South Market Street Elizabethtown Lancaster County	Opened

Branch Discontinuances

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
9-30-2009	Susquehanna Bank Lititz Lancaster County	2290 South George Street York York County	Closed
9-30-2009	Susquehanna Bank Lititz Lancaster County	606 Arch Street Williamsport Lycoming County	Closed

<i>Date</i>	<i>Name and Location of Applicant</i>	<i>Location of Branch</i>	<i>Action</i>
9-30-2009	Susquehanna Bank Lititz Lancaster County	Strawberry Square 15 North 3rd Street Harrisburg Dauphin County	Closed
9-30-2009	Susquehanna Bank Lititz Lancaster County	Normandie Ridge 1700 Normandie Drive York York County (Limited Service Facility)	Closed
9-30-2009	Susquehanna Bank Lititz Lancaster County	271 Market Street Lemoyne Cumberland County	Closed
9-30-2009	Susquehanna Bank Lititz Lancaster County	Fairmount Homes 333 Wheat Ridge Drive Ephrata Lancaster County (Limited Service Facility)	Closed
9-30-2009	Susquehanna Bank Lititz Lancaster County	Village at Sprenkle Drive 1802 Folkemer Circle York York County (Limited Service Facility)	Closed
10-8-2009	Centric Bank Harrisburg Dauphin County	10 North Progress Avenue Harrisburg Dauphin County	Filed

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

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

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 09-1990. Filed for public inspection October 23, 2009, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of November 2009

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), determines that the maximum lawful rate of interest for residential mortgages for the month of November 2009, is 6 1/4%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221). Further preemption was instituted with the signing of Pub. L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and which the individual occupies or has occupied as his principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 3.77 to which was added 2.50 percentage points for a

total of 6.27 that by law is rounded off to the nearest quarter at 6 1/4%.

STEVEN KAPLAN,
Secretary

[Pa.B. Doc. No. 09-1991. Filed for public inspection October 23, 2009, 9:00 a.m.]

DEPARTMENT OF EDUCATION**Application of Duquesne University of the Holy Spirit for Approval of Amendment and Restatement of its Articles of Incorporation****Notice of Opportunity for Hearing and Invitation to Protest**

Under 24 Pa.C.S. § 6503(e) (relating to certification of institutions), the Department of Education (Department) will consider the application of Duquesne University of the Holy Spirit for a Certificate of Authority approving the university's request to amend and restate the institution's Articles of Incorporation.

In accordance with 24 Pa.C.S. § 6503(e), the Department will act upon this 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 Department, 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 protests) or 1 Pa. Code §§ 35.27—35.32 (relating to intervention).

Petitions to intervene, protest and request for hearing shall be filed with Carol M. D. Gisselquist, Higher Education Specialist at (717) 787-4448, 333 Market Street, Harrisburg, PA 17126-0333 on or before 4 p.m. on the due date prescribed by this notice. Persons wishing to review

the application should phone or write to the aforementioned office to schedule a time for an in-office review. Duplicate copies of the application are not available.

Persons with a disability who wish to attend the hearing, if held, and require an auxiliary aid, service or other accommodation to participate, should contact Carol M. D. Gisselquist at (717) 787-4448 to discuss how the Department may best accommodate their needs.

GERALD L. ZAHORCHAK, D.Ed.,
Secretary

[Pa.B. Doc. No. 09-1992. Filed for public inspection October 23, 2009, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

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

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

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

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

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

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

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

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

I. NPDES Renewal Applications

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>
PA0031810 (Sew)	Eastern Lebanon County School District—High School 180 Elco Drive Myerstown, PA 17067	Lebanon County Jackson Township	UNT Tulpehocken Creek 3C	Y
PA0086924 (IW)	FCI USA, Inc. 829 Old Trail Road Etters, PA 17319-9351	Huntingdon County Shirley Township	Juniata River 12-C	Y

Northwest Region: Oil and Gas Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6860.

<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>
PA0033383	Cherry Run Camp 2855 Cherry Run Road Rimersburg, PA 16248	Toby Township Clarion County	Cherry Run 17-B	Y
PA0038814	Ellport Borough Sewer Authority 313 Burns Avenue Ellwood City, PA 16117	Ellport Borough Lawrence County	Connoquenessing Creek 20-C	Y
PA0223018	Farmington Township STP 596 Fairbanks Road Russell, PA 16345	Farmington Township Warren County	UNT to Kiantone Creek 16-B	Y

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

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

PA0020915, Sewage, **Pine Grove Joint Treatment Authority**, 115 Mifflin Street, Pine Grove, PA 17963. This proposed facility is located in Pine Grove Township, **Schuylkill County**.

Description of Proposed Activity: Discharge of treated sewage.

The receiving stream, Swatara Creek, is in the State Water Plan Watershed 7D and is classified for: CWF. The nearest downstream public water supply intake for Derry Township located on Swatara Creek is greater than 20 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 1.5 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	17	25	30
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	5.6	8.4	11.2
(11-1 to 4-30)	18.8	25	
Dissolved Oxygen	A minimum of 6.0 mg/l at all times.		
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		
pH	6.0 to 9.0 Standard Units at all times.		
Total Residual Chlorine	0.5		1.2
Phosphorus	2.0	3.0	4.0

Chesapeake Bay Tributary Strategy Nutrient Requirements

Parameter	Concentration (mg/L)	Mass (lbs)	
	Monthly Average	Monthly Load	Annual Load
Ammonia-N	Report	Report	Report**
Kjeldahl-N	Report	Report	
Nitrate-Nitrate as N	Report	Report	
Total Nitrogen	Report	Report	Report
Total Phosphorus	Report	Report	Report
Net Total Nitrogen		Report	27,397*
Net Total Phosphorus		Report	3,653*

* This permit contains conditions which authorize the permittee to apply nutrient reduction credits to meet the Net Total Nitrogen and the Net Total Phosphorus effluent mass limits, under the Department of Environmental Protection's (Department) Trading of Nutrients and Sediment Reduction Credits Policy and Guidelines (Document No. 392-0900-001, December 30, 2006). The condition includes the requirement to report the application of these credits in Supplemental Discharge Monitoring Reports (DMRs) submitted to the Department.

* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2012. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2013. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2012.

** Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2012.

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

1. Whole Effluent Toxicity (WETT) requirement.
2. Chesapeake Bay Nutrient Requirements.

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

Application No. PA 0027022, Sewage, **Altoona City Authority (Westerly WWTF)**, 20 Greenwood Road, Altoona, PA 16602. This facility is located in Allegheny Township, **Blair County**.

Description of activity: The application is for an amendment of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Beaverdam Branch, is in Watershed 11-A, and classified for TSF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Newport Borough Water Authority is located on the Juniata River, approximately 143 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 10.8 mgd are:

This amendment revised the Chesapeake Bay Strategy Implementation interim milestone dates. The final compliance date is not affected.

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 not in effect.

Application No. PA 0027014, Sewage, **Altoona City Authority (Easterly WWTF)**, 20 Greenwood Road, Altoona, PA 16602. This facility is located in Logan Township, **Blair County**.

Description of activity: The application is for an amendment of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Little Juniata, is in Watershed 11-A, and classified for TSF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Newport Borough Water Authority is located on the Juniata River, approximately 121 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 9 mgd are:

This amendment revises the Chesapeake Bay Strategy Implementation interim milestone dates. The final compliance date is not affected.

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 not in effect.

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

PA0219461-A1, Sewage, **Center-West Joint Sewer Authority**, 235 Main Street, West Brownsville, PA 15417. This application is for amendment of an NPDES permit to discharge treated sewage from Center-West Joint Sewer Authority STP in Centerville Borough, **Washington County**.

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

Outfall 001: existing discharge, design flow of 0.28 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform	200/100 ml as a Geometric Mean			
(5-1 to 9-30)	2,000/100 ml as a Geometric Mean			
(10-1 to 4-30)	not less than 6.0 nor greater than 9.0			
pH	The following effluent limitations will apply if/when the treatment plant is expanded to a flow of 0.42 mgd.			
Other Conditions:				

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform	200/100 ml as a Geometric Mean			
(5-1 to 9-30)	2,000/100 ml as a Geometric Mean			
(10-1 to 4-30)	not less than 6.0 nor greater than 9.0			
pH				

The EPA waiver is in effect.

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

PA0101737, Sewage, **James A. Cripe, Sr., d/b/a Wilderness MHP**, 7556 West Highland Drive, Coeur D'Alene, ID 83814. This existing facility is located in Pleasant Township, **Warren County**.

Description of Proposed Activity: New NPDES permit to discharge treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Emlenton Water Company is located on the Allegheny River and is approximately 103 miles below point of discharge.

The receiving stream, the UNT to Morrison Run, is in Watershed 16-B and classified for: EV, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.02 mgd.

Parameter	Loadings			Concentrations	
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX				
CBOD ₅	4.2		25		50
Total Suspended Solids	4.0		30		60
NH ₃ -N					
(5-1 to 10-31)	1.0		6		12
(11-1 to 4-30)	3.0		18		36
Dissolved Oxygen		minimum of 4 mg/l at all times			
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)					
Total Residual Chlorine	0.08		0.47		1.1
pH		6.0 to 9.0 Standard Units at all times			

XX—Monitor and Report on monthly DMRs.

The EPA waiver is in effect.

PA0037991, Amendment No. 1, Sewage, Mainlines and Manholes, Inc., 9214 Tannery Road, Girard, PA 16417. This existing facility is located in Girard Township, **Erie County**.

Description of Proposed Activity: New/Transfer of an existing NPDES permit to discharge treated sewage.

The receiving stream, the UNT to Godfrey Run, is in Watershed 15 and classified for: CWF, MF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.08 mgd.

Parameter	Average Monthly (mg/l)	Concentrations	
		Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX		
CBOD ₅	25		50
Total Suspended Solids	30		60
NH ₃ -N			
(5-1 to 10-31)	2.0		4.0
(11-1 to 4-30)	6.0		12.0
Phosphorus as "P"	1.0		2.0
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a Geometric Average	
(10-1 to 4-30)		2,000/100 ml as a Geometric Average	
Total Residual Chlorine	0.26		0.60
Dissolved Oxygen		minimum of 3.0 mg/l at all times	
pH		6.0 to 9.0 Standard Units at all times	

XX—Monitor and Report on monthly DMRs.

The EPA waiver is in effect.

PA0032042, Sewage, Elk Lick Reserve, Allegheny Highlands Council, The Boy Scouts of America, Bordell Road, Smethport, PA 16749. This proposed facility is located in Keating Township, **McKean County**.

Description of Proposed Activity: New permit replacing an expired permit for an existing discharge of treated sewage at a campground.

The receiving stream, the UNT to the South Branch of Cole Creek, is in Watershed 16-C and classified for: EV Waters, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0026 mgd.

Parameter	Average Monthly (mg/l)	Concentrations	
		Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX		
CBOD ₅	25		50
Total Suspended Solids	30		60
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a Geometric Average	
(10-1 to 4-30)		2,000/100 ml as a Geometric Average	
Total Residual Chlorine	1		2.3
pH		6.0 to 9.0 Standard Units at all times	

XX—Monitor and Report on monthly DMRs.

The EPA waiver is in effect.

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

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

WQM Permit No. 3609401, Amendment 09-1, Sewerage, Lancaster Area Sewer Authority, 130 Centerville Road, Lancaster, PA 17603. This proposed facility is located in Manor Township, **Lancaster County**.

Description of Proposed Action/Activity: Amendment for the Perth Hills and Letort Manor project. The force main from the Letort Manor Pump Station has been rerouted which has added approximately 500 linear feet to the force main. The increase in force main length has increased the total dynamic head of the system 5 feet. The additional head does not change pump selection for the Letort Manor Pump Station. The Perth Hills Pump Station has been eliminated and low pressure lines have been added to areas where gravity service is not possible. This will add 30 additional grinder pumps to the existing design.

WQM Permit No. 2209405, Sewerage, **Swatara Township Authority**, 599 Eisenhower Boulevard, Harrisburg, PA 17111-2355. This proposed facility is located in Swatara Township, **Dauphin County**.

Description of Proposed Action/Activity: Seeking approval to remove approximately 1,300 feet of older existing 8" sewer main and 7 manholes and replaced with new 10" sewer main and manholes (Grayson Road Interceptor).

WQM Permit No. 6709403, Sewerage, **Joshua Hill Sewer Company, LLC**, 929 Baltimore Street, Hanover, PA 17331. This proposed facility is located in West Manheim Township, **York County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of a wastewater treatment facility.

WQM Permit No. 3609404, Sewerage, **Sparrow Investments, LLC**, 354 Springville Road, New Holland, PA 17557. This proposed facility is located in Salisbury Township, **Lancaster County**.

Description of Proposed Action/Activity: Seeking approval for the expansion of an existing 55 site campground to include 63 new campsites, existing and proposed facilities will be served by a package WWTP with discharge to an elevated sand mound subsurface disposal system.

WQM Permit No. 3691201, Amendment 09-1, Industrial Waste, **Valley Proteins, Inc., Terre Hill Facility**, 151 ValPro Drive, Winchester, VA 22604-2586. This proposed facility is located in East Earl Township, **Lancaster County**.

Description of Proposed Action/Activity: Seeking approval to upgrade their existing activated sludge wastewater treatment system to meet new permit effluent limitations.

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

WQM Permit No. WQG016178, Sewerage, **Donald and Joyce Wise**, 263 Moscow Road, Amity, PA 15311. This proposed facility is located in Amwell Township, **Washington County**.

Description of Proposed Action/Activity: Application for the construction and operation of a single-residence sewage treatment plant.

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

WQM Permit No. 1009402, Sewerage, **Jay Thrower, d/b/a Field House Restaurant and Banquet Room**, 911 North Pike Road, Cabot, PA 16023. This proposed facility is located in Jefferson Township, **Butler County**.

Description of Proposed Action/Activity: Construction of a small flow treatment facility to alleviate a malfunctioning onlot system.

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

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 1509031	Morphotek, Inc. 210 Welsh Pool Road Exton, PA 19341	Chester	Uwchlan Township	Pickering Creek HQ-TSF
PAI01 1509032	Downing Hills Christian Fellowship 107 Garris Road Downingtown, PA 19335	Chester	Uwchlan Township	Shamona Creek HQ-TSF-MF
PAI01 2309006	Greek Orthodox Community Church PA 30 East Forge Road Media, PA 19063	Delaware	Middletown Township	Rocky Run HQ-CWF-MF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI033109002	F & M Trust Company 20 South Main Street Chambersburg, PA 17201	Huntingdon	Shirley Township	UNT to Juniata River HQ-CWF
PAI030609004	Forrest Rohrbach DRST Financial Group 130 South 16th Street Emmaus, PA 18049-3302	Berks	Hereford Township	UNT to Perkiomen Creek HQ-CWF

Northcentral Region: Watershed 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>
PAI041409011	Jeffrey Long Bontrager, Hackman and Long P. O. Box 140 Spring Mills, PA 16875-0140	Centre	Haines Township	UNT to Elk Creek EV

Columbia County Conservation District: 702 Sawmill Road, Suite 204, Bloomsburg, PA 17815, (570) 784-1310, Ext. 102.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI040009009 Addendum to notice published on September 26, 2009. Previous No. PAI041409009. Columbia County added to list.	Northeastern ITS 6779 Engle Road Middleburg Heights, OH 44130-7926	Columbia	Conyngham Township	UNT to Mahanoy Creek 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>
Dan Hess Chickies Creek Farms, LLC 2537 Risser Mill Road Mount Joy, PA 17552	Lancaster	91.2	1,207.9	Layers	NA	Renewal
J. Earl Breneman Franklin View Farms 1700 Prospect Road Washington Borough, PA 17582	Lancaster	450	1,216.8	Dairy	NA	Renewal
Carl Myer Walnut Run Farms 292 Elm Road Lititz, PA 17543	Lancaster	1,200	1,369.4	Dairy	NA	Renewal
Nelson Martin Home 1850 Horseshoe Pike Annville, PA 17003 Farm 2224 Horeshoe Pike Annville, PA 17003	Lebanon	314.3	853.73	Swine and Dairy	None	New (previous plan under Lloyd Sensenig)

PUBLIC WATER SUPPLY (PWS) PERMIT

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

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

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

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

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

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Application No. 0909512, Public Water Supply.

Applicant	Green Top Management, LLC
Township	West Rockhill Township
County	Bucks
Responsible Official	Michelle Wells Green Top Management, LLC 107 Green Top Road Sellersville, PA 18960
Type of Facility	PWS
Consulting Engineer	Urwiler and Walter, Inc. 7036 Easton Road Unit B Pipersville, PA 18947
Application Received Date	June 5, 2009
Description of Action	Addition of a new well with disinfection, filtration and storage to serve the proposed new units at Green Top Mobile Home Park.

Application No. 2309506, Public Water Supply.

Applicant	Aqua Pennsylvania, Inc.
Township	Nether Providence
County	Delaware
Responsible Official	Marc A. Lucca 762 West Lancaster Avenue Bryn Mawr, PA 19010-3402

Type of Facility PWS
 Consulting Engineer Hatch Mott MacDonald
 27 Bleeker Street
 Millburn, NJ 07041-1008
 Application Received July 24, 2009
 Date
 Description of Action Construction of a new residuals
 treatment facility to improve
 dewatering of residuals at the
 Crum Creek Water Treatment
 Plant.

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

Permit No. 2209505, Public Water Supply.

Applicant **Pillow Borough Authority**
 Municipality Pillow Borough
 County **Dauphin**
 Responsible Official Todd L. Laudenslager
 Vice Chairperson
 P. O. Box 206
 Pillow, PA 17080
 Type of Facility Public Water Supply
 Consulting Engineer Harry E. Bingaman, P. E.
 Glace Assoc., Inc.
 3705 Trindle Road
 Camp Hill, PA 17011
 Application Received August 25, 2009
 Description of Action Installation of a new well (Well
 No. 5).

Permit No. 0109506, Public Water Supply.

Applicant **Boneauville Borough
 Municipal Authority**
 Municipality Bonneauville Borough
 County **Adams**
 Responsible Official Bernie Shanebrook
 Borough Manager
 86 West Hanover Street
 Gettysburg, PA 17325
 Type of Facility Public Water Supply
 Consulting Engineer Bruce Hulshizer, P. E.
 Buchart-Horn, Inc.
 445 West Philadelphia Street
 York, PA 17401-3383
 Application Received September 21, 2009
 Description of Action New Well No. 13 (Sommerfield
 Subdivision).

Permit No. 0609514, Public Water Supply.

Applicant **Christman Lake**
 Municipality Windor Township
 County **Berks**
 Responsible Official Dennis C. Christman, Owner
 183 Christman Road
 Lenhartsville, PA 19534
 Type of Facility Public Water Supply

Consulting Engineer Angelika B. Forndran, P. E.
 Cowan Associates, Inc.
 120 Penn-Am Drive
 Quakertown, PA 18951
 Application Received September 22, 2009
 Description of Action This project consists of
 construction of two new sources
 (Well Nos. 1 and 2), a treatment
 building and a finished water
 storage tank to serve the
 existing Christman Lake
 development.

Permit No. 0609515, Public Water Supply.

Applicant **Reading Area Water
 Authority**
 Municipality Ontelaunee Township
 County **Berks**
 Responsible Official Dean Miller
 Executive Director
 815 Washington Street
 Reading, PA 19601
 Type of Facility Public Water Supply
 Consulting Engineer Max C. Kurbjun, Jr., P. E.
 BCM Engineers
 920 Germantown Pike
 Plymouth Meeting, PA 19462
 Application Received September 22, 2009
 Description of Action Replacing existing and adding an
 additional (spare) raw water
 pump for the Authority's
 emergency source of supply.

Permit No. 0509503, Public Water Supply.

Applicant **Nell's, Inc.**
 Municipality Hamilton Township
 County **Adams**
 Responsible Official Steven Michael
 600 Arsenal Road
 York, PA 17402
 Type of Facility Public Water Supply
 Consulting Engineer Janet R. McNally, P. E.
 William F. Hill and Assoc., Inc.
 207 Baltimore Street
 Gettysburg, PA 17325
 Application Received September 24, 2009
 Description of Action Installation of nitrate removal
 treatment.

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

Permit No. 5326572, Public Water Supply.

Applicant **Wagner Trucking**
 231 9th Street
 Saltsburg, PA 15681
 Township or Borough Conemaugh Township
 Responsible Official Todd Wagner, Owner
 Wagner Trucking
 231 9th Street
 Saltsburg, PA 15681

Type of Facility Bulk water hauling
 Consulting Engineer Hiser Engineering, Inc.
 P. O. Box 339
 Worthington, PA 16262
 Application Received September 15, 2009
 Date
 Description of Action Bulk water hauling system using
 a finished water source.

Permit No. 0209518, Public Water Supply.
 Applicant **Findlay Township Municipal Authority**
 1271 Route 30
 P. O. Box 409
 Clinton, PA 15026
 Township or Borough Findlay Township
 Responsible Official Jason Orsini, Manager
 Findlay Township Municipal Authority
 1271 Route 30
 P. O. Box 409
 Clinton, PA 15026

Type of Facility Water treatment system
 Consulting Engineer NIRA Consulting Engineers, Inc.
 950 Fifth Avenue
 Coraopolis, PA 15108
 Application Received September 16, 2009
 Date
 Description of Action Construction of the Potato
 Garden Westport booster
 pumping station.

Permit No. 0209519, Public Water Supply.
 Applicant **Pittsburgh Water and Sewer Authority**
 1200 Penn Avenue
 2nd Floor
 Pittsburgh, PA 15222-4204
 Township or Borough City of Pittsburgh
 Responsible Official Michael Kenney
 Executive Director
 Pittsburgh Water and Sewer Authority
 1200 Penn Avenue
 2nd Floor
 Pittsburgh, PA 15222-4204

Type of Facility Water treatment system
 Consulting Engineer
 Application Received August 12, 2009
 Date
 Description of Action Installation of a mixing system
 at the Brashear water storage
 tanks.

Permit No. 0209520, Public Water Supply.
 Applicant **Bay Valley Foods, LLC**
 1080 River Avenue
 Pittsburgh, PA 15212
 Township or Borough City of Pittsburgh

Responsible Official Gary Schoen
 Senior Director of Operations
 Bay Valley Foods, LLC
 1080 River Avenue
 Pittsburgh, PA 15212

Type of Facility Bay Valley Food Plant
 Consulting Engineer CDM, Inc.
 2740 Smallman Street
 Suite 100
 Pittsburgh, PA 15222

Application Received September 14, 2009
 Date
 Description of Action Permitting of the existing system
 along with the construction of
 two new wells and the
 installation of an air stripping
 system.

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

Application No. 1009503, Public Water Supply.
 Applicant **Rock Lake North Association**
 Township or Borough Jackson Township
Butler County
 Responsible Official George Hawthorne
 Board Chairperson
 Consulting Engineer Dennis J. Duryea, P. E.
 President
 D2 Environmental Services
 100 Sunset Drive
 P. O. Box 295
 Cheswick, PA 15024

Application Received October 7, 2009
 Date
 Description of Action Addition of alternate location for
 injection of sodium hypochlorite.

MINOR AMENDMENT

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

Application No. 5609503MA, Minor Amendment.
 Applicant **Conemaugh Township Municipal Authority**
 Box 429
 113 South Main Street
 Davidsville, PA 15928
 Township or Borough Paint and Quemahoning
 Townships
 Responsible Official Patrick Mulcahy, Manager
 Conemaugh Township Municipal Authority
 Box 429
 113 South Main Street
 Davidsville, PA 15928
 Type of Facility Water treatment system
 Consulting Engineer The EADS Group, Inc.
 450 Aberdeen Drive
 Somerset, PA 15501

Application Received Date	September 10, 2009
Description of Action	Construction of approximately 9,200 feet of waterline, installation of water services and appurtenances (Blough waterline project).

WATER ALLOCATIONS

Applications received under the Act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. § 631—641) relating to the Acquisition of Rights to Divert Waters of the Commonwealth

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

WA30-587E, Water Allocations. Southwestern Pennsylvania Water Authority, P. O. Box 187, 1442 Jefferson Road, Jefferson, PA 15344, Greene County. The applicant is requesting the right to expand their service area into Amwell Township, **Washington County.**

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

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

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of

the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

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

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

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

National Transit (National Transit Pipeline), Otto Township, McKean County. URS Corporation, 501 Holiday Drive, Suite 300, Pittsburgh, PA 15022 on behalf of Pennzoil-Quaker State Company, 700 Milam, 30th Floor, Houston, TX 77002 has submitted a Notice of Intent to Remediate. Petroleum product impact was discovered at the Duke Center pumping station property during installation/repair of municipal sewers. Resultant data indicated petroleum impacts to both soil and groundwater. The current and proposed future use of the property will be nonresidential. The Notice of Intent to Remediate was published in *The Bradford Era* on August 28, 2009. The proposed remediation will attain a combination of Statewide Health and Site-Specific Standards.

REGISTRATION FOR RESIDUAL WASTE GENERAL PERMITS

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

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

General Permit Application Number WMGR097R011. Hazleton Creek Properties, LLC, Route 924 Mined Lands, City of Hazleton, PA 18201. Registration to operate under General Permit Number WMGR097R011 for research and development activities. The proposed project involves use of dredged material or other regulated fill with fines from processing construction and demolition waste in mine reclamation and as construction material in the Mammoth Strip Pit in Hazleton. The registration was received by Central Office on August 26, 2009.

Comments concerning the registration should be directed to Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984. Public comments must be submitted within 30 days of this notice and may recommend revisions to, and approval or denial of the application.

**OPERATE WASTE PROCESSING OR DISPOSAL
AREA OR SITE**

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

Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.

Permit Application No. 100955. Clinton County Solid Waste Authority, Wayne Township Landfill, 264 Landfill Lane, P. O. Box 209, McElhattan, PA 17748, Wayne Township, Clinton County. An application for the permit renewal for an existing landfill was received by Northcentral Regional Office on October 2, 2009.

Comments concerning the application should be directed to Lisa Houser, P. E., Facilities Manager, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Persons interested in obtaining more information about the permit application may contact the Williamsport Regional Office, (570) 327-3740. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

Permit Application No. 100963. Lycoming County Resource Management Services, Lycoming County Landfill, 447 Alexander Drive, P. O. Box 187, Montgomery, PA 17752, Brady Township, Lycoming County. An application for the permit renewal for an existing landfill was received by Northcentral Regional Office on October 2, 2009.

Comments concerning the application should be directed to Lisa Houser, P. E., Facilities Manager, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Persons interested in obtaining more information about the permit application may contact the Williamsport Regional Office, (570) 327-3740. TDD users may contact the Department of Environmental Protection through the Pennsylvania AT&T Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

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

Permit ID No. 100594. Chambers Development Company, Inc., 600 Thomas Street Extension, Monroeville, PA 15146-0176. Monroeville Landfill, 600 Thomas Street Extension, Monroeville, PA 15146-0176. Application for the permit renewal of a municipal waste landfill in the Municipality of Monroeville, **Allegheny County** was received in the Regional Office on October 6, 2009.

Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Permit Application No. 301356. AK Steel Corporation—Butler Works, P. O. Box 832, 210 Pittsburgh Road, Butler, PA 16003, Butler Township, Butler County. The application is for a new captive residual waste landfill to be known as No. 4 Sludge Bed Landfill. The application was submitted to the Department of Environmental Protection (Department) on August 11, 2009, and was subject to the Local Municipality Involvement Process (LMIP). The LMIP took place on September 30, 2009. The application was found to be administratively complete by the Northwest Regional Office on October 6, 2009.

Comments concerning the application should be directed to Todd Carlson, Program Manager, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335. Persons interested in obtaining more information about the general permit application may contact the Northwest Regional Office at (814) 332-6848. TDD users may contact the Department through the Pennsylvania AT&T Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

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

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

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

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

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

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

PLAN APPROVALS

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

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

24-167A: E Carbon America, LLC (806 Theresia Street, St. Marys, PA 15857) for modification of the method of operation for the carbon baking kilns and construction of the impregnation department in St. Marys City, **Elk 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.

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

11-00356B: The Peoples Natural Gas Co. (D. L. Clark Building, 501 Martindale Street, Suite 500, Pittsburgh, PA 15212-5835) for construction of a new compressor engine, rated at 1,340 bhp and controlled by an oxidation catalyst, and for installation of a thermal oxidizer on existing dehydration units No. 1 and No. 2, at Laurel Ridge/Rager Mountain Compressor Station, in Jackson Township, **Cambria County**.

32-00055F: EME Homer City Generation, LP (1750 Power Plant Road, Homer City, PA 15748-8009) to allow construction and initial operation of a distillate oil-fired auxiliary boiler in replacement of two existing auxiliary boilers at their EME Homer City Generating Station in Black Lick and Center Townships, **Indiana County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.45, the Department of Environmental Protection (Department) intends to issue Plan Approval PA-32-00055F to allow the construction and initial operation of a distillate oil-fired auxiliary boiler in replacement of two existing auxiliary boilers at the EME Homer City Generating Station located in Black Lick and Center Townships, Indiana County. In accordance with 40 CFR 63.54(c) the Department is also providing opportunity for public comment on a Notice of MACT Approval for a case-by-case MACT determination completed for this auxiliary boiler.

Emissions from the replacement distillate oil-fired boiler are projected to be 2.26 tons of NO_x, 1.01 tons of SO_x, 0.85 tons of CO, 0.50 tons of PM and 0.07 tons of VOCs per year. These emission increases will be offset by the emission decreases associated with the deactivation and removal of the two existing auxiliary boilers. The average actual emissions of the existing two auxiliary boilers in 2006 and 2007 are 0.07 tons of NO_x, 0.28 tons of SO_x, 0.015 tons of CO, 0.008 tons of PM and 0.005 tons of VOC. The proposed source is subject to the applicable requirements of 25 Pa. Code Chapter 127, related to construction, modification, reactivation and operation of sources. The Department believes that the source will meet these requirements by complying with the following Plan Approval conditions:

Special Conditions

1. This Plan Approval is to allow the construction and operation of a new auxiliary boiler and associated stack by EME Homer City Generation, LLP at their Homer City Generating Station located in Black Lick and Center Townships, Indiana County (25 Pa. Code § 127.12b).

2. Air contamination sources authorized to be installed at the Facility under this Plan Approval are as follows (25 Pa. Code § 127.12b):

- One Oil-Fired Boiler, Babcock and Wilcox Model No. FM120-124 LH w/ 3L 2P 19E SH, Rated at 313 mmBtu/hr.

3. Existing sources Auxiliary Boiler A and Auxiliary Boiler B shall be permanently retired upon initial operation of the new Auxiliary Boiler (25 Pa. Code § 127.12b).

4. The sulfur content in No. 2 fuel oil used to fire the auxiliary boiler to be constructed under this plan approval shall not, at any time, exceed 0.1 wt% (25 Pa. Code § 127.12b).

5. The annual capacity factor of the auxiliary boiler installed under this plan approval shall be limited to 5%. The Owner/Operator shall record and maintain records of each fuel combusted during each day and calculate the annual capacity factor for each fuel for each calendar quarter. The annual capacity factor is determined on a 12-month rolling average basis with a new annual capacity factor calculated at the end of each calendar month (25 Pa. Code § 127.12b and 40 CFR 60.49b(d)).

6. Total heat input will not exceed 137,040 mmBtu per consecutive 12-month period firing both propane and low sulfur No. 2 distillate oil (25 Pa. Code § 127.12b).

7. Emissions from the new auxiliary boiler shall be limited to the following (25 Pa. Code § 127.12b):

Pollutant	Maximum Emission Rate		
	Lbs/mmBtu	Lbs/Hour	Tons/Year
PM	0.03	9.39	2.06
SO _x	0.1	31.1	6.9
CO	0.084	26.29	5.76
NO _x	0.224	70.11	15.35
VOC	0.0067	2.10	0.46

8. Visible emissions from the auxiliary boiler stack shall not exceed the following limitations (25 Pa. Code § 123.41):

- Equal to or greater than 20% for a period or periods aggregating more than 3 minutes in any 1 hour.
- Equal to or greater than 60% at any time.

9. Performance testing shall be conducted as follows (25 Pa. Code §§ 127.12b and 139.11):

a. Stack testing for NO_x, PM, CO and VOC shall be performed on the replacement auxiliary boiler in accordance with 25 Pa. Code § 139 within 180 days after the completion of construction. Maximum routine operating conditions of the auxiliary boiler is operation at 265 mmBtu/hr.

b. Stack testing for NO_x, PM, CO and VOC shall be performed on the replacement auxiliary boiler in accordance with 25 Pa. Code § 139 during the first time when operating at maximum rated capacity of 313 mmBtu/hr. Operation at maximum capacity is a nonpredictable condition and as such the operator shall notify the Department as soon as practical before testing at maximum capacity.

c. The Owner/Operator shall submit three copies of a pretest protocol to the Department for review at least 45 days prior to the performance of any Environmental Protection Agency (EPA) reference method stack test. All proposed performance test methods shall be identified in the pretest protocol and approved by the Department prior to testing.

d. The Owner/Operator shall notify the Regional Air Quality Manager at least 15 days prior to any performance test other than at maximum rated capacity so that an observer may be present at the time of the test. Notification shall also be sent to the Division of Source Testing and Monitoring. Notification shall not be made without prior receipt of a protocol acceptance letter from the Department.

e. Under 40 CFR Part 60.8(a) and 40 CFR Part 63.7(g), a complete test report shall be submitted to the Department no later than 60-calendar days after completion of the onsite testing portion of an emission test program.

f. Under 25 Pa. Code § 139.53(b) a complete test report shall include a summary of the emission results on the first page of the report indicating if each pollutant measured is within permitted limits and a statement of compliance or noncompliance with all applicable permit conditions. The summary results will include, at a minimum, the following information:

1. A statement that the owner or operator has reviewed the report from the emissions testing body and agrees with the findings.

2. Permit numbers and conditions which are the basis for the evaluation.

3. Summary of results with respect to each applicable permit condition.

4. Statement of compliance or noncompliance with each applicable permit condition.

g. Under 25 Pa. Code § 139.3 to all submittals shall meet all applicable requirements specified in the most current version of the Department's Source Testing Manual.

h. All testing shall be performed in accordance with the provisions of Chapter 139 of the Rules and Regulations of the Department.

i. Under 25 Pa. Code § 139.53(a)(1) and (3) all submittals, besides notifications, shall be accomplished through PSIMS*Online available through <https://www.depgreenport.state.pa.us/ecommm/Login.jsp> when it becomes available. If Internet submittal can not be accomplished, three copies of the submittal shall be sent to the Department of Environmental Protection, Bureau of Air Quality, Division of Source Testing and Monitoring, 400 Market Street,

12th Floor, Rachael Carson State Office Building, Harrisburg, PA 17105-8468 with deadlines verified through document postmarks.

j. The permittee shall ensure all Federal reporting requirements contained in the applicable subpart of 40 CFR are followed, including timelines more stringent than those contained herein. In the event of an inconsistency or any conflicting requirements between state and Federal, the most stringent provision, term, condition, method or rule shall be used by default.

10. The Owner/Operator shall obtain and maintain on site fuel receipts from the fuel supplier, certifying that the oil meets the definition of distillate oil and meets the acceptable sulfur limit. Reports shall be submitted to the Administrator certifying that only very low sulfur oil meeting this definition, natural gas, wood, and/or other fuels that are known to contain insignificant amounts of sulfur were combusted in the affected facility during the reporting period (40 CFR 60.49b(r)(1)).

11. There shall be no fugitive emissions from the Facility contrary to 25 Pa. Code §§ 123.1 and 123.2.

12. The Owner/Operator may not permit the emission into the outdoor atmosphere of any malodorous air contaminants from any source, in such a manner that the malodors are detectable outside the property of the Facility (25 Pa. Code § 123.31).

13. The Owner/Operator shall perform a facility-wide inspection any time the new auxiliary boiler is in operation for the presence of any fugitive emissions or malodors at the property line. If fugitive emissions or malodors are apparent, the Owner/Operator shall take corrective action. Records of each inspection shall be maintained in a log and at the minimum include the date, time, name and title of the observer, along with any corrective action taken as a result (25 Pa. Code § 127.12b).

14. In lieu of continuous opacity monitoring (COM) system installation and operation, visible emission observations are required whenever the B&W Auxiliary Boiler combusts oil (40 CFR 60.13(i)(2)):

- a. At least once during each daylight shift when oil is combusted, an observer certified in accordance with EPA Method 9 shall perform a 3-minute visible emission observation. To obtain representative results, the oil firing rate during the observation period must be the maximum rate during the shift.

- b. An observer certified in accordance with EPA Method 9 shall perform a 3-minute visible emission observation whenever the boiler reaches operating load after a cold startup with oil.

- c. If the average opacity for a 3-minute set of readings made in accordance with a. or b. exceeds 10%, the observer must collect two additional 3-minute sets of visible emission readings for a total of three sets.

15. The Owner/Operator shall maintain records of the following information for visible emission observations made by observers certified in accordance with EPA Method 9 (25 Pa. Code § 127.12b):

- a. Dates and time periods of all opacity observation periods.

- b. Name, affiliation and copy of current visible emission reading certification for each visible emission observer participating in the performance test.

- c. Copies of all visible emission observer opacity field data sheets.

16. The Owner/Operator of an affected facility shall record and maintain records of the amounts of each fuel combusted during each day and calculate the annual capacity factor individually for each fuel for the reporting period. The annual capacity factor is determined on a 12-month rolling average basis with a new annual capacity factor calculated at the end of each calendar month (40 CFR 60.49b(d)(1)).

17. The Facility is subject to New Source Performance Standards for Industrial-Commercial-Institutional Steam Generating Units (40 CFR Part 60, Subpart Db). In accordance with 40 CFR 60.4, copies of all requests, reports, applications, submittals and other communications shall be forwarded to both EPA and the Department at the addresses listed unless otherwise noted.

Director
Air Toxics and Radiation
U. S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

Department of Environmental Protection
Air Quality Program
400 Waterfront Drive
Pittsburgh, PA 15222-4745

18. All logs and required records shall be maintained onsite for a minimum of 5 years and shall be made available to the Department upon request (25 Pa. Code § 127.12b).

19. Upon determination by the Owner/Operator that the sources covered by this Plan Approval are in compliance with all conditions of the Plan Approval the Owner/Operator shall contact the Department's reviewing engineer and schedule the Initial Operating Permit Inspection (25 Pa. Code § 127.12b).

20. Upon completion of Initial Operating Permit Inspection and determination by the Department that the sources covered by this Plan Approval are in compliance with all conditions of the Plan Approval the Owner/Operator shall either revise the pending Title V Operating Permit (TVOP) renewal application or submit a TVOP modification application at least 60 days prior to the expiration date of the Plan Approval (25 Pa. Code § 127.12b).

21. If, at any time, the Department has cause to believe that air contaminant emissions from the sources listed in this Plan Approval may be in excess of the limitations specified in, or established under this plan approval or the permittee's operating permit, the permittee may be required to conduct test methods and procedures deemed necessary by the Department to determine the actual emissions rate. The testing shall be conducted in accordance with 25 Pa. Code Chapter 139, where applicable, and in accordance with any restrictions or limitations established by the Department at such time as it notifies the company that testing is required (25 Pa. Code § 127.12b).

General Conditions

1. Words and terms that are not otherwise defined in this plan approval shall have the meanings set forth in section 3 of the Air Pollution Control Act (APCA).

2. The issuance of this plan approval does not prevent the future adoption by the Department of any rules, regulations or standards, or the issuance of orders necessary to comply with the requirements of the Federal

Clean Air Act (CAA) or the APCA, or to achieve or maintain ambient air quality standards. The issuance of this plan approval shall not be construed to limit the Department's enforcement authority.

3. This plan approval authorizes temporary operation of the sources covered by this plan approval provided the following conditions are met.

a. When construction, installation, modification or reactivation is being conducted, the permittee should provide written notice to the Department of the completion of the activity approved by this plan approval and the permittee's intent to commence operation at least 5 working days prior to the completion of said activity. The notice shall state when the activity will be completed and when the permittee expects to commence operation. When the activity involves multiple sources on different time schedules, notice is required for the commencement of operation of each source.

b. Under 25 Pa. Code § 127.12b(d), temporary operation of the sources to facilitate the shakedown of sources and air cleaning devices, to permit operations pending the issuance of a permit under 25 Pa. Code Chapter 127, Subchapter F or G (relating to operating permits; and Title V operating permits) or to permit the evaluation of the air contaminant aspects of the source.

c. This plan approval authorizes a temporary operation period not to exceed 180 days from the date of commencement of operation, provided the Department receives notice from the permittee under paragraph (a), previously.

d. The permittee may request an extension of the 180-day shakedown period if further evaluation of the air contamination aspects of the sources is necessary. The request for an extension should be submitted, in writing, to the Department at least 15 days prior to the end of the initial 180-day shakedown period and shall provide a description of the compliance status of the source, a detailed schedule for establishing compliance, and the reasons compliance has not been established. This temporary operation period will be valid for a limited time and may be extended for additional limited periods, each not to exceed 180 days.

e. The notice submitted by the permittee under previously included subpart a., prior to the expiration date of the plan approval, shall modify the plan approval expiration date on page 1 of this plan approval. The new plan approval expiration date shall be 180 days from the date of commencement of operation.

4. The permittee shall maintain and operate the sources and associated air cleaning devices in accordance with good engineering practice as described in the plan approval application submitted to the Department.

5. The records, reports or information obtained by the Department or referred to at public hearings shall be available to the public, except as provided in paragraph a. of this condition.

a. Upon cause shown by the permittee that the records, reports or information or a particular portion thereof, but not emission data, to which the Department has access under the act, if made public, would divulge production or sales figures or methods, processes or production unique to that person or would otherwise tend to affect adversely the competitive position of that person by revealing trade secrets, including intellectual property rights, the Depart-

ment will consider the record, report or information, or particular portion thereof confidential in the administration of the act. The Department will implement this section consistent with sections 112(d) and 114(c) of the CAA (42 U.S.C.A. §§ 7412(d) and 7414(c)). Nothing in this section prevents disclosure of the report, record or information to Federal, State or local representatives as necessary for purposes of administration of Federal, State or local air pollution control laws, or when relevant in a proceeding under the act.

6. This plan approval will be valid for a limited time, as specified by the expiration date contained on page 1 of this plan approval. Except as provided in §§ 127.11a and 127.215 (relating to reactivation of sources; and reactivation), at the end of the time, if the construction, modification, reactivation or installation has not been completed, a new plan approval application or an extension of the previous approval will be required.

a. If construction has commenced, but cannot be completed before the expiration of this plan approval, an extension of the plan approval must be obtained to continue construction. To allow adequate time for departmental action, a request for the extension should be postmarked at least 30 days prior to the expiration date. The Department will not issue an extension after the plan approval expires. The request for an extension should include the following:

1. A justification for the extension.
2. A schedule for the completion of the construction.

If construction has not commenced before the expiration of this plan approval, then a new plan approval application must be submitted and approval obtained before construction can commence.

b. If the construction, modification or installation is not commenced within 18-months of the issuance of this plan approval or if there is more than an 18-month lapse in construction, modification or installation, a new plan approval application that meets the requirements of 25 Pa. Code Chapter 127, Subchapters B, D and E (relating to plan approval requirements; prevention of significant deterioration of air quality; and new source review) shall be submitted.

7. This plan approval may not be transferred from one person to another except when a change of ownership is demonstrated to the satisfaction of the Department and the Department approves the transfer of the plan approval in writing.

a. Section 127.12a (relating to compliance review) applies to a request for transfer of a plan approval. A compliance review form shall accompany the request.

b. This plan approval is valid only for the specific source and the specific location of the source as described in the application.

8. Under 35 P.S. § 4008, no person shall hinder, obstruct, prevent or interfere with the Department or its personnel in the performance of any duty authorized under the APCA.

a. The permittee shall also allow the Department to have access at reasonable times to said sources and associated air cleaning devices with such measuring and recording equipment, including equipment recording vi-

sual observations, as the Department deems necessary and proper for performing its duties and for the effective enforcement of the APCA and regulations adopted under the act.

b. Nothing in this plan approval condition shall limit the ability of the EPA to inspect or enter the premises of the permittee in accordance with section 114 or other applicable provisions of the CAA.

9. This plan approval may be terminated, modified, suspended or revoked and reissued if one or more of the following applies:

a. The permittee constructs or operates the source subject to the plan approval in violation of the act, the CAA, the regulations promulgated under the act or the CAA, a plan approval or permit or in a manner that causes air pollution.

b. The permittee fails to properly or adequately maintain or repair an air pollution control device or equipment attached to or otherwise made a part of the source.

c. The permittee fails to submit a report required by this plan approval.

d. The EPA determines that this plan approval is not in compliance with the CAA or the regulations thereunder.

10. The permittee, or any other person, may not circumvent the new source review requirements of 25 Pa. Code Chapter 127, Subchapter E by causing or allowing a pattern of ownership or development, including the phasing, staging, delaying or engaging in incremental construction, over a geographic area of a facility which, except for the pattern of ownership or development, would otherwise require a permit or submission of a plan approval application.

11. No person may permit the use of a device, stack height which exceeds good engineering practice stack height, dispersion technique or other technique which, without resulting in reduction of the total amount of air contaminants emitted, conceals or dilutes an emission of air contaminants which would otherwise be in violation of this plan approval, the APCA or the regulations promulgated thereunder, except that with prior approval of the Department, the device or technique may be used for control of malodors.

12. Reports, test data, monitoring data, notifications shall be submitted to the:

Regional Air Program Manager
Department of Environmental Protection
400 Waterfront Drive
Pittsburgh, PA 15222

13. If required by section 112(r) of the CAA, the permittee shall develop and implement an accidental release program consistent with requirements of the CAA, 40 CFR Part 68 (relating to chemical accident prevention provisions) and the Federal Chemical Safety Information, Site Security and Fuels Regulatory Relief Act.

14. A person may not cause or permit the operation of a source subject to § 127.11 (relating to plan approval requirements), unless the source and air cleaning devices identified in the application for the plan approval and the plan approval issued to the source, are operated and maintained in accordance with specifications in the application and conditions in the plan approval issued by the Department. A person may not cause or permit the

operation of an air contamination source subject to this chapter in a manner inconsistent with good operating practices.

Notice of MACT Approval
CFR 40, Part 63, Subpart B
Maximum Achievable Control Technology
Emission Limitation for
Constructed and Reconstructed Sources
under Section 112(j)

This notice establishes practicable, enforceable maximum achievable control technology emission limitations and requirements for Industrial, Commercial and Institutional Boilers and Process Heaters for the MACT-affected emission units located at Homer City Generating Station in Black Lick and Center Townships, Indiana County. The emission limitations and requirements set forth in this document are enforceable on November 24, 2009, or after all final comments have been addressed.

A. Major Source Information

1. Mailing address of owner or operator: EME Homer City Generation, LP, 1750 Power Plant Road, Homer City, PA 15748-8009

2. Mailing address for location of major source: EME Homer City Generation, LP, 1750 Power Plant Road, Homer City, PA 15748-8009

3. Source category or subcategory for major source: Industrial, Commercial, and Institutional Boilers and Process Heaters

4. MACT-affected emission units: One Oil-Fired Auxiliary Boiler, B and W Model No. FM120-124 LH w/ 3L 2P 19E SH, Rated at 313 mmBtu/hr

5. Type of construction or reconstruction: This source is to be constructed under Plan Approval No. 32-00055F. The proposed auxiliary boiler is an area source of HAPs to be located at a major source of HAPs which would have been subject to 40 CFR Part 63, Subpart DDDDD before the subpart was vacated in September of 2007.

6. Anticipated commencement date for construction or reconstruction: November 17, 2009

7. Anticipated start-up date of construction or reconstruction: July 17, 2009

8. List of the HAPs emitted by MACT-affected emission units:

<i>Hazardous Air Pollutant</i>	<i>Emission Rate (lb/hr)</i>	<i>Emission Rate (lb/yr)</i>
Arsenic	0.00125	0.548
Benzene	0.00586	2.57
Beryllium Compounds	0.000939	0.411
Cadmium Compounds	0.000939	0.411
Chromium Compounds	0.000939	0.411
Ethylbenzene	0.00347	1.52
Formaldehyde	0.119	52.2
Hexane	0.00282	1.23
Manganese Compounds	0.00188	0.823
Mercury Compounds	0.000939	0.411
Naphthalene	0.00220	0.964
Nickel Compounds	0.000939	0.411
Selenium Compounds	0.00470	2.06
Toluene	0.00320	1.40
Xylene	0.00347	1.52
Total	0.15	66.876

Emission rates listed are potential emission rates included in the plan approval application.

B. MACT Emission Limitation

1. The previously stated owner or operator shall not exceed the following emission limitations for the previously stated MACT-affected emission units.

<i>Air Contaminant</i>	<i>Emission Limitation (lb/mmBtu)</i>
VOC	0.0067

A VOC emission limitation has been determined to be the best available indicator of the control of organic HAPs as organic HAPs are a subset of VOCs.

2. The previously stated owner or operator shall install and operate the following control technologies, specific design, equipment, work practice, operational standard, or combination thereof to meet the emission standard or MACT emission limitation listed in paragraph 1 of this section.

The sulfur content in No. 2 fuel oil used to fire the auxiliary boiler shall not, at any time, exceed 0.1 wt%. The use of clean fuels (distillate oil) for combustion represents MACT for metallic and acid gas HAP control.

The Owner/Operator shall employ good combustion practices at all times. Good combustion practices providing for adequate fuel residence time and high temperature represents MACT for organic HAP control.

3. The previously stated owner or operator shall adhere to the following production or operational parameters for the technologies listed in paragraph 2 of this section.

The annual capacity factor of the auxiliary boiler shall be limited to 5%.

Total heat input will not exceed 137,040 mmBtu per consecutive 12-month period firing both propane and low sulfur No. 2 distillate oil.

C. Monitoring Requirements

For each MACT emission limitation and operational requirement established in Section B (MACT emission limitation) the previously stated owner or operator shall comply with the following monitoring requirements. State all monitoring requirements.

No specific monitoring requirements are a part of this case-by-case MACT determination.

D. Reporting and Recordkeeping Requirements

The Owner/Operator shall record and maintain records of each fuel combusted during each day and calculate the annual capacity factor for each fuel for each calendar quarter. The annual capacity factor is determined on a 12-month rolling average basis with a new annual capacity factor calculated at the end of each calendar month.

The Owner/Operator shall obtain and maintain onsite fuel receipts from the fuel supplier that certify that the oil meets the definition of distillate oil and meets the acceptable sulfur limit.

Reports shall be submitted to the Administrator certifying that only very low sulfur oil meeting this definition, natural gas, wood and/or other fuels that are known to contain insignificant amounts of sulfur were combusted in the affected facility during the reporting period.

E. Other Requirements

1. The previously stated owner or operator shall comply with the General Provisions set forth in Subpart A of 40 CFR Part 63, as specified in 40 CFR 63.1(a) and as specified herein by the permitting authority.

2. In addition to the requirements stated in paragraph 1 of this section, the owner or operator will be subject to the following additional requirements.

No additional requirements are a part of this case-by-case MACT determination.

F. Compliance Certifications

The previously stated owner or operator shall certify compliance with the terms and conditions of this notice according to the following procedures:

1. Stack testing for VOC shall be performed on the replacement auxiliary boiler in accordance with 25 Pa. Code § 139 within 180 days after the completion of construction. Maximum routine operating conditions of the auxiliary boiler is operation at 265 mmBtu/hr.

2. Stack testing for VOC shall be performed on the replacement auxiliary boiler in accordance with 25 Pa. Code § 139 during the first time when operating at maximum rated capacity of 313 mmBtu/hr. Operation at maximum capacity is a nonpredictable condition and as such the operator shall notify the Department as soon as practical before testing at maximum capacity.

3. The Owner/Operator shall submit three copies of a pretest protocol to the Department for review at least 45 days prior to the performance of any EPA reference method stack test. All proposed performance test methods shall be identified in the pretest protocol and approved by the Department prior to testing.

4. The Owner/Operator shall notify the Regional Air Quality Manager at least 15 days prior to any performance test other than at maximum rated capacity so that an observer may be present at the time of the test. Notification shall also be sent to the Division of Source Testing and Monitoring. Notification shall not be made without prior receipt of a protocol acceptance letter from the Department.

5. Under 40 CFR Part 60.8(a) and 40 CFR Part 63.7(g), a complete test report shall be submitted to the Department no later than 60 calendar days after completion of the on-site testing portion of an emission test program.

6. Under 25 Pa. Code § 139.53(b) a complete test report shall include a summary of the emission results on the first page of the report indicating if each pollutant measured is within permitted limits and a statement of compliance or noncompliance with all applicable permit conditions. The summary results will include, at a minimum, the following information:

a. A statement that the owner or operator has reviewed the report from the emissions testing body and agrees with the findings.

b. Permit numbers and conditions which are the basis for the evaluation.

c. Summary of results with respect to each applicable permit condition.

d. Statement of compliance or noncompliance with each applicable permit condition.

7. Under 25 Pa. Code § 139.3 to all submittals shall meet all applicable requirements specified in the most current version of the Department's Source Testing Manual.

8. All testing shall be performed in accordance with the provisions of Chapter 139 of the Rules and Regulations of the Department.

9. Under 25 Pa. Code § 139.53(a)(1) and (3) all submittals, besides notifications, shall be accomplished through PSIMS*Online available through <https://www.depgreen.port.state.pa.us/ecommm/Login.jsp> when it becomes available. If Internet submittal can not be accomplished, three copies of the submittal shall be sent to the Department of Environmental Protection, Bureau of Air Quality, Division of Source Testing and Monitoring, 400 Market Street, 12th Floor, Rachael Carson State Office Building, Harrisburg, PA 17105-8468 with deadlines verified through document postmarks.

10. The permittee shall ensure all Federal reporting requirements contained in the applicable subpart of 40 CFR are followed, including timelines more stringent than those contained herein. In the event of an inconsistency or any conflicting requirements between State and the Federal, the most stringent provision, term, condition, method or rule shall be used by default.

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the Plan Approval or Notice of MACT Approval may submit the information to Alan Binder, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222. Each written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of the proposed Plan Approval (specify the Plan Approval number).

Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval or Notice of MACT Approval.

All comments must be received prior to the close of business 30 days after the date of this publication.

For additional information you may contact Alan Binder at (412) 442-4168.

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.

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

67-05033: Gichner Systems Group, Inc. (490 East Locust Street, Dallastown, PA 17313) for renewal of the Title V Operating Permit issued in January 2005 and administratively amended in December 2008 in York Township, York County.

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

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

54-00061: Kaytee Products, Inc. (55 North Sillyman Street, Cressona, PA 17929-1196) for operation of an animal food manufacturing facility in Cressona Borough, Schuylkill County. This is a renewal of a State-only Operating Permit.

48-00054: Praxair, Inc. (145 Shimersville Road, Bethlehem, PA 18015) for operation of an industrial, medical and specialty gas processing facility in the City of Bethlehem, **Northampton County**. This is a renewal of a State-only Operating Permit.

40-00109: Gruma Corp. (15 Elmwood Road, Mountaintop, PA 18707) for operation of a food manufacturing facility in Wright Township, **Luzerne County**. This is a new State-only Operating Permit.

40-00043: Crestwood Membranes, Inc. (755 Oakhill Road, Crestwood Industrial Park, Mountaintop, PA 18707) a State-only Operating Permit for a plastic sheet and film manufacturing facility in Wright Township, **Luzerne County**. The sources at the facility include two boilers, two heaters, three calendar processing lines and one laminating process. The proposed State-only Operating Permit contains applicable requirements for emissions limitations, monitoring, recordkeeping, reporting and work practice standards used to maintain facility compliance with Federal and State air pollution regulations.

39-00013: Kraft Foods North American, Inc. (7352 Industrial Boulevard, Allentown, PA 18106) a State-only Operating Permit to manufacture dry, condensed, evaporated products located in Upper Macungie, **Lehigh County**. The proposed State-only Operating Permit contains applicable requirements for emissions limitations, monitoring, recordkeeping, reporting and work practice standards used to maintain facility compliance with Federal and State air pollution regulations.

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

36-03002: High Concrete Group, LLC (1853 William Penn Way, P. O. Box 10008, Lancaster, PA 17605) for operation of their precast concrete manufacturing facility at 125 Denver Road in East Cocalico Township, **Lancaster County**. This is a renewal of the State-only operating permit issued in January 2005.

36-05127: Martin Limestone, Inc.—Burkholder Plant (404 Martindale Road, Blue Ball, PA 17506) for operation of their existing asphalt plant in Earl Township, **Lancaster County**. This is a permit renewal of their existing State-only operating permit (Synthetic Minor). The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

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

04-00266: Hanson Aggregates BMC, Inc. (2200 Springfield Pike, Connellsville, PA 15425-6412) for continued operation of their Sewickley Creek Asphalt Plant in Economy Borough, **Beaver County**. Equipment at this facility includes a hot mix asphalt plant, two asphalt cement tanks, waste derived liquid fuel tank, crushers, screens, conveyors, stockpiles and inplant roadways. Annual emissions from the facility are estimated to be 13.75 tons NO_x, 8.00 tons VOCs, 32.5 tons CO, 8.25 tons PM and 14.5 tons SO_x. The facility is subject to the applicable requirements of 25 Pa. Code Chapters 121—145 and

Federal standards found in 40 CFR 60, Subparts A, I, Kb and OOO. Proposed OP contains applicable emission limits, as well as testing, monitoring, recordkeeping, reporting and work practice requirements.

04-00680: George Sand & Gravel, Inc. (P. O. Box 127, Georgetown, PA 15043) for operation of construction sand and gravel mining at the Georgetown Plant in Greene Township, **Beaver County**.

This is a State-only Operating Permit renewal.

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

24-00134: Contact Technologies, Inc. (229 West Creek Road, Saint Marys, PA 15857) for a Natural Minor Permit to operate an electric current carrying wiring devices manufacturing facility in City of Saint Marys, **Elk County**. The significant sources are ceramic production, machine shop operations, mixing/molding operations and safety kleen degreaser unit.

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

S09-006: Thomas Jefferson University and Hospital (214 South 11th Street, Philadelphia, PA 19107) for operation of a hospital in the City of Philadelphia, **Philadelphia County**. The facility's air emission source includes 13 emergency generators.

The operating permit will be issued under the 29 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 previous 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—86.34.

Written comments or objections related to a mining permit application should contain the name, address and telephone number of persons submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based.

Requests for an informal conference, or a public hearing, as applicable, on a mining permit application, as provided by 25 Pa. Code §§ 77.123 or 86.34, must contain the name, address and telephone number of the requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires to have the conference conducted in the locality of the proposed mining activities.

When 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.

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

32940110 and NPDES No. PA0212962. Big Mack Leasing Company, Inc., R. D. 6, Box 231, Kittanning, PA 16201, permit renewal for reclamation only of a bituminous surface and auger mine in Young Township, **Indiana County**, affecting 27.5 acres. Receiving stream: Neal Run classified for the following use: TSF. There are no potable water supply intakes within 10 miles downstream. Application received September 28, 2009.

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

63813210 and NPDES Permit No. PA061529. Pennsylvania Coal Reclamation, Inc. (P. O. Box 136, Cuddy, PA 15031). Renewal application for continued mining of a coal refuse reprocessing surface mine, located in Deemston Borough, **Washington County**, affecting 53.3 acres. Receiving streams: UNT to Ten Mile Creek to Monongahela River, classified for the following use: TSF. The potable water supply intake within 10 miles downstream from the point of discharge: Tri-County Municipal Authority. Renewal application received October 6, 2009.

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

54991302R2 and NPDES Permit No. PA0223972. S & S Coal Company, LLC, (66 Snyder Lane, Hegins, PA 17938), renewal of an existing anthracite underground mine operation in Barry, Foster and Hegins Townships, **Schuylkill County** affecting 8 acres, receiving stream: tributary to Hans Yost Creek. Application received October 6, 2009.

54040103R. Summit Anthracite, Inc., (196 Vista Road, Klingerstown, PA 17941), renewal of an existing anthracite surface mine and coal refuse disposal operation in Blythe and Schuylkill Townships, **Schuylkill County** affecting 785 acres, receiving stream: none. Application received October 6, 2009.

54840209C3 and NPDES Permit No. PA0224804. Mazaika Coal Company, (689 Fairview Street, Tamaqua, PA 18252), correction to an existing coal refuse reprocessing and preparation plant operation to include an NPDES Permit for discharge of treated mine drainage in Rush Township, **Schuylkill County** affecting 24 acres, receiving stream: Little Schuylkill River, classified for the following uses: CWF and MF. Application received October 2, 2009.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33

U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Floodplain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E21-412: Greenray Industries, Inc., 840 West Church Road, Mechanicsburg, PA 17055, Stormwater Outfall, Mechanicsburg Borough, **Cumberland County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a 96-inch wide by 16-inch high concrete stormwater outfall and R-4 riprap apron in Trindle Spring Run (CWF) for the purpose of discharging from a stormwater basin in Mechanicsburg Borough, **Cumberland County** (Mechanicsburg, PA Quadrangle N: 15.28 inches; W: 3.72 inches, Latitude: 40° 12' 33"; Longitude: -77° 01' 35").

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

E41-600. Department of Conservation and Natural Resources—Bureau of Forestry, District 20, 6735 Route 220, Dushore, PA 18614-8101. Small Projects Water Obstruction and Encroachment Joint Permit, in Plunketts Creek Township, **Lycoming County**, United States Army Corps of Engineers, Susquehanna River Basin District (Barbours, PA Quadrangle N: 41° 23' 59.15"; W: 76° 46' 16.30").

To construct and maintain a canoe launch, measuring 870 square feet, in the delineated floodway of Loyalsock Creek, located at the Sandy Bottom canoe access along the northern right-of-way off SR 0087, 2.7 miles north of the intersection with SR 1007, in Plunketts Creek Township, **Lycoming County**. There are no impacts to wetlands proposed.

E57-117. Department of Conservation and Natural Resources—Bureau of Forestry, District 20, 6735 Route 220, Dushore, PA 18614-8101. Small Projects Water Obstruction and Encroachment Joint Permit, in Hillsgrove Township, **Sullivan County**, United States Army Corps of Engineers, Susquehanna River Basin District (Hillsgrove, PA Quadrangle N: 41° 26' 55.88"; W: 76° 42' 41.18").

To construct and maintain a canoe launch, measuring 160 square feet, in the delineated floodway of Loyalsock Creek, which is located along the northern right-of-way off Jack's Road, 1.2 miles east of the intersection with SR 0087, in Hillsgrove Township, **Sullivan County**. There are no impacts to wetlands proposed.

E57-118. Grace M. Rekito, R. R. 1 Box 1054, Mildred, PA 18632-9374. Water Obstruction and Encroachment Joint Permit Application, in Cherry Township, **Sullivan County**, United States Army Corps of Engineers, Susquehanna River Basin District (Laporte, PA Quadrangle N: 41° 29' 5.9"; W: 76° 22' 55.4").

To construct and maintain 80 linear feet of 24-inch HDPE pipe in a UNT to Birch Creek, located 0.8 mile north of the intersection of SR 0487 and SR 1006. This project proposes to permanently impact 90 linear feet of the UNT to Birch Creek, which is designated an EVF and WT stream and does not propose to impact any jurisdictional wetlands.

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

E56-353. Somerset County Commissioners, 300 North Center Avenue, Suite 500, Somerset, PA 15501-1472. To construct a bridge over Laurel Hill Creek in Jefferson Township, **Somerset County**, United States Army Corps of Engineers, Pittsburgh District (Bakersville, PA Quadrangle North: 10.1"; West: 9.0", Latitude: 40° 03' 23.5"; Longitude: 79° 11' 21.5"). The applicant proposes to construct and maintain a concrete box beam bridge (prestressed concrete and steel are

allowed as alternatives) with a span of 45', a total width of 18.54' and an underclearance of 9.34' above normal WSE, for the purpose of conveying T- 538 (Duck Pond Road) over Laurel Hill Creek (HQ-CWF).

E65-934. Greater Johnstown Water Authority, 640 Franklin Street, P. O. Box 1407, Johnstown, PA 15901-1407. To construct and maintain 21 waterline stream crossings in Ligonier Borough, Ligonier and Fairfield Townships in **Westmoreland County**, Westmont Borough and Upper Yoder Township in **Cambria County** and Conemaugh Township in **Somerset County**, United States Army Corps of Engineers, Pittsburgh District (Starts on Ligonier, PA Quadrangle N: 22.2 inches; W: 14.8 inches, Latitude: 40° 14' 50"; Longitude: 79° 13' 52" and ends on Johnstown, PA Quadrangle N: 12 inches; W: 13.5 inches, Latitude: 40° 18' 58"; Longitude: 78° 58' 19"). The applicant proposes to construct and maintain 21 waterline stream crossings as follows: one crossing on Mill Creek, upstream of 271 Bridge (EV); two UNTs to Mill Creek, upstream of 271 Bridge (EV); one crossing on a UNT to Dalton Run (HQ-CWF); one crossing on O'Connor Run (HQ-CWF); one crossing on a UNT to O'Connor Run (HQ-CWF); 11 crossings on a UNT to Tubmill Creek (EV); two crossings on a UNT to Allwine Creek (EV), one crossing on Hess Run (HQ-CWF); eight crossings on Mill Creek (HQ-CWF); and two UNTs to Mill Creek (HW-CWF) and to temporarily impact 0.49 acre of wetlands. This is for the purpose of constructing an interconnection between the Municipal Authority of Westmoreland County (Ligonier Borough) and the Greater Johnstown Water Authority's water distribution systems.

ENVIRONMENTAL ASSESSMENTS

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

EA67-016: Judy Wilson, 6924 Dark Hollow Road, Wrightsville, PA 17368, Wilson Stream Restoration, Hellam Township, **York County**, United States Army Corps of Engineers, Baltimore District.

To restore and maintain approximately 200 linear feet of a UNT to the Susquehanna River (WWF) through bank grading, minor stream relocation and bank stabilization measures. The project is proposed to restore highly eroded portions of the channel to prevent structural damage. The project is located along Dark Hollow Road (Columbia West, PA Quadrangle N: 6.72 inches; W: 6.43 inches, Latitude: 40° 02' 13.2"; Longitude: 76° 32' 45.4") in Hellam Township, York County.

ACTIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

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

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

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

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

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for 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>
PAS802213 (Stormwater)	United Parcel Service, Inc. 2129 Rockdale Lane Stroudsburg, PA 18360	Monroe County Stroud Township	Little Pocono Creek 1E	Y
PA0060551 (Sewage)	Little Washington Wastewater Co. Rivercrest Development WWT Facility 762 West Lancaster Avenue Bryn Mawr, PA 19010	Wyoming County Tunkhannock Township	North Branch Susquehanna River 4G	Y

Chesapeake Bay nutrient monitoring requirements for Ammonia Nitrogen, Kjeldahl Nitrogen, Nitrite-Nitrate as N, Total Nitrogen and Total Phosphorus are being added to this permit.

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>
PA0034754 (IW)	GSP Management Company P. O. Box 677 Morgantown, PA 19543	Dauphin County Halifax Township	Gurdy Run 6-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>
PA0209686 (Sewage)	Thomas L. Harris, Sr. 9855 Curwensville- Tyrone Highway Curwensville, PA 16833	Clearfield County Pike Township	UNT to Little Clearfield Creek HQ-CWF, MF 8C	Y

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0032441 (Sewage)	Department of Conservation and Natural Resources—Black Moshannon State Park 4216 Beaver Road Philipsburg, PA 16866-9519	Centre County Rush Township	Black Moshannon Creek HQ-CWF, MF 8D	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>
PA0097756 (Industrial Waste)	Highland Sewer and Water Authority 120 Tank Drive Johnstown, PA 15904	Cambria County Summerhill Township	Beaverdam Run	Y
PA0217158 (Industrial Waste)	Authority of Borough of Charleroi 3 McKean Avenue Charleroi, PA 15022	Washington County Charleroi Borough	Monongahela River	Y
PA0252638 (Sewage)	Perry Township Municipal Authority One Township Drive Star Junction, PA 15482	Fayette County Perry Township	Youghiogheny River	Y
PA0098043 (Sewage)	ITI Trailer and Truck Bodies, Inc. P. O. Box 59 8535 Mason Dixon Highway Meyersdale, PA 15552	Somerset County Elk Lick Township	UNT to Casselman River	Y
PA0092355 (Sewage)	Municipal Authority Borough Belle Vernon P. O. Box 181 10 Main Street Belle Vernon, PA 15012	Fayette County Belle Vernon Borough	Monongahela River	Y
PA0252654 (Sewage)	Yough Sanitary Authority P. O. Box 9 Dawson, PA 15428	Fayette County Dunbar Township	Youghiogheny River	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0034592	Laurel School District 2497 Harlansburg Road New Castle, PA 16101-9705	Lawrence County Hickory Township	UNT to Big Run 20-A	Y
PA0222976	Albert R. Shouey 265 Lairds Crossing Road Worthington, PA 16262	Jefferson County Barnett Township	UNT to Cathers Run 17-B	Y

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

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

NPDES Permit No. PA0058211, Industrial Waste, **Sunoco Inc. (R & M)**, 1735 Market Street, Suite LL, Philadelphia, PA 19103. This proposed facility is located in Upper Chichester Township, **Delaware County**.

Description of Proposed Action/Activity: Approval for the issuance to discharge stormwater from Read Boy Farm into Marcus Hook Creek in Watershed 3G.

NPDES Permit No. PA0010855, Industrial Waste, **E.I. DuPont de Nemours and Company, Inc.**, 1007 Market Street, Wilmington, DE 19801. This proposed facility is located in City of Philadelphia, **Philadelphia County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge into the Schuylkill River (Tidal Zone) in Watershed 2E.

NPDES Permit No. PA0057622, Sewage, **Richard E. Javage, Jr. and Peter and Michele Wahba**, 241 and 261 Woodhill Lane, Media, PA 19063. This proposed facility is located in Upper Providence Township, **Delaware County**.

Description of Proposed Action/Activity: Approval for the renewal and transfer of a NPDES permit to discharge from the residences into a UNT to Ridley Creek in Watershed 3G.

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

NPDES Permit No. PA0085707, Industrial Waste, **Cocalico Valley Poultry Farms**, 1095 Mount Airy Road, Stevens, PA 17578. This proposed facility is located in West Cocalico Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT to Indian Run in Watershed 7-J.

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

NPDES Permit No. PA0254088, Sewage, **Derry Township Municipal Authority**, P. O. Box 250, New Derry, PA 15671. This proposed facility is located in Derry Township, **Westmoreland County**.

Description of Proposed Action/Activity: Permit issuance for the discharge of domestic sewage from residential dwellings with some flow from commercial businesses.

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

NPDES Permit No. PA0263559, Sewage, **Richard D. Pack**, 1300 Penn Avenue, Irwin, PA 15642. This proposed facility is located in North East Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of a new NPDES permit for a new discharge of treated sewage.

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

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

WQM Permit No. WQG02230911, 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. 2300404, Amendment, Sewerage, **White Horse Village, Inc.**, 535 Gradyville Road, Newtown Square, PA 19073. This proposed facility is located in Edgmont Township, **Delaware County**.

Description of Action/Activity: Modifications to the existing wastewater treatment plant.

WQM Permit No. 2398402-T2, Transfer, Sewerage, **Richard E. Javage, Jr. and Peter and Michele Wahba**, 241 and 261 Woodhill Lane, Media, PA 19063. This proposed facility is located in Upper Providence Township, **Delaware County**.

Description of Action/Activity: Permit Transferred formerly Richard E. Javage, Jr. and Julie Saft.

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

WQM Permit No. 2109404, Sewage, **Borough of Mechanicsburg**, 36 West Allen Street, Mechanicsburg, PA 17055. This proposed facility is located in Mechanicsburg Borough, **Cumberland County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of sewerage facilities consisting of rehabilitation of Apple Drive, Messic Avenue, Eric Avenue, Alison Avenue, Market Street and Edgewood Drive pump station.

WQM Permit No. 3106403, Amendment 09-1, Sewage, **Petersburg Borough Sewer Authority**, P. O. Box 6, Petersburg, PA 16669-0006. This proposed facility is located in Logan Township, **Huntingdon County**.

Description of Proposed Action/Activity: Permit amendment approval for the moderation of sewerage facilities consisting of replacing the previously permitted mechanically cleaned fine screen unit with a sewage grinder and bar screen by pass.

WQM Permit No. 2109407, Sewage, **Richard D. and Darlene J. Smith**, 1819 Mountain Road, Newburg, PA 17240. This proposed facility is located in Upper Mifflin Township, **Cumberland County**.

Description of Proposed Action/Activity: Permit approval for the construction/operation of sewerage facilities consisting of a small flow treatment facility with septic tank, dosing tank, sand filter and UV disinfection.

WQM Permit No. 3601204, Amendment 09-1, Industrial Waste, **Cocalico Valley Poultry Farms**, 1095 Mount Airy Road, Stevens, PA 17578. This proposed facility is located in West Cocalico Township, **Lancaster County**.

Description of Proposed Action/Activity: Approval for an amendment to the permit for the construction/operation of industrial wastewater facilities consisting of the construction of a third equalization tank and the addition of media towers in the aeration tanks.

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

WQM Permit No. 5509401, Sewerage, SIC 4952, **Eastern Snyder County Regional Authority**, P. O. Box 330, Selinsgrove, PA 17870. This proposed facility will be located in Penn Borough, **Snyder County**.

Description of Proposed Action/Activity: Permit issued authorizing the construction and operation of a chemical phosphorus removal system.

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

WQM Permit No. 2670202-A1, Industrial Waste, **Municipal Authority Westmoreland County**, 124 Park and Pool Road, New Stanton, PA 15672. This existing facility is located in Dunbar Township, **Fayette County**.

Description of Proposed Action/Activity: Permit amendment issuance for the construction and operation of industrial wastewater facilities.

WQM Permit No. 1109405, Sewerage, **East Conemaugh Borough**, 355 First Street, East Conemaugh, PA 15909. This proposed facility is located in East Conemaugh Borough, **Cambria County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of new sanitary sewer system.

The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania's State Revolving Fund has been identified as a possible funding source. The Department of Environmental Protection's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

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

WQM Permit No. 2509406, Sewerage, **Richard D. Pack**, 1300 Penn Avenue, Irwin, PA 15642. This proposed facility is located in North East Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of a single-residence sewage treatment plant.

WQM Permit No. 4373402, Sewerage, **Amendment No. 1, John W. Ficks, Ficks Enterprise, LLC**, 2155 Susquehanna Trail, McEwensville, PA 17749. This proposed facility is located in Jefferson Township, **Mercer County**.

Description of Proposed Action/Activity: Issuance of a permit to construct a sludge holding tank to work with the original sewage treatment plant.

WQM Permit No. WQG018722, Sewerage, **Leon and Susan Schierer**, 9701 Fry Road, McKean, PA 16426. This proposed facility is located in McKean Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of a single-residence sewage treatment plant.

WQM Permit No. WQG018723, Sewerage, **Betty and Ralph DeFelice**, 9030 Paula Way, McKean, PA 16426. This proposed facility is located in McKean Township, **Erie County**.

Description of Proposed Action/Activity: Issuance of a single-residence sewage treatment plant.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI01 0907001-1	269 Canal Road, LP 301 Oxford Valley Road Suite 701 Yardley, PA 19067-7706	Bucks	Falls Township	Delaware Division of PA Canal—Delaware River WWF-MF
PAI01 1509007	Wesley Sessa and Maureen Noonan 1226 Warwick Furnace Road Pottstown, PA 19465-8903	Chester	East Nantmeal Township	South Branch French Creek EV
PAI01 2309003	MacDade Darby Development, LP 5004 State Road Drexel Hill, PA 19026	Delaware	Darby Borough	Darby Creek WWF

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>
PAI023509001	Covington Township R. R. 6 Box 6315 Moscow, PA 18444	Lackawanna	Covington Township	Roaring Brook HQ-CWF, MF
PAI024503019R	LTS Development, LLC Seven Bridge Road R. R. 5 Box 5348 East Stroudsburg, PA 18301	Monroe	Jackson Township	Pocono Creek HQ-CWF, MF

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

Cambria County Conservation District: 401 Candlelight Drive, Suite 221, Ebensburg, PA 15931, (814) 472-2120.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI051108001	Michael E. Walsh Munster Holdings, LLC 796 Unionville Road Prospect, PA 16052	Cambria	Munster Township	UNT to Noel's Creek HQ-CWF and North Branch of Little Conemaugh River CWF

Cambria District Mining Office: District Mining Manager, 286 Industrial Park Road, Ebensburg, PA 15931-4119.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI275609001	Department of Environmental Protection Cambria District Mining Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Somerset	Jenner Township	South Fork Bens Creek HQ-CWF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

General Permit Type—PAG-2

Facility Location:

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Middletown Township Bucks County	PAG200 0909065	Community Baptist Church 2100 Durham Road Langhorne, PA 19047	Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bensalem Township Bucks County	PAG200 0908074	Bensalem Township School District 3000 Donallen Drive Bensalem, PA 19020	Delaware River Basin CWF-WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Nottingham Township Chester County	PAG200 1509011	Oxford Area Recreation Authority P. O. Box 254 Oxford, PA 19363	Tweed Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

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<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
West Chester Borough Chester County	PAG200 1509023	105 Everhart Development, LLC P. O. Box 2108 West Chester, PA 19380	Blackhorse Run TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Valley Township Chester County	PAG200 1504050-R	Town and Country 321 South Valley Road Devon, PA 19333	Sucker and Rock Runs WWF-TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Chester Borough Chester County	PAG200 1509014	Davis Realty Holdings, LP P. O. Box 545 West Chester, PA 19382	Chester Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Nottingham Township Chester County	PAG200 1509031	Robert Adrisanse 605 Monticello Lane Kennett Square, PA 19348	UNT Northeast Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Marlborough Township Chester County	PAG200 1509046	Advanced GEO Services 1055 Andrew Drive Suite A West Chester, PA 19380	UNT Doe Run CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Middletown Township Delaware County	PAG200 2309013	Southeastern Pennsylvania Transportation Authority 1234 Market Street 12th Floor Philadelphia, PA 19107-3780	Chester Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Franconia Township Montgomery County	PAG200 4605005-R	Perna Septic, Inc. 60 Schoolhouse Road Souderton, PA 18964	Skippack Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Hanover Township Montgomery County	PAG200 4609033	Jack Pogue 2588 Geryville Pike Pennsburg, PA 18073	Stony Run TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Horsham Township Montgomery County	PAG200 4606110-1	LABREPCO Ventures, LP 101 Witmer Road Suite 700 Horsham, PA 19044	Davis Grove Tributary TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG201 5109010	Department of Transportation District 6-0 7000 Geerdes Boulevard King of Prussia, PA 19406	Schuylkill River WWF-MF and Wissahickon Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG201 5109021	William Penn Charter School 3000 West School House Lane Philadelphia, PA 19144	Private Storm Sewer	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG201 5109026	Philadelphia Housing Authority 12 South 23rd Street Philadelphia, PA 19103	Schuylkill River CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG201 5109037	HACE 167 West Allegheny Avenue Philadelphia, PA 19140	Delaware River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Chestnuthill Township Monroe County	PAG2004507005	Robert W. Kinsley P. O. Box 720 Brodheads ville, PA 18322	Weir Lake CWF, MF	Monroe County Conservation District (570) 629-3060
Archbald Borough Lackawanna County	PAG2003509019	Ken Powell 1305 Justus Boulevard Clarks Summit, PA 18411	Tributary to Lackawanna River CWF, MF	Lackawanna County Conservation District (570) 281-9495
City of Pottsville Schuylkill County	PAG2005405031(1)	City of Pottsville Attn: Thomas A. Palamar 401 North Centre Street Pottsville, PA 17901	West Branch Schuylkill River CWF, MF	Schuylkill County Conservation District (570) 622-3742
Oley and Pike Townships Berks County	PAG2000609008	Maybelle Bryan Dutch Valley Property Management 486 Landis Store Road Boyertown, PA 19512	Manatawny Creek CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Marion Township Berks County	PAG2000605052-1	Larry Martin Dutch Valley Food Distributors, Inc. 7615 Lancaster Avenue Myerstown, PA 17067	UNT to Little Swatara Creek CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext 201
Lower Heidelberg Township Berks County	PAG2000604068-R	Walter Greth Greth Land Development 253 Snyder Road Reading, PA 19605	UNT to Spring Creek CWF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
Southampton Township Franklin County	PAG2002809024	Shippensburg Borough Authority P. O. Box 129 Shippensburg, PA 17257	UNT to Conodoguinet Creek WWF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 (717) 264-5499
Antrim Township Franklin County	PAR10M194-1R	Bill Wainger Rolling Hills 7200 Wisconsin Avenue Suite 100 Bethesda, MD 20814	Conococheague Creek WWF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 (717) 264-5499
Quincy Township Franklin County	PAG2002809030	Aaron Hawbaker 6842 Buttermilk Road Waynesboro, PA 17268	West Branch Antietam Creek CWF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 (717) 264-5499
Washington Township Franklin County	PAG2002809025	David Neiber Wayne Highway Estates 14898 Wayne Highway Waynesboro, PA 17268	East Branch Antietam Creek—West Branch Antietam Creek CWF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 (717) 264-5499
Greencastle Borough Franklin County	PAG2002804041-R	Jim Kegerreis Town and Country 10214 Orenda Drive Greencastle, PA 17225	UNT to Conococheague Creek TSF-MF	Franklin County Conservation District 185 Franklin Farm Lane Chambersburg, PA 17201 (717) 264-5499

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<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water / Use</i>	<i>Contact Office & Phone No.</i>
Derry Township Dauphin County	PAG2002204054-R	Kent Bachmann HERCO 300 Park Road Hershey, PA 17033	Spring Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
City of Lebanon Lebanon County	PAG2003809006	William L. Allen Berkshire-Hudson XI, LLC 3735 Beam Road Charlotte, NC 28217	Quittapahilla Creek TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 4
South Lebanon Township Lebanon County	PAG2003809009	Lee A. Stickler Masonic Temple Association of Lebanon PA Box 1572 Lebanon, PA 17042	Quittapahilla Creek TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 4
North Lebanon Township Lebanon County	PAG2003808021	Harold Kreider 3218 West Oak Street Lebanon, PA 17042	UNT to Swatara Creek WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 4
Cornwall Borough Lebanon County	PAG2003804027-R	Louis G. Hurst Alden Place at Cornwall Recreation, Inc. and Cornwall Associates, LLP 100 Freeman Drive Lebanon, PA 17042	Quittapahilla Creek TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 4
North Londonderry Township Lebanon County	PAG2003809012	Robert Weaver Chatham Creek, LLC 227 Granite Run Drive Suite 100 Lancaster, PA 17601	Killinger Creek TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 4
Rome Township Bradford County	PAG2000809006	Roger L. Druck Pine Cradle Lake Family Campground P. O. Box 113 Rome, PA 18837-0113	Parks Creek WWF	Bradford County Conservation District Stoll Natural Resource Center R. R. 5 Box 5030C Towanda, PA 18848 (570) 265-5539, Ext. 6
Peters Township Washington County	PAG2006309023	Department of Transportation District 12-0 P. O. Box 459 North Gallatin Avenue Uniontown, PA 15401	Brush Run WWF	Washington County Conservation District (724) 228-6774
Cranberry Township Butler County	PAG2001008015	Foxwood Estates Planned Residential Development Ron Heurich 11676 Perry Highway Suite 3100 Wexford, PA 10590	UNT to Wolfe Run WWF	Butler County Conservation District (724) 284-5270
Cherrytree Township Venango County	PAG2006109004	SR 0008 A03 Project Department of Transportation 01 255 Elm Street Oil City, PA 16301	Cherrytree Run CWF	Venango County Conservation District (814) 676-2832

*General Permit Type—PAG-3**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>
Williamsburg Borough Blair County	PAR143504	MeadWestvaco Corporation— Williamsburg EPG Plant P. O. Box C Williamsburg, PA 16693	Frankstown Branch Juniata River 11-A TSF	DEP—SCRO—WQ 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Richland Township Cambria County	PAR806155	UPS, Inc. 521 North Center Avenue New Stanton, PA 15672	Sam's Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-4**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>
Salford Township Montgomery County	PAG040132	Helen Harvey 110 Klingerman Road Telford, PA 18969	UNT to East Branch of the Perkiomen Creek Watershed 3E	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Blacklick Township Indiana County	PAG046141	Glen D. Gomish 59 Cramer Road Blairsville, PA 15717-5550	Muddy Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Elizabeth Township Allegheny County	PAG046162	John Karlovski 827 Peairs Road Elizabeth, PA 15037	Tributary of East Branch Coxes Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Rome Township Crawford County	PAG048570	Ruth E. Ruggiero 39762 Kunick Road Centerville, PA 16404	UNT to Two Mile Creek 16-E	DEP—NWR0 Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
McKean Township Erie County	PAG049545	Leon and Susan Schierer 9701 Fry Road McKean, PA 16426	UNT to Elk Creek 15	DEP—NWR0 Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
McKean Township Erie County	PAG049546	Betty and Ralph DeFelice 9030 Paula Way McKean, PA 16426	UNT to Lamson Run 15	DEP—NWR0 Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704

(relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may

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

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

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

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Permit No. 0909513, Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**
762 West Lancaster Avenue
Bryn Mawr, PA 19010-3402

Borough or Township Middletown

County **Bucks**

Type of Facility PWS

Consulting Engineer Hatch Mott McDonald
27 Bleeker Street
Millburn, NJ 07041-1008

Permit to Construct June 8, 2009
Issued

Permit No. 4608513, Public Water Supply.

Applicant **Great Spring Water Company**
101 Cleveland Avenue
Reading, PA 19605

Borough or Township New Hanover

County **Montgomery**

Type of Facility PWS

Consulting Engineer Boyer Engineering, LLC
1440 Ben Franklin Highway
Douglassville, PA 19518

Permit to Construct January 7, 2009
Issued

Permit No. 4609516, Public Water Supply.

Applicant **Andorra Spring Water Company**
2201 Barren Hill Road
Conshohocken, PA 19428

Borough or Township Whitemarsh

County **Montgomery**

Type of Facility PWS

Consulting Engineer L.A.R. Enterprises
363 West High Street
Gettysburg, PA 17325

Permit to Construct June 15, 2009
Issued

Permit No. 0909510, Public Water Supply.

Applicant **Buckingham Township**
P. O. Box 413
Buckingham, PA 18912

Borough or Township Buckingham

County **Bucks**

Type of Facility PWS

Consulting Engineer Castle Valley Consultants, Inc.
10 Beulah Road
New Britain, PA 18901

Permit to Construct April 7, 2009
Issued

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

Permit No. 2209504, Public Water Supply.

Applicant **United Water Pennsylvania**

Borough or Township Swatara Township

County **Dauphin**

Type of Facility Installation of a new Chamber Hill pump station.

Consulting Engineer Arthur Saunders, P. E.
United Water Pennsylvania
4211 East Park Circle
Harrisburg, PA 17111

Permit to Construct October 1, 2009
Issued

Permit No. 3109502 MA, Minor Amendment, Public Water Supply.

Applicant **Grier School**

Borough or Township Warriors Mark Township

County **Huntingdon**

Type of Facility Change in disinfection from gas chlorination to sodium hypochlorite for the spring source.

Consulting Engineer David M. Cunningham, P. E.
Keller Engineers, Inc.
420 Allegheny Street
Hollidaysburg, PA 16648

Permit to Construct October 6, 2009
Issued

Permit No. 2209508 MA, Minor Amendment, Public Water Supply.

Applicant **Pennsylvania American Water**

Borough or Township South Hanover Township

County **Dauphin**

Type of Facility Installation of a replacement coagulant storage tank.

Consulting Engineer 1-Not Available

Permit to Construct October 6, 2009
Issued

Operations Permit issued to **Penny Farm Mobile Home Park**, 7360056, Drumore Township, **Lancaster County** on October 1, 2009, for the operation of facilities approved under Construction Permit No. 3601509.

Operations Permit issued to **Penny Farm Mobile Home Park**, 7360056, Drumore Township, **Lancaster County** on October 1, 2009, for the operation of facilities approved under Construction Permit No. 3602503.

Operations Permit issued to **United Water Pennsylvania**, 7210027, Upper Allen Township, **Cumberland County** on October 1, 2009, for the operation of facilities approved under Construction Permit No. 2109503 MA.

Operations Permit issued to **Exelon Generation Co., LLC**, 7220917, Londonderry Township, **Dauphin County** on September 24, 2009, for the operation of facilities approved under Construction Permit No. 2209506 MA.

WATER ALLOCATIONS

Actions taken on applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631–641) relating to the acquisition of rights to divert waters of this Commonwealth

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

WA 50-234B, Water Allocations. Newport Borough Water Authority, Perry County. The applicant was granted the right to withdraw a maximum of 615,000 gpd from the Juniata River in Newport Borough, Perry County. Consulting Engineer: Max E. Stoner, P. E., Glace Associates, Inc. Permit Issued October 9, 2009.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location:

Borough or Township	Borough or Township Address	County
Warwick Township	315 Clay Road Lititz, PA 17545	Lancaster County

Plan Description: The approved plan provides for a proposed small flow treatment plant to serve a proposed residence to be built on an existing lot generating 500 gpd in sewage flows. The treatment plant will discharge to a UNT to Cocalico Creek. The lot is located on the west side of Skyview Lane, approximately 1,600 feet north of Newport Road in Warwick Township, Lancaster County. The Department of Environmental Protection (Department) code number is A3-36955-306-3s and the APS number is 698107. The project is known as the Jay Peifer development. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of owner as appropriate.

Plan Location:

Borough or Township	Borough or Township Address	County
Dauphin Borough	200 Church Street Dauphin, PA 17018	Dauphin County

Plan Description: The approved plan provides for a low pressure sewer extension to serve nine dwelling units with grinder pumps in the River Road sewage manage-

ment area. The Department of Environmental Protection's (Department) review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. The approved project qualifies for a CSL permit exemption in accordance with Act 40. However, this planning approval is given on the condition that all sewerage facilities qualifying for the permit exemption must be designed, constructed and operated in accordance with the technical standards and practices contained in the Department's Sewerage Manual, and that the municipality and/or authority accepts full responsibility for continuing operation and maintenance.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101–6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

5134 Lancaster Avenue City of Philadelphia, **Philadelphia County**. Charlene Drake, REPSG and Mark

Kuuczynski, REPSG, 6901 Kingsessing Avenue, Philadelphia, PA 19142, on behalf of Kurt O'Brien, SS Overbrook, LP 7932 West Sand Lake Road, Orlando, FL 32819, have submitted a Final Report concerning remediation of site groundwater and soils contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Rush Residence, Warrington Township, **Bucks County**. Jeremy Bolyn, Environmental Maintenance Company, Inc., 1420 East Mermaid Lane, Glenside, PA 19038, on behalf of Jack Rush, 1313 Palomino Drive, Warrington, PA 18976 and Thomas Gagliardi, 1311 Palomino Drive, Warrington, PA 18976, has submitted a 90-day Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Stove Works Facility, Hocage Consultants, Inc., Hatboro Borough, **Montgomery County**. James F. Mullan, P. E., and Wesley P. Fitchett, P. G., Hocage Consultants, Inc., Engineering and Environmental Services, 987 Haddon Avenue, Collingswood, NJ 08108, on behalf of David Kilcoyne, Apple Construction, Inc., 107 Lark Drive, Holland, PA 18966, have submitted a Remedial Investigation/Risk Assessment Report concerning remediation of site groundwater contaminated with inorganic. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Twins at Frankford Creek AOC 001 B & C, City of Philadelphia, **Philadelphia County**. Charlene Drake, REPSG, and Michelle Flowers, REPSG, P. O. Box 5377, 6901 Kingsessing Avenue, Suite 201, Philadelphia, PA 19142, and Michael Schurr OKKS Development, LP, 3333 Street Road, Suite 101, Bensalem, PA 19020, on behalf of Robert LaBrum Redevelopment Authority of Philadelphia, 1234 Market Street, 16th Floor, Philadelphia, PA 19107, have submitted a Final Report concerning remediation of site soil and groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Mark II Associates, Inc. Property, Folcroft Borough, **Montgomery County**. Eduard Eichen, The Oak Group, Inc., Waterfront Technology Center, 200 Federal Street, Suite 300, Camden, NJ 08103, and Terrence O'Reilly, TriState Environmental Management Services, Inc., 368 Dunkferry Road, Philadelphia, PA 19020, on behalf of Cynthia Ray, Mark II Associates, Inc., 266 South 23rd Street, Philadelphia, PA 19103, have submitted a Remedial Investigation/Final Report concerning remediation of site groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard and Site-Specific Standard.

Forman Mills Site, City of Philadelphia, **Philadelphia County**. Bruce Middleman, Stantec, 400 Davis Drive, Suite 400, Plymouth Meeting, PA 19462, on behalf of David O'Sullivan, The Great Atlantic and Pacific Tea Company, Inc., 2 Paragon Drive, Montvale, NJ 07465, has submitted a Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Paciello Residence, Upper Merion Township, **Montgomery County**. Staci Cottone, J & J Spill Service and Supplies, Inc., P. O. Box 370, Blue Bell, PA 19422, on behalf of John and Kathy Paciello, 576 Kebbler Road,

King of Prussia, PA 19406, has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Lemon Substation Site, Valley Township, **Chester County**. Bruce Middleman and Audra Crocetti, Stantec Consulting Services, Inc., 400 Davis Drive, Suite 400, Plymouth Meeting, PA 19462, on behalf of Ben A. LaPage, Ph.D., Peco Electric Company, 2301 Market Street, S7-2, Philadelphia, PA 19103 have submitted a Final Report concerning remediation of site soil contaminated with PCB. The report is intended to document remediation of the site to meet the Statewide Health Standard.

New Kensington High School, City of Philadelphia, **Philadelphia County**. Joanne Van Rensselaer, Envirosearch Consultants, Inc., 500 Norristown Road, P. O. Box 940, Spring House, PA 19477 and Kenneth D'Aurizio, BSI Construction, LLC, 735 Birch Road, Bensalem, PA 19020, on behalf of Lee Norrelli, AP/BSI-A Joint Venture, LLC, 1080 North Delaware Avenue, Suite 1500, Philadelphia, PA 19125, have submitted a Final Report concerning remediation of site soil and groundwater contaminated with lead, PAHs. The report is intended to document remediation of the site to meet the Statewide Health Standard.

USPS Truck Terminal Annex, City of Philadelphia, **Philadelphia County**. Christopher Orzechowski, P. G., Keating Environmental Management, Inc., 123 John Robert Thomas Drive, Exton, PA 19341 and Brad Molotsky, Brandywine Cira South, LP, 555 East Lancaster Avenue, Suite 100, Radnor, PA 19087, on behalf of Kyle Rosato, University of Pennsylvania, 3101 Walnut Street, Philadelphia, PA 19104, have submitted a Final Report concerning remediation of site soil and groundwater contaminated with chlorinated solvents. The report is intended to document remediation of site to meet the Statewide Health Standard.

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

Dallas Shopping Center/Dallas Cleaners, Dallas Borough, **Luzerne County**. Dawn L. Washo, Resource Environmental Management, Inc., 8 Ridge Street, Montrose, PA 18801, on behalf of her client, Humford Equities, 15 Public Square, Suite 302, Wilkes-Barre, PA 18701-1798, has submitted a combined Remedial Investigation/Final Report concerning the remediation of soils found to have been impacted by dry cleaning solvents as the result of historic dry cleaning operations. The report was submitted to document attainment of both the Site-Specific and the Statewide Health Standards. A public notice regarding the submission of the combined Remedial Investigation/Final Report was published in *The Citizens' Voice* on September 26, 2009.

Fisher Property, 500 Little Gap Road, Lower Towamensing Township, **Carbon County**. Kevin P. Van Kuren, Hydrocon Services, Inc., 644 Shrewsbury Commons, PMB 179, Shrewsbury, PA 17361, on behalf of his client, John E. Fisher, Jr., 500 Little Gap Road, Palmerton, PA 18701, has submitted a Final Report concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release from an exterior 275-gallon storage tank. The report was submitted to document attainment of the Statewide Health Standard. A public notice regarding the submission of the Final Report was published in *The Times News* on September 25, 2009.

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

Rodney Weyant Residence, Taylor Township, **Blair County**. Groundwater and Environmental Services, Inc., 6 Sheraton Drive, Suite 2, Altoona, PA 16601, on behalf of Rodney Weyant, R. D. 2, Box 218, Martinsburg, PA 16662, submitted a Final Report concerning remediation of site soils and groundwater contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

Floyd and Beasley Transfer Company Diesel Fuel Spill, Susquehanna Township, **Dauphin County**. Taylor GeoServices, Inc., 38 Bishop Hollow Road, Suite 200, Newtown Square, PA 19073, on behalf of Floyd and Beasley Transfer Company, Inc., P. O. Box 8, 18060 Alabama Highway 21, Sycamore, AL 35149, submitted a Final Report concerning remediation of site soils contaminated with diesel fuel from a ruptured saddle tank on a tractor trailer. The report was submitted within 90 days of the release, and intends to document remediation to the Residential Statewide Health Standard. The release occurred on the shoulder of the highway, and future use of the site will remain the same.

Allen and Rebecca Hollenbach Residence, Muhlenberg Township, **Berks County**. Dorson Environmental Management, Inc., 45 Knollwood Road, Elmsford, NY 10523, on behalf of Allen and Rebecca Hollenbach, 818 Floret Avenue, Reading, PA 19605, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Residential Statewide Health Standard.

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

Bailey Property, Mount Carmel Township, **Northumberland County**. Marshall Miller and Associates, Inc., 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011, on behalf of Duke Heating Oil, Inc., P. O. Box 182, Shamokin, PA 17872, has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Matthews Motors Co., Covington Township, **Tioga County**. Teeter Environmental Services, Inc., R. R. 1, Box 124B, North MacFee Road, Sayre, PA 18840, on behalf of Matthews Motors Co., 1856 North Williamson Road, Covington, PA 16917, has submitted a Final Report concerning the remediation of site groundwater contaminated with leaded gasoline. 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.

Former Universal-Rundle Corporation, Taylor Township, **Lawrence County**. ENVIRON Corporation, 214 Carnegie Center, Princeton, NJ 08540-6284, on behalf of Reed Beidler, 1235 Hartrey Avenue, Evanston, IL 60202, has submitted a Remediation Investigation/Final Report concerning remediation of site soils contaminated with acenaphthene, acenaphthylene, acetone, anthracene, arsenic, barium and compounds, benzene, benzo[a]-anthracene, benzo[a]pyrene, benzo[b]fluoranthene, benzo[ghi]perylene, benzo[k]fluoranthene, bis[2-ethylhexyl]phthalate, cadmium, chromium (III), chrysene, cop-

per, free cyanide, dibenzo[a,h]anthracene, ethyl benzene, fluoranthene, fluorene, indeno[1,2,3-cd]pyrene, lead, mercury, naphthalene, nickel, pyrene, selenium, silver, styrene, tetrachloroethylene (PCE), toluene, xylenes (total), zinc and compounds and site groundwater contaminated with bis[2-ethylhexyl]phthalate, bromodichloromethane, cadmium, carbon disulfide, chloroform, cumene, free cyanide, dibromomethane, dichloroethylene, cis-1,2-dichloroethylene, fluorene, lead, 2-methylnaphthalene, alpha methylstyrene, nickel, phenanthrene, selenium, styrene, tetrachloroethylene (PCE), toluene, and zinc compounds. The report is intended to document remediation of the site to meet the Site-Specific and Statewide Health 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 Pennsylvania AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Trumbauer Residence, Upper Hanover Township **Montgomery County**. Richard D. Trimpi, Trimpi Associate, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 and Jay Kerestus, State Farm-Claim 38-P933-574, P. O. Box 13, Concordville, PA 19331, on behalf of William Trumbauer, 783 Gravel Pike, Palm, PA 18070 have submitted a Final Report concerning the remediation of site soil contaminated with No. 3 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on September 4, 2009.

GE Elmwood Avenue Facility, City of Philadelphia, **Montgomery County**. Chad Smith, MWH, 335 Phoenixville Pike, Malvern, PA 19355, on behalf of General Electric Co., Hal Heckman, 6901 Elmwood Avenue, Philadelphia, PA 19142, has submitted a Risk Assessment Report concerning the remediation of site groundwater and soil contaminated with No. 6 fuel oil, inorganic, lead and PCB. The Risk Assessment was approved by the Department of Environmental Protection on September 8, 2009.

101—103 Cricket Avenue, Lower Merion Township, **Montgomery County**. Samuel Kucia, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401, on behalf of Samuel Galib, JAL Partners, 409 Boxwood Road, Bryn Mawr, PA 19010 has submitted a Remedial Investigation/Final Report concerning the remediation of site soil and groundwater contaminated with unleaded gasoline. The Remedial Investigation/Final Report was approved by the Department of Environmental Protection on September 14, 2009.

Simms Residence, Abington Township, **Montgomery County**. Richard D. Trimpi, Trimpi Associates, Inc., 16345 Old Plains Road, Pennsburg, PA 18073 and Ed Apple, State Farm—Claim 38-P923-774, P. O. Box 11, Concordville, PA 19331, on behalf of Delphine Simmons, 1321 Meadowbrook Road, Meadowbrook, PA 19046 have submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on September 11, 2009.

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

Fisher Property, 500 Little Gap Road, Lower Towamensing Township, **Carbon County**. Kevin P. Van Kuren, Hydrocon Services, Inc., 644 Shrewsbury Commons, PMB 179, Shrewsbury, PA 17361 submitted a Final Report, on behalf of his client, John E. Fisher, Jr., 500 Little Gap Road, Palmerton, PA 18701, concerning the remediation of soil found to have been impacted by No. 2 fuel oil as a result of a release from an exterior 275-gallon

storage tank. The report documented attainment of the Statewide Health Standard and was approved on October 9, 2009.

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

Betty Miller Residence, Millersburg Borough, **Dauphin County**. Chambers Environmental Group, Inc., 629 East Rolling Ridge Drive, Bellefonte, PA 16823, on behalf of Betty Miller, 279 Center Street, Millersburg, PA 17061, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department of Environmental Protection on October 6, 2009.

Logos Academy, City of York, **York County**. GeoServices, Ltd., 1525 Cedar Cliff Drive, Camp Hill, PA 17011, on behalf of Logos Academy, 340 East Market Street, York, PA 17403 and Johnston Construction, 4331 Fox Run Road, Dover, PA 17315-2737, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil from underground storage tanks. The Final Report demonstrated attainment of the Residential Statewide Health Standard, and was approved by the Department of Environmental Protection on October 8, 2009.

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

New Castle Refractories, City of New Castle, **Lawrence County**. INTEX Environmental Group, Inc., 6205 Easton Road, Pipersville, PA 18947 on behalf of Dixon Ticonderoga Company, 195 International Parkway, Heathrow, FL 32746, has submitted a Request for Determination of Non-Use Aquifer for the former New Castle Refractories site located at 915 Industrial Street, New Castle, PA 16101. The Request for Determination of Non-Use Aquifer was approved by the Department of Environmental Protection on October 1, 2009.

DETERMINATION FOR APPLICABILITY FOR MUNICIPAL WASTE GENERAL PERMITS

Application for Determination of Applicability for General Permit Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and/or the Beneficial Use of Municipal Waste.

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

General Permit Application No. WMGM025SE001A. Accurate Recycling Corporation, 508 East Baltimore Pike, Lansdowne, PA 19050. This General Permit is for the processing and beneficial use of construction waste from new residential and commercial construction sites at Accurate Recycling Corporation Lansdowne Facility located at 508 East Baltimore Pike, Lansdowne, PA 19050, Lansdowne Borough, **Delaware County**. The determination of applicability was issued by the Southeast Regional Office on October 8, 2009.

**OPERATE WASTE PROCESSING OR DISPOSAL
AREA OR SITE**

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

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

Permit Application No. 101069. Southeastern Chester County Refuse Authority (SECCRA), P. O. Box 221, Kennett Square, PA 19348. This permit is for the 10-year renewal for their existing solid waste permit for the SECCRA Community Landfill, a municipal waste landfill located at 219 Street Road, West Grove, PA 19390 in London Grove Township, **Chester County**. The permit was issued by the Southeast Regional Office on October 5, 2009.

Permit No. 101541. Delaware Valley Recycling, Inc., 3107 South 61st Street, Philadelphia, PA 19153-3501. This permit is for the 10-year renewal of the existing solid waste permit to continue operation at the Delaware Valley Recycling, Inc. Construction and Demolition (C & D) Waste Processing Facility located at 3107 South 61st Street in the City of Philadelphia. The permit was issued by the Southeast Regional Office on October 8, 2009.

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

Permit ID No. 100592. USA South Hills Landfill, Inc., 3100 Hill Road, Library, PA 15129. USA South Hills Landfill, 3100 Hill Road, Library, PA 15129. Permit renewal for a municipal waste landfill in South Park, Allegheny and Union Townships, **Washington County** issued by the Regional Office on October 5, 2009.

Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Permit Application No. 101603. Veolia ES Solid Waste of PA, R. D. 1, Route 6, Pittsfield, PA 16340, Pittsfield Township, Warren County. The application was a permit renewal for the Warren County Transfer Station. The permit was issued by the Northwest Regional Office on October 6, 2009.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

GP6-22-03086: Riverside Cleaners, 3114 Hoffman Street, Harrisburg, PA 17110, on October 5, 2009, for Petroleum Dry Cleaning under GP6 in the City of Harrisburg, **Dauphin County**.

GP14-38-03057: Taylor-Ruffner Funeral Home, Inc., 712 Chestnut Street, Lebanon, PA 17042, on October 5, 2009, for a Human or Animal Crematory in North Cornwall Township, **Lebanon County**.

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

GP2-42-004B: American Refining Group, Inc., 77 Kendall Avenue, Bradford, PA 16701, on October 6, 2009, to modify an existing storage tank (No. 603) (BAQ-GPA/GP-2) at their facility in Foster Township, **McKean County**.

GP2-42-004C: American Refining Group, Inc., 77 Kendall Avenue, Bradford, PA 16701, on October 6, 2009, to modify an existing storage tank (No. 610) (BAQ-GPA/GP-2) at their facility in the City of Bradford, **McKean 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.

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

13-316-001: Keystone Pellet, Inc., 5405 Hoffman Drive South, Schnecksville, PA 18078, on October 9, 2009, to construct a wood palletizing process at their facility to be in Lower Towamensing Township, **Carbon County**.

39-309-074: Lafarge North America, Inc., 5160 Main Street, Whitehall, PA 18052-1827, on October 13, 2009, to install a baghouse at their facility in Whitehall Township, **Lehigh 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.

11-00524A: United Industrial, 163 Cramer Pike, Johnstown, PA 15906, on October 6, 2009, to activate and begin operation of a paint booth, which includes one air-assisted airless spray gun, at their facility in West 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.

61-210C: Glenn O. Hawbaker, Inc.—Harrisville Asphalt Plant, 157 Industrial Boulevard, Grove City, PA 16127, on September 17, 2009, to include increased emission limits for NOx and CO and the establishment of SOx limit when combusting coal, three portable non-metallic mineral processing plants with associated generators and RAP system additions/modifications at their facility in Barkeyville Borough, **Venango 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.

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

10-305B: Recmix of PA, Inc., 359 North Pike Road, Sarver, PA 16055, on October 1, 2009, to install a fertilizer drying system and blending station to produce a

specialized fertilizer, in Winfield Township, **Butler County**. This is a non-Title V facility.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and Pa. Code Chapter 127, Subchapter G.

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

03-00975: Armstrong Energy Limited Partnership, LLLP, 2313 SR 156, Shelocta, PA 15774, on September 29, 2009, Title V Operating Permit for their South Bend Station in South Bend Township, **Armstrong County**. The facility's major sources of emissions include four dual-fuel Combustion Turbines, rated at a nominal 165.1 MW each, which emit major quantities of NOx and CO. Title V Operating Permit contains applicable emission limits, as well as testing, monitoring, recordkeeping and reporting requirements.

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

62-00136: Berenfield Containers, Inc., 31 Railroad Street, Clarendon, PA 16313, on October 6, 2009, to re-issue a Title V Permit to operate a metal barrels, drums and pails manufacturing facility in Clarendon Borough, **Warren County**. The facility's major emission sources include space and water heaters, paint roller coater, equipment clean up, No. 4 oven (roller coater), weld-seam strip coater, silk screening and cold cleaning degreaser. The facility is major facility for Title V due to its potential to emit of VOC.

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.

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

21-03029: Pennsy Supply, Inc., P. O. Box 3331, Harrisburg, PA 17105, on October 5, 2009, for their sandstone crushing and sand processing plant in Dickinson Township, **Cumberland 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.

10-00220: ESM Group, Inc., 130 Myoma Road, Mars, PA 16046, on October 1, 2009, to re-issue a Natural Minor Operating Permit to operate a powder blending and packaging facility in Adams Township, **Butler County**. The facility's primary emission sources include a truck dumping station, a custom blending system, materials handling, synflux mixing and bagging, storage silos and a parts washer.

61-00211: Schake Industries, Inc., 673 Colbert Avenue, Oil City, PA 16301-2288, on October 7, 2009, to issue a Natural Minor Operating Permit for this abrasive blasting and surface coating operation in Oil City, **Venango 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.

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

65-00792: AMI Dudoco, Inc., 1003 Corporate Lane, Export, PA 15632-8908, Administrative Amendment effective September 15, 2009, to change responsible official at Plant No. 5, in Murrysburg Borough, **Westmoreland County**.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Applications Returned

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

63813210. Deemston Energy Project, LLC, P. O. Box 727, Clarksville, PA 15322. Withdrawn transfer application from PA Coal Reclamation, Inc. for the existing coal reprocessing surface mine, located in Deemston Borough, **Washington County**, affecting 53.3 acres. Receiving stream: UNT to Ten Mile Creek. Transfer application withdrawn October 7, 2009.

Coal Permits Actions

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

32990108 and NPDES No. PA 0235130. KMP Associates, Inc., 1094 Lantz Road, Avonmore, PA 15618, permit revision of an existing bituminous surface mine to change land use from forest to unmanaged natural habitat in Young Township, **Indiana County**, affecting 54 acres. Receiving streams: UNT to Whiskey Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 7, 2009. Permit issued October 7, 2009.

11060103 and NPDES No. PA0262242. Hoffman Mining, Inc., P. O. Box 130, 118 Runway Road, Friedens, PA 15541, commencement, operation and restoration of a bituminous surface-auger mine and a stream variance within 100 feet of UNTs to Paint Creek, along with a stream encroachment consisting of haul road and erosion

and sedimentation control construction in Adams Township, **Cambria County**, affecting 182.1 acres. Receiving streams: Paint Creek and UNTs to Paint Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received October 10, 2006. Permit issued October 8, 2009.

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. Permit issued for commencement, operation and reclamation of a bituminous surface/auger mining site located in East Franklin and North Buffalo Townships, **Armstrong County**, affecting 114.8 acres. Receiving streams: UNTs to Glade Run. Application received September 19, 2008. Permit issued October 6, 2009.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17793123 and NPDES No. PA0089603. Strishock Coal Company, 220 Hillcrest Drive, DuBois, PA 15801. Permit renewal for the continued operation and restoration of a bituminous surface mine in Union Township, **Clearfield County**, affecting 102.8 acres. Receiving stream: LaBorde Branch, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 8, 2009. Permit issued September 29, 2009.

17050107 and NPDES No. PA0256269. AMFIRE Mining Company, LLC, One Energy Place, Latrobe, PA 15650. Permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Girard Township, **Clearfield County**, affecting 209.5 acres. Receiving streams: Surveyor Run, Little Surveyor Run and Bald Hill Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 27, 2009. Permit issued September 29, 2009.

17990124 and NPDES No. PA0242802. River Hill Coal Company, Inc., Memorial Street, P. O. Box 141, Kylertown, PA 16847. Revision of an existing bituminous surface mine to change land use in Bigler Township, **Clearfield County**, affecting 73.7 acres. Receiving stream: UNT to Muddy Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 15, 2009. Permit issued September 29, 2009.

17070107 and NPDES No. PA0256536. P & N Coal Company, Inc., P. O. Box 332, Punxsutawney, PA 15767. Revision of an existing bituminous surface mine to amend the permit boundary in Penn Township, **Clearfield County**, affecting 119.2 acres. Receiving stream: Kratzer Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 24, 2009. Permit issued September 30, 2009.

17030108 and NPDES No. PA0243507. Larry D. Baumgardner Coal Company, Inc., P. O. Box 186, Lanse, PA 16849. Permit renewal for the continued operation and restoration of a bituminous surface mine in Woodward and Decatur Townships, **Clearfield County**, affecting 176 acres. Receiving streams: North Branch and Wall Run to Upper Morgan Run to Clearfield Creek to West Branch Susquehanna River, classified for the following uses: CWF and WWF. There are no potable water supply intakes within 10 miles downstream. Application received July 21, 2009. Permit issued October 5, 2009.

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

54860107R4. Reading Anthracite Company, P. O. Box 1200, Pottsville, PA 17901, renewal of an existing anthracite surface mine, coal refuse reprocessing and refuse disposal operation in Cass Township, **Schuylkill County**, affecting 786 acres, receiving stream: none. Application received February 27, 2009. Renewal issued October 6, 2009.

49080102. Luke Shingara Coal, 297 East Ridge Road, Sunbury, PA 17801, commencement, operation and restoration of an anthracite surface mine operation in Zerbe Township, **Northumberland County**, affecting 19 acres, receiving stream: none. Application received January 11, 2008. Permit issued October 6, 2009.

40990201R2. Jeddo-Highland Coal Company, 46 Public Square, Suite 600, Wilkes-Barre, PA 18701, renewal of an existing anthracite surface mine operation in Wilkes-Barre and Hanover Townships and Laurel Run Borough, **Luzerne County** affecting 194.4 acres, receiving stream: none. Application received January 13, 2009. Renewal issued October 7, 2009.

Noncoal Permits Actions

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

08010809. Richard A. Voda, R. R. 1, Box 1469, Laceyville, PA 18623, noncoal mining operation in Tuscarora Township, **Bradford County**. Restoration of 1 acre completed. Receiving streams: tributary to Tuscarora Creek. Application received August 26, 2009. Final bond release October 2, 2009.

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

20900302. Frank Tucci, 25000 PA Route 99, Cambridge Springs, PA 16403, revision to an existing sand and gravel operation to increase the depth of mining to a maximum depth of 1,174 feet MSL in Rockdale Township, **Crawford County**. This revision also includes a post-mining land use change from terrace to unmanaged water impoundment. Receiving stream: Kelly Run. Application received July 14, 2009. Permit Issued October 2, 2009.

3076SM8. Conneaut Lake Sand and Gravel, Inc., P. O. Box 233, West Middlesex, PA 16159-0529, revision to an existing sand and gravel operation to add 3.5 acres in Sadsbury Townships, **Crawford County** affecting 32.3 acres. Receiving streams: UNT to Watson Run. Application received April 3, 2009. Permit Issued October 2, 2009.

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

58090818. Jorge Armondo Tobon, 334 Alexander Road, New Milford, PA 18834, commencement, operation and restoration of a quarry operation in Great Bend Township, **Susquehanna County** affecting 5 acres, receiving stream: none. Application received July 16, 2009. Permit issued October 5, 2009.

58082801. Rock Ridge Stone, Inc., R. R. 2, Box 151B, Kingsley, PA 18826, commencement, operation and restoration of a quarry operation in Liberty Township, **Susquehanna County** affecting 5 acres, receiving stream: none. Application received December 31, 2007. Permit issued October 6, 2009.

58080301 and NPDES Permit No. PA0224685. BS Quarries, Inc., R. R. 3, Box 324A1, Montrose, PA 18801, commencement, operation and restoration of a quarry operation and NPDES Permit for discharge of treated mine drainage in Harmony Township and Laneshoro

Borough, **Susquehanna County** affecting 465.6 acres, receiving stream: intermittent tributary to Starrucca Creek. Application received April 8, 2008. Permit issued October 7, 2009.

58090817. B. Dale Kelley, R. R. 3, Box 3384, Laceyville, PA 18623, commencement, operation and restoration of a quarry operation in Liberty Township, **Susquehanna County** affecting 5 acres, receiving stream: none. Application received July 8, 2009. Permit issued October 7, 2009.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151—161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Blasting Permits Actions

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

31094001. Controlled Demolition Incorporated, 2737 Merrymans Mill Road, Phoenix, MD 31131, blasting activity permit issued for Turnpike Bridge demolition in Dublin Township, **Huntingdon County**. Blasting activity permit end date is October 18, 2009. Permit issued October 8, 2009.

21094002. Demtech, Inc., 65 Bald Mountain Road, Dubois, WY 82513, blasting activity permit issued for Turnpike Bridge demolition in Hopewell Township, **Cumberland County**. Blasting activity permit end date is November 22, 2009. Permit issued October 8, 2009.

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

65094008. Jerry Sayre, 6718 Pucker Street, Conesus, NY 14435. Blasting activity permit for the construction of Westmoreland 3D, located in Derry and Unity Townships, **Westmoreland County**. The duration of blasting is expected to be for 1 year. Blasting activity permit issued October 7, 2009.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

08094107. Meshoppen Blasting, Inc., P. O. Box 127, Frantz Road, Meshoppen, PA 18630, pad construction blasting located in West Burlington Township, **Bradford County**. Permit issued October 1, 2009. Permit expires October 30, 2009.

08094018. Meshoppen Blasting, Inc., P. O. Box 127, Frantz Road, Meshoppen, PA 18630, borrow site blasting located in Tuscarora Township, **Bradford County**. Permit issued October 1, 2009. Permit expires October 30, 2009.

17094012. Kesco, Inc., P. O. Box 95, Adrian, PA 16210, construction blasting at the DuBois Walmart located in Sandy Township, **Clearfield County**. Permit issued September 25, 2009. Permit expires March 23, 2010.

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

06094114. Warren's Excavating and Drilling, Inc., P. O. Box 214, Myerstown, PA 17067, construction blasting for Holiday Village in Bern Township, **Berks County** with an expiration date of October 1, 2010. Permit issued October 6, 2009.

67094120. J Roy's, Inc., P. O. Box 125, Bowmansville, PA 17507, construction blasting for Newberry Point in Newberry Township, **York County** with an expiration date of October 1, 2010. Permit issued October 6, 2009.

22094114. J Roy's, Inc., P. O. Box 125, Bowmansville, PA 17507, construction blasting for Hummelstown Storm Sewer in Hummelstown Borough, **Dauphin County** with an expiration date of October 6, 2010. Permit issued October 8, 2009.

38094125. Abel Construction Co., Inc., P. O. Box 476, Mountville, PA 17554, construction blasting for Village at Springbrook Farms in South Londonderry Township, **Lebanon County** with an expiration date of October 7, 2010. Permit issued October 8, 2009.

39094116. Brubacher Excavating, Inc., P. O. Box 528, Bowmansville, PA 17507, construction blasting for Highgate Development in Upper Macungie Township, **Lehigh County** with an expiration date of October 1, 2010. Permit issued October 8, 2009.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for 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 Floodplain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 P.S. §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued:

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northeast Regional Office: Watershed Management Program, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E39-487. Double D. Lehigh, LP, 7785 Spring Creek Road, Macungie, PA 18062. Upper Milford Township, **Lehigh County**, United States Army Corps of Engineers Philadelphia District.

To construct and maintain two channel changes of tributaries to Saucon Creek. The first consists of the relocation of approximately 340 feet of a watercourse with the construction of approximately 80 feet of 18-inch diameter HDPE pipe and 420 feet of open channel. The second consists of the relocation of approximately 560 feet of a watercourse with the construction of approximately 1,011 feet of 24-inch diameter HDPE pipe and 100 feet of open channel. The permit also authorizes the construction and maintenance of a 24-inch reinforced concrete pipe outfall with a concrete endwall and riprap apron in the floodway of a UNT to Saucon Creek (CWF). The activities are associated with Stone Ridge Estates Residential Development. (Subbasin: 2C)

The project is located on the west side of Brunner Road with its intersection with Meadow (Allentown East, PA Quadrangle Latitude: 40° 31' 11"; Longitude: -75° 28' 10") in the Upper Milford Township, Lehigh County.

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

E18-446. Bald Eagle Township Board of Supervisors, 12 Fairpoint Road, Mill Hall, PA 17751. Water Obstruction and Encroachment Joint Permit, in Bald Eagle Township, **Clinton County**, United States Army Corps of Engineers, Susquehanna River Basin District (Mill Hall, PA Quadrangle N: 41° 06' 52"; W: 77° 27' 14").

To construct and maintain a recreational park area in the floodway of Fishing Creek (HQ-CWF). The applicant proposes to construct two 24-foot by 30-foot by 9-foot open picnic pavilions with concrete pads at grade. There will be a 1,080-square foot gravel parking area, 10-foot by 10-foot at-grade concrete pad and 60 linear feet of riprap bank stabilization along Fishing Creek. All excavation material will be removed from the site and disposed of outside of the 100-year floodplain. This project is located 1,700 feet east of the intersection of SR 150 and SR 2015, Country Club Lane (Mill Hall, PA Quadrangle N: 41° 06' 52"; W: 77° 27' 14") in Bald Eagle Township, Clinton County. This project proposes to have a minimal impact to Fishing Creek, which is designated an HQ-CWF, and does not

propose to impact any jurisdictional wetlands. This permit was issued under Section 105.13(e) "Small Projects."

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

E02-1607. Plum Borough Municipal Authority, 4555 New Texas Road, Pittsburgh, PA 15239-1197. To relocate 140 feet of Abers Creek to prevent stream bank erosion in the Municipality of Monroeville, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (Murrysville, PA Quadrangle N: 13.3"; W: 12.3", Latitude: 40° 26' 54"; Longitude: 79° 42' 47"). To relocate and maintain approximately 140 linear feet of Abers Creek (TSF) for the purpose of preventing further erosion to the stream bank and to protect the existing pet store and an electrical substation. The project is located on the east side of SR 286, approximately 1,000 feet north from the intersection of Old Frankstown Road and SR 286.

E11-337. Borough of Ebensburg, 300 West High Street, Ebensburg, PA 15931. To place and maintain fill in wetlands in Cambria Township, **Cambria County**, United States Army Corps of Engineers, Pittsburgh District (Nanty Glo, PA Quadrangle North: 15.9"; West: 3.3", Latitude: 40° 27' 43"; Longitude: 78° 46' 23"). To place and maintain fill in 0.02 acres of wetlands in the South Branch of Blacklick Creek Watershed (CWF), to extend and maintain an existing 36-inch diameter 160-foot CMP culvert by 19 feet on both ends, to replace and maintain an existing culvert with a 57-foot long, 18-inch diameter culvert, (both watersheds are less than 100 acres and are tributaries to the South Branch of Blacklick Creek) all for the purpose of extending the runway safety area at the Ebensburg Airport. To mitigate for the stream impacts the applicant will provide approximately 150 feet of stream bank planting along a UNT to Howell's Run (CWF).

EROSION AND SEDIMENT CONTROL

The following Erosion and Sediment Control Permits have been issued.

Any person aggrieved by these actions may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. Chapter 5, Subchapter A (relating to practice and procedure of Commonwealth agencies), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania AT&T Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

If individuals want to challenge this action, their appeal must reach the Board within 30 days. Individuals do not need a lawyer to file an appeal with the Board. Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. If individuals cannot afford a lawyer, individuals may qualify for pro bono representation. Call the Secretary to the Board (717) 787-3483 for more information.

Southwest Region: Oil and Gas Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

10/05/09

ESCGP-1 No.: ESX09-051-0035
Applicant Name: Atlas Energy Resources, LLC
Contact Person: Jeremy Hirtz
Address: 800 Mountain View Drive
City: Smithfield State: PA Zip Code: 15478
County: Fayette Township: Luzerne
Receiving Streams and Classification: UNT to Monongahela River, Other

10/05/09

ESCGP-1 No.: ESX09-129-0026
Applicant Name: Atlas Energy Resources, LLC
Contact Person: Jeremy Hirtz
Address: 800 Mountain View Drive
City: Smithfield State: PA Zip Code: 15478
County: Westmoreland Township: Sewickley
Receiving Streams and Classification: UNT to Little Sewickley Creek, Other

10/05/09

ESCGP-1 No.: ESX09-059-0043
Applicant Name: Atlas Energy Resources, LLC
Contact Person: Jeremy Hirtz
Address: 800 Mountain View Drive
City: Smithfield State: PA Zip Code: 15478
County: Greene Township: Cumberland
Receiving Streams and Classification: UNT to Muddy Creek, Other

10/05/09

ESCGP-1 No.: ESX09-059-0045
Applicant Name: Atlas Energy Resources, LLC
Contact Person: Jeremy Hirtz
Address: 800 Mountain View Drive
City: Smithfield State: PA Zip Code: 15478
County: Greene Township: Cumberland
Receiving Streams and Classification: Muddy Creek, Other

10/05/09

ESCGP-1 No.: ESX09-059-0044
Applicant Name: Eastern American Energy Corp.
Contact Person: Andrew Travis
Address: 1380 Route 286 Highway East, Suite 221
City: Indiana State: PA Zip Code: 15701
County: Greene Township: Cumberland
Receiving Streams and Classification: Muddy Creek, Other

10/06/09

ESCGP-1 No.: ESX09-125-0041
Applicant Name: Chesapeake Appalachia, LLC
Contact Person: David A. McDougal
Address: 179 Chesapeake Drive
City: Jane Lew State: WV Zip Code: 26378
County: Washington Township: Independence
Receiving Streams and Classification: Cross Creek, Other

10/08/09

ESCGP-1 No.: ESX09-059-0046
Applicant Name: Atlas Energy Resources, LLC
Contact Person: Jeremy Hirtz
Address: 800 Mountain View Drive
City: Smithfield State: PA Zip Code: 15478
County: Greene Township: Dunkard
Receiving Streams and Classification: UNT to Dunkard Creek, Other

10/08/09

ESCGP-1 No.: ESX09-129-0027
Applicant Name: Atlas Energy Resources, LLC
Contact Person: Jeremy Hirtz
Address: 800 Mountain View Drive
City: Smithfield State: PA Zip Code: 15478
County: Westmoreland/Fayette Townships: Rostraver and Perry
Receiving Streams and Classification: UNT to Browneller Run, Other

10/08/09

ESCGP-1 No.: ESX09-051-0036

Applicant Name: Atlas Energy Resources, LLC

Contact Person: Jeremy Hirtz

Address: 800 Mountain View Drive

City: Smithfield State: PA Zip Code: 15478

County: Fayette Township: Jefferson

Receiving Streams and Classification: UNT to Redstone Creek, Other

10/09/09

ESCGP-1 No.: ESX09-125-0046

Applicant Name: Range Resources—Appalachia, LLC

Contact Person: Carla Suszkowski

Address: 380 Southpointe Boulevard, Suite 300

City: Canonsburg State: PA Zip Code: 15317

County: Washington Township: Independence

Receiving Streams and Classification: UNT to Sugarcamp Run, HQ

10/09/09

ESCGP-1 No.: ESX09-125-0045

Applicant Name: Range Resources—Appalachia, LLC

Contact Person: Carla Suszkowski

Address: 380 Southpointe Boulevard, Suite 300

City: Canonsburg State: PA Zip Code: 15317

County: Washington Township: Hopewell

Receiving Streams and Classification: UNT to Brush Run, HQ

10/09/09

ESCGP-1 No.: ESX09-125-0044

Applicant Name: Range Resources—Appalachia, LLC

Contact Person: Carla Suszkowski

Address: 380 Southpointe Boulevard, Suite 300

City: Canonsburg State: PA Zip Code: 15317

County: Washington Township: Canton

Receiving Streams and Classification: UNT to Chartiers Creek, Other

Northcentral Region: Oil and Gas Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

ESCGP-1 No.: 59-09-805

Applicant Name: East Resources, Inc.

Contact Person: Scott Blauvelt

Address: 301 Brush Creek Road

City, State, Zip: Warrendale, PA 15086

County: Tioga

Township: Sullivan

Receiving Streams and Classification: Elk Run HQ, Secondary—Mill Creek

ESCGP-1 No.: 59-09-804

Applicant Name: East Resources, Inc.

Contact Person: Scott Blauvelt

Address: 301 Brush Creek Road

City, State, Zip: Warrendale, PA 15086

County: Tioga

Township: Charleston

Receiving Streams and Classification: North Elk Run HQ, Secondary—Tioga River

ESCGP-1 No.: ESX09-069-0006

Applicant Name: EXCO-North Coast Energy, Inc.

Contact Person: Joel Heiser

Address: One GOJO Plaza, Suite 325

City, State, Zip: Akron, OH 44311-1057

County: Lackawanna

Township: Scott

Receiving Streams and Classification: Elm Brook, tributary to Tunkhannock Creek

ESCGP-1 No.: ESX09-081-0009

Applicant Name: Anadarko E & P Company, LP

Contact Person: Bertha Nefe

Address: P. O. Box 1330

City, State, Zip: Houston, TX 77251-1330

County: Lycoming

Township: McHenry

Receiving Streams and Classification: First and Second Big Runs HQ, Secondary—Trout Run

ESCGP-1 No.: ESX09-115-0010

Applicant Name: EXCO-North Coast Energy, Inc.

Contact Person: Joel Heiser

Address: One GOJO Plaza, Suite 325

City, State, Zip: Akron, OH 44311-1057

County: Susquehanna

Township: Clifford

Receiving Streams and Classification: UNT to East Branch Tunkhannock Creek, Secondary—Idlewild Creek to East Branch Tunkhannock Creek

ESCGP-1 No.: ESX09-015-0020

Applicant Name: Appalachia Midstream Services, LLD

Contact Person: Joel Moore

Address: 100 1st Center

City, State, Zip: Horseheads, NY 14845

County: Bradford

Townships: Asylum and Monroe

Receiving Streams and Classification: South Branch Towanda, Durell and Bennetts Creeks

ESCGP-1 No.: ESX09-105-0004

Applicant Name: Pennsylvania General Energy Co., Inc.

Contact Person: Kendra Parisella

Address: 120 Market Street

City, State, Zip: Warren, PA 16365

County: Potter

Township: Wharton

Receiving Streams and Classification: Horton Run HQ, Secondary—East Fork Shinnemahoning

ESCGP-1 No.: ESX09-015-0046

Applicant Name: Chesapeake Appalachia, LLC

Contact Person: Eric Haskins

Address: P. O. Box 18496

City, State, Zip: Oklahoma City, OK 73154

County: Bradford

Township: Smithfield

Receiving Stream and Classification: Tomjack Creek

Northwest Region: Oil and Gas Program Manager, 230 Chestnut Street, Meadville, PA 16335.

ESCGP-1 No.: ESX09-083-0004

Applicant Name: East Resources, Inc.

Contact Person: Scott Blauvelt

Address: 301 Brush Creek Road

City, State, Zip: Warrendale, PA 15086

County: McKean Township: Wetmore

Receiving Stream and Classification: Hubert Run

STORAGE TANKS

SITE-SPECTIFIC 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>
09-21-008	Sunoco Partners Marketing and Terminals, LP 525 Fritztown Road Sinking Spring, PA 19608 Attn: Jed A. Werner	Cumberland	Hampden Township	Four ASTs storing biodiesel	135,360 gallons total

SPECIAL NOTICES

DRINKING WATER STATE REVOLVING FUND

Special Notice under the Federal Safe Drinking Water Act (SDWA); 42 U.S.C.A. 300f, et seq.

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

Project Location:

<i>Applicant</i>	<i>Applicant Address</i>	<i>County</i>
CAN DO, Inc.	1 South Church Street Suite 200 Hazleton, PA 18201	Luzerne

Project Description: The Pennsylvania Infrastructure Investment Authority (PENNVEST), which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. CAN DO, Inc. proposes the CAN DO Water System Upgrade Project (PENNVEST ID No. 40018120908-CW) which consists of testing/rehabilitating the Humboldt Industrial Park well sites and the upgrading of the Corporate Center well. The Department of Environmental Protection's (Department) review of the project and the information received for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Categorical Exclusion.

Categorical Exclusion

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

Project Information:

<i>Project Applicant</i>	<i>Project Applicant's Address</i>	<i>Project Location (Municipality)</i>	<i>Project Location (County)</i>
Wyoming Valley Sanitary Authority	P. O. Box 33A Wilkes-Barre, PA 18703	Hanover Township	Luzerne

Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Wyoming Valley Sanitary Authority proposes to upgrade its existing wastewater treatment facility to facilitate biological nutrient removal (reduction) of nitrogen and phosphorus from the facility's influent wastewater stream. The project is being undertaken to provide compliance with revised (more stringent) NPDES treated discharge effluent limits that were recently issued by the Department of Environmental Protection (Department). The proposed project will provide for the removal of nitrogen and phosphorus from the raw wastewater stream using biological, physical and chemical treatment processes. The Department's review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

Project Information:

<i>Project Applicant</i>	<i>Project Applicant's Address</i>	<i>Project Location (Municipality)</i>	<i>Project Location (County)</i>
Lehigh County Authority	P. O. Box 3348 Allentown, PA 18106-0348	Weisenberg Township	Lehigh

Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. The Lehigh County Authority proposes to upgrade and expand its existing Western Weisenberg Wastewater Treatment Facility from a permitted flow of 12,000 gpd to 40,000 gpd. The project is being undertaken to eliminate an existing organic overload condition at the wastewater treatment facility and to provide additional hydraulic treatment capacity for structures located within the facility's service area. The Department of Environmental Protection's (Department) review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

**Protection Public Hearing Invitation
Sandy Ridge Wind, LLC**

**NPDES Permit for Stormwater Discharges
Associated with Construction Activities Application**

The Department of Environmental Protection (Department) will conduct a public hearing on an NPDES Permit

for Stormwater Discharges Associated with Construction Activities application (PAI041409007) submitted by Sandy Ridge Wind, LLC to construct gravel roads, parking areas and concrete pads associated with 28 wind turbines, transmission lines and a substation. The project will be located in Snyder Township, Blair County, and Rush and Taylor Townships, Centre County. The applicant's address is 1801 Market Street, Suite 2200, Philadelphia, PA 19107. The site will be known as the Sandy Ridge Wind Farm. Notification of the Department's receipt of this NPDES permit application has been published in the *Pennsylvania Bulletin* on July 11, 2009.

The public hearing will be held at 8 p.m. on Monday, November 23, 2009, at the Fraternal Order of Police Bald Eagle Lodge No. 51, 1979 Reese Hollow Road, Port Matilda, PA 16870. A public meeting will be held at 6:30 p.m. prior to the public hearing. During the meeting the applicant and the Department will provide presentations pertaining to the project and the NPDES permitting process. A question and answer session will then follow.

During the public hearing, individuals may present oral testimony for a maximum of 5 minutes regarding the NPDES Permit for Stormwater Discharges Associated

with Construction Activities application. Written testimony of any length also will be accepted that evening. The testimony will be recorded by a court reporter and transcribed into a written document. The Department will respond to all relevant comments at the time it makes a final decision on the application. Citizens who wish to present oral testimony may register to do so the night of the public hearing.

The application is available for public review at the Department Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, Monday through Friday between 8 a.m. and 4 p.m. An appointment must be made by calling Kathy Arndt at (570) 327-3693.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act of 1990 should contact Daniel Spadoni at (570) 327-3659 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

[Pa.B. Doc. No. 09-1993. Filed for public inspection October 23, 2009, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at <http://www.depweb.state.pa.us> (DEP Keywords: "eLibrary"). 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 2009.

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.

Draft Technical Guidance—Minor Revision:

DEP ID: 563-2112-657. Title: Underground Mining—Delineating Protection Zones for Public Water Supplies. Description: Technical Guidance 563-2112-657 sets forth procedures for ensuring that aquifers or portions of aquifers supplying public water supply wells and recharge areas to public water supply springs are protected from diminution by adjacent underground coal mining operations. The guidance has been in effect since October 15, 1997. The Department is amending the version of the guidance posted on the Department's web site to incorpo-

rate five drawings that were previously available only in paper format. These drawings, which have been components of the guidance since its date of issuance, are helpful in understanding key concepts described in the text. The newly posted figures include: Figure 1. "Support Zone," Figure 2. "Simplified Variable Methods," Figure 3. "Hydrologic Mapping," Figure 4. "Analytical Techniques" and Figure 5. "Calculated Fixed Radius." This action is intended to improve the public's access to available information and does not in any way affect the policies and procedures outlined in the October 15, 1997, guidance. Contact: Gregory Shuler, Department of Environmental Protection, Bureau of Mining and Reclamation, P. O. Box 8461, Harrisburg, PA 17105-8461, (717) 783-1199, gshuler@state.pa.us. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

Notice to Rescind Technical Guidance

DEP ID: 63-2112-206. Title: Beneficial Use of Coal Ash at Active Coal Mine Sites. Description: This document was replaced by two separate TGDs, 563-2112-224 Certification Guidelines for the Chemical and Physical Properties of Coal Ash Beneficially Used at Mines and 563-2112-225 Mine Site Approval for the Beneficial Use of Coal Ash that were published as Interim Final on April 6, 2009. This TGD is no longer applicable to the program. Contact: Keith Brady, Department of Environmental Protection, Bureau of Mining and Reclamation, P. O. Box 8461, Harrisburg, PA 17105-8461, (717) 787-4814, kbrady@state.pa.us. Effective Date: Upon publication in the *Pennsylvania Bulletin*.

DEP ID: 560-0700-304. Title: Review of Surface Mine Applications on High Quality Waters. Description: The Department is removing this document because it has been determined that it contains inaccuracies and does not correspond to the process in place to review mining applications for the anti-degradation requirements. The Bureau's process is being revised to better reflect the regulations (25 Pa. Code § 93.41(a)—(d)). A revised Guidance Document will be written to reflect the improved procedure. This new document will be published in draft for public comment upon completion. To continue to have the current document active prior to finalizing the revised Guidance Document will result in submission of incorrect application information by operators, inappropriate review procedures by staff, public confusion and an overall increase in application review time. Contact: William Allen, Department of Environmental Protection, Bureau of Mining and Reclamation, P. O. Box 8461, Harrisburg, PA 17105-8461, (717) 783-9580, wallen@state.pa.us. Effective Date: Upon publication in the *Pennsylvania Bulletin*.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 09-1994. Filed for public inspection October 23, 2009, 9:00 a.m.]

Solar Workgroup Meeting

The Solar Workgroup will hold a meeting on November 2, 2009, at 10 a.m. in the 2nd Floor Training Room of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

The agenda and materials for the November 2, 2009, meeting will be available at the meeting. Questions concerning this meeting should be directed to Becky

Campbell, Pennsylvania Energy Development Authority, 400 Market Street, Harrisburg, PA 17101, (717) 772-8907, recampbell@state.pa.us.

Persons with a disability who require accommodations to attend the November 2, 2009, meeting should contact Angela Rothrock at (717) 772-8911 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department of Environmental Protection may accommodate their needs.

JOHN HANGER,
Secretary

[Pa.B. Doc. No. 09-1995. Filed for public inspection October 23, 2009, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Dubois Regional Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Dubois Regional Medical Center has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication: 3.1-5.2.1.1 (relating to corridor width).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before they decide 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 phone number, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-1996. Filed for public inspection October 23, 2009, 9:00 a.m.]

Applications for Exception to 28 Pa. Code § 127.32

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that the following facilities have requested an exception to the requirements of 28 Pa. Code § 127.32 (relating to written orders):

Excelsa Health Frisk Hospital
Excelsa Health Latrobe Hospital
Excelsa Health Westmoreland Hospital

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facilities are requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact the Division at the previously listed address or phone numbers, or for speech and/or hearing impaired persons V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-1997. Filed for public inspection October 23, 2009, 9:00 a.m.]

Newborn Screening and Follow-Up Program Technical Advisory Committee Meeting

The Newborn Screening and Follow-Up Program, established under the Newborn Child Testing Act (35 P.S. §§ 621—625) will hold a public meeting on Tuesday, November 10, 2009, from 10 a.m. to 3 p.m. at Dixon University Center, Administration Building, Richards Hall Recital Room, 2986 North Second Street, Harrisburg, PA. R.S.V.P. by November 3, 2009, to Joan Wenerick at (717) 783-8143.

For additional information or persons with a disability who desire to attend the meeting and require auxiliary aid, service or other accommodation to do so, contact Suzanne Bellotti, Public Health Program Administrator, Division of Newborn Screening and Genetics at (717) 783-8143, or speech and/or hearing impaired persons use V/TT (717) 783-6154, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

This meeting is subject to cancellation without notice.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-1998. Filed for public inspection October 23, 2009, 9:00 a.m.]

Required Ground and Air Ambulance Equipment and Supplies

[Correction]

An error occurred in this document which appeared at 39 Pa.B. 6172 (October 17, 2009). The correct version is as follows:

Under 28 Pa. Code §§ 1005.10(c) and 1007.7(c) (relating to licensure and general operating standards; and licensure and general operating requirements), the following equipment and supplies shall be carried and readily available in working order for use on basic life support (BLS) and advanced life support (ALS) ambulances, which also includes air (rotorcraft) ambulances.

A. Ground Ambulance Requirements

Ground Ambulances: Basic Life Support/ALS Mobile Care Unit /ALS Squad Unit

1. The ambulance must meet the requirements of Federal Specifications KKK 1822 and AMD Standards in effect at the time of the vehicles manufacture. (Does not apply to an ALS squad unit.)

2. The ambulance must meet the Pennsylvania Vehicle Code requirements for vehicle registration and liability insurance, and the requirements of all Pennsylvania Department of Transportation regulations relating to flashing and revolving lights, including intersection lights.

3. Emblems and markings must be affixed to the ambulance exterior as follows:

a. The word "AMBULANCE" shall be mirror imaged in letters not less than 4" high, centered above the grill. The placement of the word "AMBULANCE" shall be on the rear of the vehicle and the curved surface of the hood or can be placed on a flat bug screen.

b. "Star of Life" shall appear on the ambulance in the following sizes and numbers:

- Two 3" size "Stars of Life" on each side of the word "AMBULANCE" on the hood of the vehicle or on a bug screen.
- Two 16" size "Stars of Life" on the right and left side panels.
- Two 12" size "Stars of Life" on the rear of the vehicle.
- One 32" size "Star of Life" on the vehicle rooftop.

Note: An ALS squad unit must have at least 3" size "Stars of Life," one on each side, and two in front and two on the rear of the vehicle.

c. The Department issued licensure decal must be applied to right and left exterior sides of the vehicle in a conspicuous place.

d. A reflective chevron is not required. If used, a reflective chevron may be placed on the rear vertical surface of the exterior of the vehicle. The chevron pattern shall slant downward on both sides of the vehicle at an angle of 45°, pointing in the direction of the bottom rear corner of the tailboard. The pattern shall resemble an inverted V with the point at the top center of the vehicle. The Chevron shall use an alternating color pattern. The vertical panels shall be: 8" to 12" wide and at least 24" in height, and consist of alternating color retro-reflective stripes at least 4" in width. If the panel height is greater than 36" the stripes shall be 6" wide, shall slope down at 45°, and have a minimum of 270 square inches of retro-reflective area facing traffic.

4. The name of the ambulance service or its registered fictitious name in letters at least 3" in size must appear on both the right and left exterior sides of the ambulance. The name must be the dominant lettering. The word "Ambulance" or words such as Emergency Medical Services, EMS, and Rescue must also appear on both exterior sides and rear of the vehicle.

5. The ambulance must be equipped with an electronically operated audible warning device with a 100-watt or higher watt speaker.

6. The ambulance must have overhead interior lighting that illuminates the entire top surface of the patient litter, stair-well lighting and courtesy lights that must illuminate the ambulance's controls. (Does not apply to an ALS squad unit.)

7. The ambulance must have a dual battery system. (Does not apply to an ALS squad unit.)

8. Effective January 1, 2011, the ambulance must have two minimum 5 lb. unit fire extinguishers (ABC dry chemical or carbon dioxide) in a quick-release bracket, one in the driver/cab compartment or in the body of the ambulance reachable from outside the vehicle and one in the patient compartment. When located in either the driver or patient compartment the mounting bracket shall be of a stable design. Each fire extinguisher must be intact with a safety seal, have been inspected within the previous 12 calendar months and have the appropriate completed inspection tag attached.

9. The ambulance must have a power supply to generate sufficient current to operate all accessories without excessive demand on the generating system. All exterior and interior lighting and onboard equipment shall be able to run for at least 5 minutes without placing a demand on the engine.

10. The ambulance must have a nonskid floor that is flat, reasonably unencumbered, free of equipment in the walk-through areas, and well maintained. (Does not apply to an ALS squad unit.)

11. The ambulance must have minimum interior dimensions of 60" from floor to ceiling. (Does not apply to an ALS squad unit.)

12. The ambulance must have a patient partition to separate the patient area from the driver area. (Does not apply to an ALS squad unit.)

13. The ambulance must have storage cabinets with sliding doors or with latches, or have a cargo-type netting or other means to ensure against opening during vehicle movement. (Does not apply to an ALS squad unit.)

14. Bulky items such as portable radios and AEDs, oxygen equipment and jump bags must be secured at all times during patient transport to prevent them from falling on patients or crew or becoming projectiles if the vehicle is involved in an accident. Equipment on an ALS squad unit must be in cabinets or otherwise secured at all times.

15. The ambulance must have two IV hangers mounted flush with the ceiling. (Does not apply to an ALS squad unit.)

16. The ambulance must have a litter for transporting a patient and at least three patient restraint straps in good operating condition that are secured to the litter. (Does not apply to an ALS squad unit.)

17. The ambulance must have doors that function properly with door seals that are not cracked, broken or missing pieces, and are otherwise in good condition.

18. The ambulance must have both "No Smoking Oxygen Equipped" and "Fasten Seat Belts" signs (in English) in both the driver and the patient compartment. (GSA KKK-1822F) (3/15.2). An ALS squad unit is required to have these signs in the driver compartment.

19. The ambulance must have operational heating, cooling and ventilation equipment meeting GSA KKK-1822 Standard 3.13.

20. The ambulance must have current vehicle inspection validation issued by the state where the vehicle is registered.

21. The ambulance must have communication equipment that is in compliance with the regional communication plan. This equipment shall allow for direct communication with a public safety answering point (PSAP) and hospitals in the ambulance response/service areas. A cellular phone may be used as a backup means of communication and not as the primary means of communication.

22. The ambulance must have an installed, onboard oxygen system with the following (Does not apply to an ALS squad unit.):

a. At least 122 cubic feet supply of oxygen in a cylinder that is secured to provide maximum safety for patients and personnel. The oxygen cylinders shall be mounted with restraining devices, as required for the crashworthiness tests of AMD Standard 003, Oxygen Tank Retention System. A liquid oxygen system that provides the same volume of oxygen and meets AMD Standard 003 is also acceptable.

b. The cylinder must have more than 500 liters of oxygen at all times and be secured with at least three metal or nylon brackets while in the compartment.

c. The unit must be equipped with a reducing valve (from 2,000 psi to 50 psi line pressure).

d. The unit must be equipped with one flow meter with a range of 0-25 lpm delivery.

23. The ambulance must have an installed onboard suctioning system with the following components and/or capabilities (Does not apply to an ALS squad unit.):

a. It is fitted with a large bore, nonkinking tubing.

b. It has power enough to provide within 4 seconds a vacuum of over 300 mm/Hg or 11.8 inches of water when the tube is clamped.

c. It is controllable for use on children and intubated patients. The vacuum gauge, when attached to the tubing, must be adjustable to the amount of vacuum needed to ensure that the unit can maintain vacuum levels without requiring continuous increase in control.

d. It is equipped with a lateral opening between the suction tube and the suction source.

e. The tubing must be able to reach airways of patients regardless of the patient's position in the ambulance and must be able to reach the head and foot of the litter.

24. The ambulance must have onboard proof of current motor vehicle insurance.

B. Air (Rotorcraft) Ambulance Requirements

The following will apply to all air ambulances. The air ambulance must have:

1. The name of the air ambulance service or its registered fictitious name prominently displayed on the exterior of the aircraft.

2. Exterior lighting that illuminates the tail rotor and pilot controllable search/spot/landing lights.

3. An "Air Worthiness Certificate" from the Federal Aviation Administration (FAA).

4. A patient litter capable of carrying one adult in the supine position and capable of being secured according to FAA requirements.

5. An FAA Form 337 with items 1 (which identifies the aircraft), 2 (which identifies the aircraft owner) and 7 (which shows that the aircraft is approved to "Return to Service") completed and signed by the appropriate FAA official.

6. Climate controls for maintaining an ambient cabin temperature of between 60-85° during flight.

7. Sufficient interior lighting to allow for close observation of patients.

8. A pilot partition to prevent patient interference with flight controls.

9. A barrier or an FAA approved mechanism for securing a patient's chest, pelvis, legs, wrists and ankles.

10. A 110-volt electrical outlet for each patient transported.

11. Two-way radio communications for the pilot to be able to communicate with hospitals, PSAPs and ground ambulances in areas to which the air ambulance routinely provides service.

12. At least three headsets to allow for voice communication among the crew when the aircraft is operating and noise levels prevent normal conversation.

13. One fully charged fire extinguisher rated at least 5 B:C, securely mounted where it can be reached by the pilot or crewmembers. The fire extinguisher must be intact with safety seal, have been inspected within the previous 12 calendar months and have the appropriate inspection tag attached.

14. Installed onboard suctioning equipment that meets the same requirements as a transporting ground ambulance. (See requirements under Ground Ambulances.)

15. An onboard oxygen system with the following:

a. Cylinders with a capacity of 1,200 liters.

b. The cylinders must have at least 1,650 psi at the time of inspection.

c. If a liquid oxygen system is used, manufacturer documentation must be provided that the system has at least a 1,200-liter capacity.

d. A flow meter with a range of 0-25 lpm delivery.

Required Equipment and Supplies

Approved equipment and supplies shall be carried and readily available in working order for use on both ground and air ambulances. Some patients and crewmembers of an ambulance service may have allergies to latex. Latex free supplies are recommended, where possible. The following equipment and supplies must be carried on each ground and air ambulance, as indicated.

EQUIPMENT/ SUPPLIES

	AMBULANCE TYPE			
	BLS	ALS MOBILE CARE	ALS SQUAD	AIR
1. Portable Suction Unit with wide-bore tubing. Must achieve 300 mm/Hg or 11.8" in 4 sec.	X	X	X	X
2. Suction catheters, pharyngeal: Rigid (2) Flexible: 6 and 8 (1 ea) 10 or 12 (2) 14 or 16 (2) Total of 6 (Must be sterile) Size is FR for each	X	X	X	X
3. Airways: Nasopharyngeal (5 different sizes) Oropharyngeal (6 different sizes)	X	X	X	X
4. Sphygmomanometer: Child, Adult and Thigh (large) (1 each) Interchangeable gauges are permitted	X	X	X	X
5. Stethoscope (1) Adult and (1) Pediatric	X	X	X	X
6. Stethoscope Doppler (1)				X
7. Penlight (1)	X	X	X	X
8. Portable Oxygen Unit (1): Cylinder capacity of at least 300 Liters, (D Size), with 500 psi Yoke Cylinder with a minimum total pressure of 500 psi. Nonsparking wrench/tank opening device. Gauge/flow meter not gravity dependent and can deliver 0-25 liter per minute Full spare cylinder with at least 300 liter capacity	X	X	X	X
Cylinders must be secured in the vehicle at all times.				
9. Folding Litter/Collapsible Device (1)	X	X		
10. Oxygen Delivery Devices: Nasal Cannulae—adult/pediatric 1 ea. High concentration mask capable of providing 80% or greater concentration adult, pediatric, infant—1 each. Pocket mask with one way valve and oxygen port	X	X	X	X
11. Humidifier bottle (1)	X	X		
12. Adhesive Tape (4 rolls assorted) 1 roll must be hypoallergenic.	X	X	X	X
13. Dressings: Multi Trauma (10" by 30") (4) Occlusive (3" by 4") (4) Sterile Gauze Pads (3" by 3") (25) Soft self-adhering (6 rolls)	X	X	X	X
14. Bandage Shears (1)	X	X	X	X
15. Immobilization Devices: Lateral cervical spine device (1) Long spine board (1) Short spine board (1) Rigid/Semirigid neck immobilizer S, M, L, pediatric (1 each) Multi-size are permitted and will suffice for the S, M, L (3)	X	X	X	X (Short board not required)
16. Bag-Valve-Mask Devices: Hand operated adult (1) Hand operated infant/pediatric (450-700cc) (1) Must be capable of high concentration oxygen delivery with adult and pediatric masks	X	X	X	X

EQUIPMENT/ SUPPLIES

	AMBULANCE TYPE			
	BLS	ALS MOBILE CARE	ALS SQUAD	AIR
17. Pediatric length-based Drug Dosing/Equipment Sizing Tape	X (Equipment Sizing Tape/Chart)	X	X	X
18. Straps—9' (5) (may substitute spider straps or speed clips for 3 straps)	X	X	X	X
19. Splinting Devices: Lower extremity mechanical traction splint adult and pediatric (1 each or combination) Upper and Lower extremity splints (2 ea)	X	X		
20. Sterile Water/Normal Saline (2 liters)	X	X	X	X
21. Sterile Burn Sheet (4' by 4') (2)	X	X	X	
22. Cold Packs, Chemical (4)	X	X	X	X
23. Heat Packs, Chemical (4)	X	X	X	X
24. Triangular Bandages (8)	X	X	X	
25. Sterile OB Kits (2)	X	X	X	X (Only 1 required)
26. Separate Bulb Syringe (1) Sterile	X	X	X	X
27. Sterile Thermal Blanket (Silver Swaddler) (1), or 1 roll of sterile aluminum foil for use on infants/newborns	X	X	X	X
28. Blankets (2)	X	X	X	X
29. Sheets (4)	X	X		X
30. Pillowcases (2)	X	X		
31. Pillow (1)	X	X		
32. Towels (4)	X	X		
33. Disposable Tissues (1 box)	X	X		
34. Emesis Container (1)	X	X		
35. Urinal (1)	X	X		
36. Bed Pan (1)	X	X		
37. Disposable Paper Drinking Cups (3 oz) (4)	X	X		
38. Regional Approved Triage Tags (20)	X	X	X	
39. Hand-lights (6 volts) (2)	X	X	X	X
40. Hazard Warning Device (3)	X	X	X	
41. Emergency Jump Kit (1)	X	X	X	X
42. Survival Bag (1)				X
43. Emergency Response Guidebook (1) (current edition)	X	X	X	
44. Thermometer—electronic, digital, non-tympanic	X	X	X	X
45. Sharps Receptacle—Secured	X	X	X	X
46. Instant Glucose (40% dextrose-d-glucose gel) 45 grams	X	X	X	
47. Personal Protective Equipment (PPE) Helmet, eye protection, gloves and high-visibility safety apparel (1 per provider)	X	X	X	

EQUIPMENT/ SUPPLIES

	AMBULANCE TYPE			
	BLS	ALS MOBILE CARE	ALS SQUAD	AIR
48. Flight Helmet (1 per crewmember)				X
49. Personal Infection Control Kit, which includes the following: Eye protection, clear, disposable (1 per crew member) Face Mask, disposable (1 per crew member) Gown/coat (1 per crew member) Surgical Cap/Foot Coverings, disposable (1 set per crew member) Double Barrier Gloves (1 set per crew member) Sharps Containers and Red Bags per Infectious Control Plan Fit-tested disposable N95 respirator (1 per crew members) Hand Disinfectant—Nonwater hand cleaner/disinfectant (1 container)	X	X	X	X
50. Sponges, Alcohol, Prep (10)		X	X	X
51. Endotracheal Tubes Sizes/Quantities: 2.5 mm or 3.0 mm (2 uncuffed) 3.5 mm or 4.0 mm (2 uncuffed) 4.5 mm or 5.0 mm (2) 5.5 mm or 6.0 mm (2) 6.5 mm or 7.0 mm (2) 7.5 mm or 8.0 mm (2) 8.5 mm or 9.0 mm (2) Must be sterile and individually wrapped		X	X	X
52. Nonsurgical Alternative/Rescue Airways. Either 2 Combitubes, TM small and adult, or 3 King, ^{LT} 3, 4 and 5.		X	X	X
53. Electronic Wave-Form Capnography		X	X	X
54. Laryngoscope handle with batteries and spare batteries and bulbs and the following blades: Straight Curved #1 (S) #3 #2 (M) #4 #3 (L) (1 each of the blades)		X	X	X
55. Meconium Aspirator (1)		X	X	X
56. Lubrication (2cc or larger tubes) sterile water soluble (2)	X	X	X	X
57. Forceps, Magill (adult/pediatric 1 ea)		X	X	X
58. Medication and Supplies: Emergency Drugs—(per regional protocols and within state rules and regulations and within exp. date) Nebulizer System (1) Hypodermic needles: 16-18 gauge (4), 20-22 gauge (4), 23-25 gauge, (4) Total of 12 and each Must be individually wrapped and sterile.		X	X	X
59. Defibrillator/Monitor: (FDA approved) (battery powered, monophasic or biphasic, energy dose range capable of treating adult and pediatric patients, paper readout), ECG cables with 3 lead capability and pediatric and adult paddles with pacing capabilities or separate stand-alone pacer.		X	X	X

EQUIPMENT/ SUPPLIES

	AMBULANCE TYPE			
	BLS	ALS MOBILE CARE	ALS SQUAD	AIR
60. Defibrillator/Monitor Supplies: Paddle pads (4) or electric gel (2 tubes), electrodes, (ECG, adult and pediatric sizes 6 each)		X	X	X
61. Automated External Defibrillator (required for all BLS service as of January 1, 2011)	X			
62. CPAP Ventilation-portable equipment		X	X	X
63. Stylette, Malleable—pediatric (2)/adult (1). must be sterile.		X	X	X
64. Cricothyrotomy Set (Surgical or Needle) must be sterile.				X
65. Phlebotomy Equipment (per regional protocols)		X	X	
66. Flutter valve (1) Must be sterile.				X
67. Pulse Oximetry (for authorized BLS services) (Not required for licensure)		X	X	X
68. Electronic Glucose Meter		X	X	X
69. "IV" fluid Therapy Supplies Catheters over the Needle sized (per regional requirements): 14, 16, 18, 20, 22 (4 ea) and 24 (2) Micro drip 50-60 drops/ml(2) Macro drip 10-20 drops/ml (2) I.V. solutions (2,250) ml total Tourniquets (2) Intraosseus Needle 14-18 gauge (2)		X	X	X

Equipment that may be used in direct contact with patients must be reasonably clean and easily cleaned of blood and body fluids. No drug and/or medication may be carried beyond an expiration date assigned to it.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact George J. Aupperlee, Department of Health, Bureau of Emergency Medical Services, Room 606 Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120-0701, (717) 787-8740. Persons with a speech or hearing impairment may use V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-1949. Filed for public inspection October 16, 2009, 9:00 a.m.]

Traumatic Brain Injury Advisory Board Meeting

The Traumatic Brain Injury Advisory Board, established under the Federal Traumatic Brain Injury Act of 1996 (42 U.S.C.A. § 300d-52), will hold a public meeting on Thursday, November 5, 2009, from 10 a.m. to 3 p.m. in the Administration Building Conference Rooms A and B, Dixon University Center, 2986 North Second Street, Harrisburg, PA 17110.

For additional information, or for persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Maureen Young, Administrative Assistant, Division of Child and Adult Health Services at (717) 772-2762, or for speech and/or hearing impaired persons contact V/TT (717) 783-6514, or the Pennsylvania AT&T Relay Service at (800) 654-5984.

This meeting is subject to cancellation without notice.

EVERETTE JAMES,
Secretary

[Pa.B. Doc. No. 09-1999. Filed for public inspection October 23, 2009, 9:00 a.m.]

**FISH AND BOAT
COMMISSION**

**Temporary Changes to Fishing Regulations;
Gunter Valley Reservoir, Franklin County**

The Executive Director of the Fish and Boat Commission (Commission), acting under the authority of 58 Pa. Code § 65.25 (relating to temporary changes to fishing regulations), has taken immediate action to temporarily modify fishing regulations at Gunter Valley Reservoir, Franklin County, in anticipation of a complete drawdown of the lake. The Executive Director is lifting all seasons, sizes and creel limits for all species, effective October 9, 2009. The Executive Director has found that this action is necessary and appropriate for the management of fish, and to conserve and preserve fishing opportunities.

The Executive Director has caused these temporary modifications to fishing regulations to be posted in the

vicinity of the lake, and the modified regulations are fully effective and enforceable. These temporary modifications will be in effect until further notice but in no event will they remain in place after April 8, 2010.

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

[Pa.B. Doc. No. 09-2000. Filed for public inspection October 23, 2009, 9:00 a.m.]

Temporary Changes to Fishing Regulations; Miscellaneous Special Regulations Regarding Lake Erie Tributaries

On October 26, 2009, Act 40 of 2009 will go into effect. This act amends 30 Pa. Code § 2907.2 (relating to Lake Erie fishing permits), to provide that a special Lake Erie permit is required to fish in Lake Erie, Presque Isle Bay and their tributaries, including waters that flow into those tributaries, instead of “the Pennsylvania waters of Lake Erie, Presque Isle Bay and their tributaries” only. This amendment requires anglers, effective October 26, to procure a Lake Erie fishing permit to fish in Conneaut Creek, Turkey Creek and their tributaries when previously one was not required because although these streams begin in this Commonwealth, they enter Lake Erie in Ohio. Although a Lake Erie permit will be required to fish these streams, Act 40 also provides that proceeds derived from their sale may now be used to fund projects on those waters.

The Commission’s regulations at 58 Pa. Code § 65.24 (relating to miscellaneous special regulations) currently provide that a Lake Erie permit is not required on Conneaut Creek, Turkey Creek and their tributaries. To be consistent with the new law, this section must be amended to remove that language.

In addition, the Commission currently applies the seasons, sizes and creels limits applicable to Lake Erie and its tributaries under § 69.12 (relating to seasons, sizes and creel limits—Lake Erie and Lake Erie tributaries) to the portion of Conneaut Creek that flows through Erie County. However, the Commission applies the seasons, sizes and creel limits applicable to Commonwealth inland waters under § 61.1 (relating to Commonwealth inland waters) to the portion of Conneaut Creek and its tributaries that flow through Crawford County except with regard to salmon and steelhead that are addressed in § 65.24. To be consistent with the new law, § 65.24 must be amended to remove the existing language. With this change, the Commission will apply the Lake Erie seasons, sizes and creel limits to the entire length of Conneaut Creek and its tributaries. The Commission is actively developing a viable steelhead fishery in Conneaut Creek by annually stocking smolts.

The Executive Director of the Commission, acting under the authority of 58 Pa. Code § 65.25 (relating to temporary changes to fishing regulations), has taken immediate action to amend § 65.24 as follows. This temporary modification will go into effect on October 26, 2009, and will remain in effect until the Commission, by appropriate action, rescinds the regulations.

§ 65.24. Miscellaneous special regulations.

The following waters are subject to the following miscellaneous special regulations:

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
* * *	* * *	* * *
[Crawford and Erie]	[Conneaut Creek E. Branch Conneaut Creek M. Branch Conneaut Creek W. Branch Conneaut Creek Mud Run Stone Run]	[Salmon and Steelhead: 12:01 a.m. the day after Labor Day until midnight the Thursday before the first Saturday after April 11. Minimum size limit: 15 inches. Daily creel limit: 3 (combined species). Lake Erie fishing permit is not required.]
[Crawford]	[Crazy Run]	[Salmon and Steelhead: 12:01 a.m. the day after Labor Day until midnight the Thursday before the first Saturday after April 11. Minimum size limit: 15 inches. Daily creel limit: 3 (combined species). Lake Erie fishing permit is not required.]
* * *	* * *	* * *
[Erie]	[E. Branch Conneaut Creek Marsh Run Temple Run Turkey Creek]	[Salmon and Steelhead: 12:01 a.m. the day after Labor Day until midnight the Thursday before the first Saturday after April 11. Minimum size limit: 15 inches. Daily creel limit: 3 (combined species). Lake Erie fishing permit is not required.]

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

[Pa.B. Doc. No. 09-2001. Filed for public inspection October 23, 2009, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 645.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
7-433	Environmental Quality Board Administration of the Water and Wastewater Systems Operators' Certification Program 39 Pa.B. 3591 July 11, 2009	9/9/09	10/9/09
125-100	Pennsylvania Gaming Control Board Vendor Revisions 39 Pa.B. 4894 August 15, 2009	9/14/09	10/14/09

Environmental Quality Board

Regulation #7-433 (IRRC #2774)

Administration of the Water and Wastewater Systems Operators' Certification Program

October 9, 2009

We submit for your consideration the following comments on the proposed rulemaking published in the July 11, 2009 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (Act) (71 P. S. § 745.5a(a)) directs the Environmental Quality Board (EQB) to respond to all comments received from us or any other source.

1. Determining whether the regulation is in the public interest.

Section 5.2 of the Act (71 P. S. § 745.5b) directs the Independent Regulatory Review Commission (IRRC) to determine whether a regulation is in the public interest. When making this determination, IRRC considers criteria such as economic or fiscal impact and reasonableness. To make that determination, IRRC must analyze the text of the Preamble and proposed regulation and the reasons for the new or amended language. The IRRC also considers the information a promulgating agency is required to

provide under section 5 of the Act (§ 745.5(a)) in the Regulatory Analysis Form (RAF).

This regulatory package deletes three existing chapters of the EQB's regulations and replaces them with one comprehensive chapter that includes 12 subchapters. The 12 subchapters incorporate much of the language contained in technical guidance documents that are being used to administer the water and wastewater operator's certification program (program). The Preamble contains information related to the history of the program and the rulemaking and the fee structure being proposed. However, the Preamble does not include an adequate description of the numerous sections of the rulemaking and the rationale behind the language. Without this information, IRRC is unable to determine if the regulation is in the public interest. The lack of information could also be a reason for the misunderstandings between the EQB and the regulated community as described below. In the Preamble submitted with the final-form rulemaking, the EQB should provide more detailed information required under § 745.5(a) of the Act, including a description of the language proposed for each section of the regulation and why the language is required.

2. Advanced Notice of Final Rulemaking.

In developing this regulatory package, the EQB, on numerous occasions, consulted with several of its water and wastewater advisory committees. The EQB also met with members of the regulated community. In addition, the public comment period was extended from 30 days to 60 days. We acknowledge the amount of time and effort that the EQB put into this package. Despite these efforts, certain segments of the regulated community believe that they were excluded from providing meaningful input on the proposed regulation. After meeting with both the EQB and the regulated community, it is clear that there is a basic misunderstanding of the intent, scope and nature of this regulation.

Section 2 of the Act, pertaining to legislative intent, provides the following direction: "To the greatest extent possible, this act is intended to encourage the resolution of objections to a regulation and the reaching of a consensus among the commission, the standing committees, interested parties and the agency." 71 P. S. § 745.2(a).

In order to resolve many of the objections raised by commentators, we strongly encourage the EQB to continue to meet with the regulated community on this rulemaking. In addition, we suggest that the EQB issue an Advanced Notice of Final Rulemaking. This would allow interested parties and the EQB the opportunity to resolve as many concerns as possible prior to the submittal of the final-form regulation. 63 P. S. § 1003(c).

3. Reasonableness of the regulation; Protection of the public health, safety and welfare and the effect on the Commonwealth's natural resources.

In the RAF submitted with this rulemaking, the EQB has noted that a significant number of water and wastewater treatment systems do not have appropriately certified operators making process control decisions. The EQB believes this represents a significant public health risk to the citizens of this Commonwealth. To complicate matters, the EQB notes that a recent survey indicates the shortage of certified operators will dramatically increase over the next five years.

Commentators agree that there will be a shortage of operators in the future and believe that this rulemaking will exacerbate the situation. Increased costs associated

with obtaining and maintaining an operator's certificate and increased liability placed on operators are cited as reasons why commentators believe the rulemaking will lead to fewer certified operators.

The Preamble to the final-form regulation should explain why this rulemaking will not have an adverse effect on the number of certified operators in the Commonwealth. In addition, the EQB should also explain what actions will be taken to protect the public health if the rulemaking does create a shortage of operators.

4. Reasonableness; Need.

Throughout the proposed regulation, it appears that the EQB requires more information than necessary to administer the program. For example, Section 302.1201(b) includes 16 tasks that may be necessary for certified operators to control the operation and provide for the maintenance of water and wastewater systems. In Section 302.1203(c), the Department may require a water or wastewater system to have a process control plan that includes 15 pieces of information. And finally, Section 302.605 even details permitted use of items (like calculators) in a certification exam.

We recognize the importance of including details in order to ensure the language in the regulation is as clear as possible. However, there needs to be a balance between providing necessary detail and micromanaging the regulated community in their normal course of business.

In the Preamble to the final-form regulation, we ask the EQB to explain the need for such a prescriptive regulation. In addition, the EQB should review the regulation to ensure that each provision of the final-form regulation is necessary and achieves that appropriate balance.

Subchapter A. GENERAL PROVISIONS

5. Section 302.101. Definitions.—Statutory authority; Need; Implementation procedures; Clarity.

Administrative Code

This term is defined, but it does not appear to be used anywhere in the proposed regulation. Therefore, we recommend that this term be deleted from this section in the final-form regulation.

Board-designated agent

This definition refers to a "committee member," but never explains what committee is at issue. The final-form regulation should specify what particular committee is being referred to in this definition.

Board Secretary

This term is defined as "A Department-recommended staff member who acts on behalf of the Board to implement administrative aspects of the program." We raise two issues. First, what is meant by the term "program?" Second, Section 1003 of the Water and Wastewater Systems Operators' Certification Act (Certification Act) requires an election of the Board Secretary and the Chairman. 63 P.S. § 1003(c). Since the definition does not require an election but only a "Department-recommended staff member," the final-form regulation should provide the EQB's statutory authority for deviating from the Certification Act's mandate.

Certificate program

The proposed definition is vague for two reasons. First, the definition does not provide enough information to explain how it is related to this Chapter or the subject matter contained therein. Second, the definition refers to

a "type" of "Department-approved training." Without explaining how this definition is relevant to the Chapter, it is difficult to understand what "types" the definition refers to. The definition in the final-form regulation should clarify the relationship of the term to this Chapter and provide examples of Department-approved training.

Contact hour

What is considered a "Department-approved education experience?" In addition, the definition does not establish the specific amount of time that would constitute a "contact hour" (for example, would a contact hour be considered 50 minutes or 60 minutes?). The final-form regulation should clarify these issues.

Direct filtration

Paragraph (ii) begins with the phrase "The term normally includes flocculation after coagulation. . . ." The term "normally" is nonregulatory language which results in a vague definition. The definition should be amended to specify under what circumstances "flocculation after coagulation" is, and is not, considered "direct filtration."

Fee

This definition indicates that fees are only charged to an "applicant." The definition does not address operators who take training courses for continuing education. Aren't they charged course fees? The final-form regulation should clarify this issue.

Operator

This definition is inconsistent with Section 1002 of the Certification Act. The Certification Act includes a definition for "operator" that exempts industrial wastewater treatment facilities operators from obtaining an operator's certificate. However, this exemption was excluded from the regulatory definition for this term. The EQB should explain this exclusion.

Permitted average daily discharge flow

A commentator was concerned that the inclusion of the term "hydraulic design capacity" in this definition will cause confusion among the regulated community. What was the EQB's intent in using this term in the definition?

Person

Paragraph (i) includes "political subdivision" as an example of what would be considered a person. However, the term is not included as an example in the statutory definition (see Section 1002 of the Certification Act) and the term is not included as an example in paragraph (ii) of the proposed definition. The EQB should explain the reason for these inconsistencies.

Satellite collection system

A commentator suggests that this definition would require regulation of conveyance systems that are not regulated by the Certification Act, and that it would also waive regulation of privately-owned collection systems that are required to be regulated by the Certification Act. According to the commentator, the main reason for this result is that unlike the Certification Act, the regulation omits the term "collection facilities" and uses the term "wastewater system." Through this change, the commentator contends that the end result would be that anyone making process control decisions at facilities like hotels, restaurants or schools would be required to maintain a Class E operator's certificate. (see Section 302.109.) What is the EQB's intent and statutory authority for making this change?

6. Section 302.103. Scope.—Clarity.

According to the *Pennsylvania Code and Bulletin Style Manual*, a “scope” section should only be used to the limit the applicability of the chapter. This section contains substantive provisions that are inappropriate for a “scope” section. For example, it lists what an applicant must do to become an operator. If this language is needed, we recommend that it be moved to more appropriate subchapters and sections.

Subchapter B. GENERAL REQUIREMENTS FOR APPLICATIONS FOR CERTIFICATION ACTIONS

7. Section 302.201. Form of application.—Reasonableness; Implementation procedures; Clarity.

Subsection (a) requires “a complete application with required documentation using the appropriate Department-approved forms.” The final-form regulation should include information as to where or how a Department-approved form can be obtained.

Subsections (b)(2)(ii) and (e)(3)(ii) refer to written verifications of direct knowledge of an operator’s work experience before February 21, 2002. How would a supervisor “verify” this information?

Subsection (e) pertains to applications for certification action for reciprocity. It requires an applicant to provide a copy of their Pennsylvania State Police (PSP) criminal history. If an applicant is from outside the Commonwealth, would the PSP criminal history provide the necessary information? Should the criminal history from the applicant’s state of residence be required in addition?

8. Section 302.202. Operation certification program fees.—Statutory authority; Implementation procedures; Reasonableness; Need; Clarity.

Fee structure

The Fee Report Form submitted with the proposal notes that the fee schedule found in this section is designed to cover the costs for administrative aspects of the program services and the costs for Department training course development and delivery not covered by Federal funding. It is also designed to replace the general fund money dedicated to this program since 2003 for technical support and compliance assistance. We have two concerns.

First, commentators believe the fee structure goes beyond what is permitted by the Certification Act. An example of their concern is the fee that is to accompany the submittal of annual reports. For each of the fees listed in Subsection (d), the EQB should provide a citation to the specific section of the Certification Act that permits the fee to be imposed.

Second, what is the EQB’s statutory authority for a fee structure that is intended to cover the cost of the water and wastewater program not covered by Federal funding?

Exemption to fees

Region III of the United States Environmental Protection Agency (EPA) submitted comments with concerns about a lack of exemptions for training providers such as the EPA. They contend that they would be unable to pay fees associated with obtaining approval to provide training and therefore, would not be able to offer training to system operators. If allowed by the Certification Act, the EQB should consider providing exemptions to training providers such as the EPA.

Subsections (a) and (c)

These subsections state that IDs or permit numbers “should” be included on the check or money order. We have two concerns. First, use of the word “should” indicates that this provision is optional. If these provisions are retained in the final-form regulation, we recommend that “should” be amended to “shall.” Second, under Subsection (a), how would a new applicant know what their “client ID” number will be?

Subsections (e) and (h)

Subsection (e) states: “The maximum fee a training provider or owner will be charged is \$10,000 per year,” and Subsection (h) states: “No person regulated by this act shall pay more than a total of \$10,000 annually to the Commonwealth operator certification fees specified under . . . [the Certification Act].” We have three concerns.

First, we question the EQB’s statutory authority for imposing the \$10,000 limit. Sections 1004(b)(6) and 1004(c)(3) of the Certification Act allow for the imposition of certain fees, but also contain the following language: “. . . as may be reasonable and appropriate to recover the cost of providing such services.” The Certification Act requires recovery of costs associated with providing services and does not provide exemptions from this mandate.

Second, we understand that the purpose of the \$10,000 limit is to ensure that no person is covering a large percentage of the total costs of the program. However, commentators believe that the proposed limit transfers the costs from larger training providers and municipalities to smaller ones. They believe it will make it more difficult for smaller training providers to compete with larger providers, making specialized training more expensive and the remaining training courses more general and vague. In the Preamble to the final-form regulation, we ask the EQB to explain why this approach is reasonable and to consider the effects it could have on small businesses.

Third, given the language of Subsection (h), what is the need for Subsection (e)?

Subsection (f)

Under this subsection, operators holding a valid certification when this rulemaking becomes effective will be exempt from paying “certification fees.” Should this exemption be narrowed to “initial certification fees”?

Subchapter C. BOARD PROCEDURES AND ACTIONS

9. Section 302.301. Board procedures for certification action.—Statutory authority; Implementation procedures.

Timeframes

A commentator is concerned that the regulation should provide more specific times for review and action. For example, in subsection (b), the phrase “. . . notified, in a timely manner from receipt of the application” is vague. In addition, in Subsection (d), the requirement that action occur on a completed application “within two scheduled Board meetings” lacks clarity, since it is unclear when these meetings would actually occur. We recommend that the EQB review these subsections and clarify these timeframes in the final-form regulation.

Subsection (a)

This subsection provides that applications for certification action will be reviewed by the Department “under

the supervision of the Board Secretary.” What is the EQB’s statutory authority for permitting this type of supervision?

Subsection (d)

What does the EQB consider to be “sufficient information” for the Board to make a decision? The final-form regulation should clarify this issue.

Subsection (e)

This subsection states that the Board Secretary *will* issue the operator’s certificate within 60 days of Board action. However, subsection (i) states that the Board will not notify an applicant of a denial of a certificate until 60 days after the Board’s decision. In both subsection (e) and (i), what is the reason for such a long delay in issuing a certificate or a denial?

Subsection (h)

This subsection authorizes the Board Secretary to deny an application for certification without Board approval under certain circumstances. The final-form regulation should explain the EQB’s statutory authority to delegate authorization to the Board Secretary in these specific situations contained in the subsection.

Subsection (i)

This subsection explains the process for denial of an application for certification. However, because the proposed regulation does not specify once a notice of denial is received by an applicant, it is unclear how long the applicant has to file an appeal with the Environmental Hearing Board (EHB). The final-form regulation should provide this information, or if appropriate, include a cross-reference to that section of the Code pertaining to deadlines for filing appeals.

10. Section 302.304. Issuance of certificate through reciprocity.—Clarity.

Commentators are concerned with the strictness of the reciprocity requirements imposed by this section. Please explain how these requirements are consistent with those contained in Section 1009 of the Certification Act.

11. Section 302.306. Certificate renewal.—Need; Implementation procedures; Clarity.

Subsection (d)

We raise two issues concerning this subsection. First, the proposed regulation does not address carry-over credits for continuing education credits. Commentators believe the ability to carry over credits would help them comply with the continuing education requirements and lessen the financial burden this rulemaking will impose. Would a certified operator be permitted to carry forward continuing education credits from one period to the next? A similar concern is raised by Section 302.802(d), which states that: “A certified operator may not apply excess contact hours to a subsequent 3 year renewal cycle.”

Second, this subsection appears to conflict with Subsection (h). Subsection (d) states that: “A certified operator who fails to complete the continuing education requirements within the 3 year cycle shall apply for recertification.” However, Subsection (h) allows a certified operator whose certification has expired not to apply for recertification but to renew their certificate within 24 months following the expiration date of the certificate, provided that the operator has completed the continuing education requirements. The EQB needs to rectify the inconsistency between these two subsections. Similar language is also found in Subsection (l).

Subsection (g)

What is the EQB’s rationale for delaying the renewal of a certificate until the next quarter if an applicant submits a late or incomplete application? In addition, commentators suggest that this provision conflicts with Subsection 302.308 (c), which states that suspensions, revocations, modifications or reinstatements become effective immediately.

Subsection (k)

The second sentence of this subsection begins with the phrase “if possible.” This phrase is nonregulatory language and should be deleted from the final-form regulation. If there are instances in which the Secretary will not send a copy of the letter to the parties identified in Subsection (k), then those instances should be identified in the final-form regulation.

Subsection (l)

This subsection provides an operator with 14 days to submit additional documentation pertaining to completed continuing education. A commentator suggests that this is too short a timeframe, and recommends 30 days. How did the EQB determine that 14 days is an appropriate timeframe?

12. Section 302.307. Extensions.—Implementation procedures; Clarity.

Subsection (a)(3) states that any Board extension is consistent with “only those specific powers and duties granted to the Board.” The final-form regulation should specify the relevant powers and duties, and include a cross-reference to those sections of the Certification Act that list them.

In Subsection (b), within what timeframe will the Board Secretary provide an explanation of the Board’s decision and any requirements for compliance?

13. Section 302.308. Suspensions, revocation or modification of an operator’s certificate.—Statutory authority; Implementation procedures; Clarity.

Subsection (b)(1)

This subsection refers to “negligence” in an operating system. However, the proposed regulation does not define “negligence.” Since there are varying degrees of negligence, the final-form regulation should include a definition for this term.

Subsection (b)(2)

This subsection refers to “fraud,” which is an undefined term. Since there are different types of fraud, the final-form regulation should include a definition for this term.

Subsection (b)(6)

This subsection includes as an example of misconduct: “Creating a clear or *potential threat* to public health, safety or the environment.” (Emphasis added.) Numerous commentators objected to the phrase “potential threat,” stating that since virtually any official action undertaken by an operator has the ability to be a potential threat, operators would be engaging daily in misconduct. They also believe it will greatly increase potential liability for operators. We believe the word “potential” is vague and we recommend it be deleted from the final-form regulation.

Subsection (b)(7)

This subsection refers to the “Failure to comply with the duties assigned to a certified operator.” This provision

lacks clarity. How will the Board know what duties are assigned to a certified operator? Are the duties based on an operator's job description? Who would assign these duties, an employer or the Department? Would a failure to comply with functions not involving wastewater or water operations warrant loss of certification? Without addressing these issues, commentators are concerned that this provision exceeds the liabilities listed in Section 1004(a)(3) of the Certification Act. The final-form regulation needs to clearly identify what duties must be complied with in order to prevent a violation.

Subsection (d)

This subsection discusses the Board's ability to suspend or modify a certificate, based on violations of this section. Will a certified operator have the opportunity to challenge a Board action under this section? What will be the process for such a challenge?

Subchapter D. CRIMINAL HISTORY RECORDS

14. Section 302.402. CHR [criminal history records] investigations.—Reasonableness; Need; Clarity.

Subsection (a)(2) states that: "A misdemeanor that appears to be related directly to activities associated with carrying out duties and responsibilities as a certified operator" requires further investigation. Given the language of Subsection (a)(2), we question the need for Subsection (a)(3), which requires further investigation for a misdemeanor that "appears to pose a threat to public health, safety or the environment." In addition, the language in Subsection (a)(3) is vague. Many misdemeanors can potentially pose a threat to "public health, safety or the environment" and not be related to the operation of a water or wastewater system. We recommend that this provision be deleted.

15. Section 302.403. Review of CHRs by the Board.—Reasonableness; Implementation procedures; Clarity.

Subsection (c)

Under this subsection, why is the written report from the Department submitted to the Board or a Board-designated agent, and not the preliminary review committee?

Subsection (d)

This subsection requires a Department employee on the preliminary review committee to solicit further information from the appropriate regional office as it relates to the circumstances that resulted in a *conviction* and the applicant's record as an operator. While it may be appropriate to solicit information pertaining to the applicant's record as an operator, we question the reasonableness of soliciting information pertaining to any conviction. Why would a regional office have any information about a felony or misdemeanor conviction of an applicant, especially if the conviction was not related to the operation of a water or wastewater facility?

Subsection (e)

When will the preliminary review committee provide reasons and documentation for their recommendation?

Subsection (i)

This subsection requires the Department to complete its investigation "in a timely manner." This phrase is vague and should be defined further.

16. Section 303.404. Board actions as the result of a CHR.—Need; Implementation procedures; Clarity.

Subsection (a)

This subsection states that: "The Board will act on all CHRs submitted with an application for certification action." Subsection (b) states that no further Board action is necessary when an applicant's CHR shows no convictions. Why must the Board act on all applications, even application with no convictions on a CHR?

Subsection (e)

Under this subsection, when will the Board Secretary notify an applicant of the Board's decision to deny an application? This should be included in the final-form regulation.

Subsection (g)

Under this subsection, what is the timeframe for appealing an action of the Board to the EHB? To assist the regulated community in understanding their appeal rights, we recommend that this information be included in the final-form regulation, and if available, include a cross-reference to other Chapters detailing the appeals process.

Subchapter F. PREPARATION AND ADMINISTRATION OF CERTIFICATION EXAMINATIONS

17. Section 302.601. General provisions.—Clarity.

In Subsection (a), who determines whether a certification examination is "valid"?

18. Section 302.602. Approved examination providers.—Fiscal impact; Implementation procedures; Clarity.

Subsection (b)

This subsection allows examination providers to charge fees to cover certain costs of administering the examination. We have two concerns.

First, is this fee in addition to the fees found in Section 302.202, related to operator certification program fees? If so, what is the potential fiscal impact of these fees?

Second, while this subsection discusses "examination providers," Section 302.601(g) references "third-party examination proctors." The final-form regulation should clarify whether "examination providers" and "third-party examination proctors" are the same thing. Has the EQB determined whether a proctor can, like an examination provider, charge a fee? If so, such a fee should be included in the final-form regulation.

Subsection (c)

This subsection prohibits examination providers from being in possession of Department-developed examination materials or content. What is the intent of this provision? How can an exam be administered if the examination providers cannot be in possession of the necessary materials or content?

19. Section 302.603. Examination eligibility.—Fiscal impact; Implementation procedures; Clarity.

Under Subsection (a), why must an applicant for an examination pay a fee to have their request to take the exam processed? Is this processing fee in addition to the fees required by Section 302.202? Why is the fee set by the exam provider and not the Department or the EQB? What is the potential fiscal impact of this fee? Will applicants be charged for taking the exam?

20. Section 302.604. Examination administration.—Implementation procedures.

In Subsection (d), when will the Board notify an applicant that they have agreed to their request for exceptions to the scheduled date and location of the examination?

Subchapter G. EDUCATION, EXAMINATION AND EXPERIENCE REQUIREMENTS

21. Section 302.702. Examination requirements.—Clarity.

In Subsection (c), who sets the “minimum numerical score”? This information should be included in the final-form regulation.

22. Section 302.703. Experience requirements.—Implementation procedures; Clarity.

Under Subsection (d)(2), what process will the Department use to approve associate degrees in water or wastewater operation? How will the regulated community know if a particular degree program has been approved?

23. Section 302.705. Accelerated certification requirements for system modifications.—Clarity.

Subsection (a) requires operators to upgrade their certificates “when an increase in treatment capacity of the system no longer qualifies the available operator to make process control decisions for that system.” A commentator has asked if an upgrade is required if the classification of the system does not change, and if so, why? This provision should be clarified.

Subchapter H. CONTINUING EDUCATION AND TRAINING

24. Section 302.804. System security training requirements.—Fiscal impact; Implementation procedures; Clarity.

Fees

This section requires certified operators to complete a system security training course. However, unlike other sections of the proposed regulations relating to training or continuing education, this section does not appear to impose a fee. Is there a fee associated with the security training course? If so, is it in addition to the fees found in Section 302.202? The final-form regulation should explain the fiscal impact of these training requirements.

Subsection (a)

With respect to the system security training course itself, how many contact hours will the course be? Is this course required every three years? What types of courses are acceptable to the Department? In addition, what constitutes successful completion of the course? The same concern applies to Subsections (f) and (g). The final-form regulation should clarify these issues.

Subsection (c)

What criteria will be used to determine if a person has successfully demonstrated the knowledge, skills and abilities contained in the course? The final-form regulation should clarify this issue.

Subsection (g)

This subsection states that the Department “may” require certified operators to attend and successfully complete additional system security courses. Under what circumstances would the Department require this?

Subchapter I. SYSTEM CLASSIFICATION AND SUBCLASSIFICATIONS

25. Section 302.901. Classifications and subclassifications of water systems.—Clarity.

In Subsection (d), the final-form regulation should clarify what “changes in the conditions or circumstances at the system” would warrant a change in the system’s classification or subclassification. The same concern applies to Section 302.902 (c).

26. Section 302.902. Classifications and subclassifications of wastewater systems.—Statutory authority; Implementation procedures; Clarity.

Subsection (c) would allow the Department to change the classification or subclassification of a wastewater system by written notice. A commentator suggests that since the classification system is created by Section 1004(c)(4) of the Certification Act, any change should be done through the issuance of a permit. What is the EQB’s statutory authority for allowing changes to occur simply through written notice?

In addition, in Section 302.901(b), the Department may reclassify a water system “upon written request by the owner.” (Emphasis added.) Why is a comparable provision not included for wastewater systems in Section 302.902?

Subchapter J. OPERATOR CLASSES AND SUBCLASSIFICATIONS

27. Sections 302.1006. Laboratory supervisor certification.—Reasonableness; Need; Implementation procedures; Clarity.

This section pertains to certification under a laboratory supervisor subclassification. We raise two issues.

First, several commentators have noted that certifications for laboratory supervisors are already addressed in 25 Pa. Code Chapter 252. What is the need for including this section in the proposed regulation? In addition, because there are two different provisions concerning this issue, commentators are concerned that the provisions contained in the proposed rulemaking are unclear. For example, will laboratory supervisors now have to become certified operators? If so, will existing laboratory supervisors be grandparented as certified? The EQB needs to justify the need for the existence of these provisions in two entirely different Chapters.

Second, if the EQB can justify the need for provisions in both Chapters, then there appears to be contradictory language between them, which the EQB should explain. For example, Subsection 252.302(h)(3) states:

Until 12 months after a certificate under the Water and Wastewater Systems Operators’ Certification Act for laboratory supervisor in the appropriate water or wastewater subclassification becomes available from the Department, 2 years of experience performing testing or analysis of environmental samples using the methods and procedures currently in use by the environmental laboratory may be substituted for a laboratory supervisory certificate.

However, proposed Subsection 302.1006(e) simply requires applicants to have the above-mentioned two-year experience. Why are these two subsections different?

In addition, Subsection 302.1006(f) requires that:

An applicant for laboratory supervisor’s certification for drinking water or wastewater systems shall hold a valid operator’s certificate and demonstrate the knowledge, skills and abilities needed to be a labora-

tory supervisor by obtaining a passing score on either the Part II Laboratory Supervisor for Water Systems or Part II Laboratory Supervisor for Wastewater Systems examination.

However, Chapter 252 does not appear to require such a test. What is the need for this addition?

Subchapter K. PROFESSIONAL ENGINEERS

28. Section 302.1102. Issuance of initial certification for a professional engineer.—Clarity.

What does the EQB consider to be appropriate “written proof” of a valid professional engineer’s license? The final-form regulation should clarify this issue.

Subchapter L. SYSTEM OPERATION

29. Section 302.1201. Duties of operators.—Statutory authority; Implementation procedures; Reasonableness; Need; Clarity.

Subsection (a)

This subsection generally outlines the duties of a certified operator and describes the Department’s role in determining compliance. We have two concerns. First, certified operators are required to comply with “applicable Federal and state laws.” We believe the regulated community would benefit from knowing what those laws are and recommend they be specified in the final-form regulation.

Second, this subsection describes the Department’s role in determining compliance as follows: “The Department will *recognize* the ability of the certified operator to meet these requirements is in part dependent upon the available resources and responsibilities assigned by the system owner.” (Emphasis added.) Given the potential liability associated with being a certified operator, a commentator believes that the term “recognize” does not provide adequate protection to certified operators. We agree that the term “recognize” is vague and does not adequately describe how this section will be administered if an owner has not provided the proper support to a certified operator. As suggested by the commentator, the regulation should be revised to state that the Department *will* consider owner-provided resources when deciding if a certified operator is in compliance.

Subsection (b)

This subsection lists 16 tasks that may be necessary for certified operators to control the operation and provide for the maintenance of water and wastewater systems. What is the need for listing all of the tasks? Wouldn’t operators, by way of their education, training, experience, and actual certification, know to perform such tasks as “adjusting system processes based on monitoring data” or “starting or stopping pumps or increasing or decreasing pump rates”?

If the EQB determines that the list of tasks is necessary, we note that a commentator believes that the requirement of “self-monitoring” of samples under Subsection (b)(14) is problematic because operator certification training does not adequately prepare a system technician to evaluate and interpret self-monitoring data against the requirements. How will this provision be administered and enforced by the Department?

Subsection (c)

Under this subsection, certified operators must “submit a written report to the system owner documenting any known violations or system conditions that may potentially cause or are causing violations of any Department regulation or permit condition or requirements.” This

subsection also provides very prescriptive details for delivering the report to system owners. We have four concerns.

First, we recognize the fact that language quoted above is similar to language found in the Section 1013(e)(2) of the Certification Act. However, inclusion of the phrase “may potentially cause” in the regulation has commentators concerned. They correctly note, that within a 24-hour period, many situations arise that may, if left unattended, could result in a violation. They believe, and we concur, that documenting and reporting every potential violation is unreasonable. We urge the EQB to reconsider this provision and provide a less burdensome requirement to certified operators, while still ensuring the protection of the environment.

Second, the Certification Act does require that violations be reported to system owners, but does not prescribe the method for reporting. Why has the EQB limited reporting options to mail or hand delivery? Has the EQB considered providing different mechanisms for reporting problems to owners, such as electronic notification?

Third, this subsection requires reports to be delivered to system owners. In situations where a system is owned by a municipal authority or a local government, to whom would the reports be sent?

Finally, under Subsection (c)(5), what is meant by “degree of severity or threat to public health . . .”? This phrase is vague and should either be deleted or defined.

Subsection (d)

This subsection reads as follows:

The available operators making process control decisions are responsible for those decisions and consequences, unless the owner fails to respond to a written report as required in subsection (c) or there is a deliberate action with malice or negligence on the part of an employee under the supervision of the available operator.

Commentators believe this subsection creates new liabilities for certified operators that go beyond what the Certification Act contemplates. They believe it imposes liability for “consequences” of process control decisions and does not account for situations beyond an operator’s control, such as natural disasters. In the Preamble to the final-form regulation, we ask the EQB to explain why this provision is consistent with the Certification Act and how it intends to implement this subsection.

30. Section 302.1202. Duties of owners.—Implementation procedures; Reasonableness; Need; Clarity.

Subsection (a)

This subsection lists the duties of water and wastewater system owners. We have two concerns. First, Subsection (a)(5) includes the phrase “in a timely manner.” This phrase is vague. We recommend that the final-form regulation include a more precise timeframe for responding to problems identified in written reports from certified operators.

Second, Subsection (a)(6), requires owners to provide copies of permits to “all available operators.” However, Section 1013(f)(3) of the Certification Act only requires copies of permits be provided to “operators in responsible charge.” What is the need for expanding the scope of the Certification Act to include all available operators instead of operators in responsible charge?

Subsection (b)

Six pieces of information are required to be reported to the Department on an annual basis under this subsection. We have two concerns. First, commentators believe that the Department is already in possession of this information. What is the need for reporting the information again?

Second, the regulation is silent on when and where the report is to be submitted. If the EQB retains this provision, we recommend that the final-form regulation specify when and where the report should be submitted.

31. Section 302.1203. Process control decisions.—Implementation procedures; Reasonableness; Need; Clarity.

Subsection (c)

This subsection states that the Department may require a water or wastewater system to have a process control plan that includes 15 pieces of information. Under what circumstances would a process control plan be required? How would the system be notified of this requirement? Would the plan require approval by the Department? These questions should be addressed in the final-form regulation.

Subsection (e)

Under this subsection, certain actions taken by the Department, local governments and emergency personnel are not considered process control decisions. What is the need for including this provision in the final-form regulation?

32. Section 302.1206. Operator in responsible charge.—Statutory authority; Implementation procedures; Reasonableness; Clarity.

Subsection (a)

Are the reporting requirements found in this subsection in addition to the reporting requirements found in Section 302.1202(b)? If so, what is the need for this provision?

Subsection (e)

This subsection states the following:

The operator in responsible charge, who is the approving authority for the standard operating procedures for a system, is accountable for any permit violations or violations of any applicable rules and regulations which may occur when an operator follows these standard operating procedures.

We have two concerns. First, what is meant by the term “accountable”? Similar to the concerns outlined in Section 302.1201(d), commentators believe this subsection creates new liabilities for operators that go beyond what the Certification Act contemplates. We again ask the EQB to explain why this provision is consistent with the Certification Act and how it intends to implement this subsection.

Second, under Section 302.1204(d), the use of standard operating procedures (SOPs) is optional. However, this subsection makes operators in responsible charge accountable for violations when SOPs are followed. Why would an operator in responsible charge develop formal SOPs, as this would lead to additional liability?

33. Section 302.1207. Operation of multiple treatment systems (Circuit Rider).—Clarity.

We recommend that the term “circuit rider” be defined in either this section or Section 302.101, relating to definitions. We also recommend that the term be deleted from the title of this section.

34. Section 302.1208. Programmable logic controls (PLCs) and supervisory control and data acquisition systems (SCADA).—Clarity.

Both of the terms above are also used in Section 302.1203(a). We recommend that the terms be defined in Section 302.101, relating to definitions.

35. Miscellaneous clarity.

Under Sections 302.202(f) and (g), the references to Section 302.202(b) are incorrect. The correct reference is Section 302.202(d).

Several sections of the proposed regulation refer to “other” Department rules, regulations or guidelines and “applicable Federal and State laws” or similar language, including Sections 302.301(g), 302.304(a), 302.306(a), 302.306(b), 302.307(a), 302.1101(a), 302.1201(a) and 302.1202(a)(1). To facilitate compliance and improve clarity, these phrases should be replaced with cross-references to the specific laws and regulations that apply.

Pennsylvania Gaming Control Board

Regulation #125-100 (IRRC #2780)

Vendor Revisions

October 14, 2009

We submit for your consideration the following comments on the proposed rulemaking published in the August 15, 2009 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Pennsylvania Gaming Control Board (Board) to respond to all comments received from us or any other source.

1. Section 435a.9b. Vendor employee temporary access credentials.—Reasonableness.

12 days in a 12-month period

Mohegan Sun at Pocono Downs (MSPD) and Greenwood Gaming and Entertainment, Inc. (GGE) believe the limitation to “12 days in a 12-month period” in Subsection (c) is overly restrictive for construction company vendors. They state that work interruptions and scheduling problems could easily require more than 12 days in a year. Their comments suggest that the Board’s compliance representatives could address the issue on a case by case basis or that the regulation should allow a more reasonable length of time, such as 30 days in a 12-month period. The Board should explain why 12 days in a 12-month period is reasonable.

2. Section 437a.1. General vendor requirements.—Need; Reasonableness; Adverse effects on competition.

24 hours within a 72-hour period in any 3-month period

The exception to registration in Subparagraph (a)(2)(i) states, “The employees will be on the gaming floor for less than 24 hours within a 72-hour period no more than once in any consecutive 3-month period.” This is a complicated series of conditions that must be met or anticipated. Since Subparagraphs (ii) and (iii) require the employee to sign-in with the security department and have written approval from the Board, we question the need for all of the time limitations in Subparagraph (i). For example, why is the phrase “within a 72-hour period” needed in

addition to the rest of Subparagraph (i) and Subparagraphs (ii) and (iii)? The Board should explain the need for all of the time restrictions in Subparagraph (i).

Publicly-traded vendors

NCR Corporation (NCR) believes that Paragraph (d)(15) would not treat all publicly-traded vendors alike. Paragraph (15) exempts vendors from certification or registration if they have no employees who must obtain occupation permits or nongaming employee registration from the Board. However, a vendor with even one such employee must apply for certification or registration even if the employee's duties are unrelated to gaming. NCR suggested revisions to Subsection (d) and to Section 437a.7 to address this inequity. The Board should explain how Paragraph (d)(15) would treat all publicly-traded vendors the same.

3. Section 437a.2. Vendor registration applications.—Clarity.

Power to control or influence

Subparagraph (b)(4)(iii) requires fingerprints of "each individual who has the power to control or influence the affairs of the registered vendor applicant." This identical phrase also appears in Paragraph 437a.4(a)(3). We recommend deleting both provisions because they do not clearly identify the persons who must be fingerprinted or submit disclosure forms. Alternatively, the Board should define the phrase "power to control or influence" or amend these provisions to clearly establish who must be fingerprinted or submit disclosure forms.

4. Section 437a.7. Registered and certified vendor responsibilities.—Need; Reasonableness.

Registered vendors

MSPD questioned the need to include registered vendors. MSPD explains that several of the amendments will significantly expand filing requirements and costs imposed on registered vendors. The Preamble states that Section 437a.7 is being revised to include registered vendors, but does not provide a reason for the amendments. The Board should explain the need for the amendments under Subsections (b), (c), (c)(4), (d) and (e), the costs imposed by the amendments, and how the benefits outweigh the costs imposed.

5. Section 437a.9. Permission to conduct business prior to certification or registration.—Clarity.

Rulemaking #125-97/IRRC #2748

At our August 20, 2009 public meeting, this Commission approved the Board's final regulation #125-97 (IRRC #2748) which also amended Section 437a.9. GGE is concerned that Subsection (a) does not address the "winding up period" discussed in rulemaking #125-97. When the Board submits final-form regulation #125-100, the Board should explain how it is consistent with regulation #125-97.

6. Section 437a.11. Slot machine applicants' and licensees' duty to investigate.—Reasonableness; Clarity.

Actual knowledge

MSPD urges the Board to provide further clarification in Subsection (c) to limit the duty to inform the Board of violations about which the applicants and licensees have actual knowledge. MSPD provided suggested language to

remedy its concern. We recommend that the Board consider including this clarification or explain why it is not needed.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 09-2002. Filed for public inspection October 23, 2009, 9:00 a.m.]

INSURANCE DEPARTMENT

AIG Life Insurance Company; Rate Increase Filing for LTC Forms 64028-PA and C12277-PA

AIG Life Insurance Company is requesting approval to increase the premium 25% on Long-Term Care policy forms 64028-PA and C12277-PA. A total of 550 policyholders in this Commonwealth will be affected by this rate adjustment.

Unless formal administrative action is taken prior to January 7, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's web site at www.ins.state.pa.us. Scroll down the home page and click on "Consumer Information" located on the left side. Next scroll down to "General Information," located in the middle of the page, and click on "Notices." The pdf copy of this filing is located at the link "Filing.pdf" following the name of the filing.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, e-mail jlaverty@state.pa.us, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-2003. Filed for public inspection October 23, 2009, 9:00 a.m.]

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by PHHA, LLC

PHHA, LLC has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Platinum Healthcare at Haverford Nursing and Rehabilitation Center in Havertown, PA. The initial filing was received on September 30, 2009, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act of 1984 (40 P.S. §§ 3201—3225).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include 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 to inform the Department of the exact basis of the statement. Written

statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or e-mail syerger@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-2004. Filed for public inspection October 23, 2009, 9:00 a.m.]

Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by PHML, LLC

PHML, LLC has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Platinum Healthcare at Main Line Nursing and Rehabilitation Center in Malvern, PA. The initial filing was received on September 30, 2009, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act 1984 (40 P.S. §§ 3201—3325).

Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include 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 to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or e-mail syerger@state.pa.us.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-2005. Filed for public inspection October 23, 2009, 9:00 a.m.]

Blue Cross of Northeastern Pennsylvania; BlueCare Direct; Filing No. 1520-FP-25_PPO-1/1/09; Rate Filing

On October 2, 2009, the Insurance Department (Department) received from Blue Cross of Northeastern Pennsylvania a filing for a rate increase to cover proposed benefit enhancements.

The carrier requests a 7% increase along with an enhanced preventative care benefits package. The requested effective date of the change is January 1, 2010.

Unless formal administrative action is taken prior to January 14, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at www.ins.state.pa.us. To access the filing, under "Quick Links" click on "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's Regional office in Harrisburg.

Interested parties are invited to submit written or e-mail comments, suggestions or objections to J. Sabater, Insurance Department, Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, e-mail jsabater@state.pa.us, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-2006. Filed for public inspection October 23, 2009, 9:00 a.m.]

Blue Cross of Northeastern Pennsylvania; Filing No. 1517-PRAG-5-RATE-1/10; Senior Major Medical Program; Rate Filing

On October 9, 2009, Blue Cross of Northeastern Pennsylvania and Highmark Blue Shield submitted a filing, requesting the Insurance Department's (Department) approval to increase the current monthly rates for the BlueCare Senior Major Medical plan by 3.1% effective January 1, 2010. This rate increase is expected to affect approximately 3,100 members and produce approximately \$2,000 of additional revenue.

Unless formal administrative action is taken prior to January 7, 2010, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at www.ins.state.pa.us. Scroll down the home page and click on "Consumer Information" located on the left side. Next scroll down to "General Information," located in the middle of the page, and click on "Notices." The pdf copy of this filing is located at the link "Filing.pdf" following the name of the filing.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, e-mail jlaverty@state.pa.us, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-2007. Filed for public inspection October 23, 2009, 9:00 a.m.]

Insurance Services Office, Inc.; Private Passenger Automobile; Alternative Rating Plan; Rate and Rule Filing

On October 8, 2009, the Insurance Department (Department) received from Insurance Services Office, Inc. a filing for an alternative rating plan to the standard ISO Personal Vehicle Manual rating system.

The model underlying the proposed Risk Analyzer Personal Auto Rating Plan Manual is based on a wide variety of characteristics affecting the risk of loss, such as traffic density, driving patterns, topography and weather. This alternate rating plan is not being filed on behalf of insurers and will not be incorporated into ISO's Personal Vehicle Manual or Personal Auto Program. It is filed for use by insurers who elect to adopt it. The filing is to be effective upon approval.

Unless formal administrative action is taken prior to December 7, 2009, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at www.ins.state.pa.us. To access the filing, under "Quick Links" click on "Rate Filings Published in the PA Bulletin."

Interested parties are invited to submit written comments, suggestions or objections to Michael McKenney, Insurance Department, Office of Insurance Product Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, e-mail mmckenney@state.pa.us, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-2008. Filed for public inspection October 23, 2009, 9:00 a.m.]

Lehr's Exxon Service Station; Hearing

Appeal of Lehr's Exxon Service Station under the Storage Tank and Spill Prevention Act; Underground Storage Tank Indemnification Fund; USTIF File No. 2008-0087(M); Doc. No. UT09-09-023

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and any other relevant procedure provisions of law.

A prehearing telephone conference shall be held on November 19, 2009, at 11 a.m. A hearing shall occur on December 10, 2009, at 9:30 a.m., in the Administrative Hearings Office, Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102. Motions preliminary to those at hearing, protests, petitions to intervene, notices of appearance or notices of intervention, if any, must be filed with the Hearings Administrator at the previously listed address on or before November 6, 2009. Answers to petitions to intervene, if any, shall be filed on or before December 18, 2009.

On or before November 6, 2009, each party shall file with the Administrative Hearings Office a prehearing statement which shall contain: (1) a comprehensive statement of undisputed facts to be stipulated between the parties; (2) a statement of additional contended facts; (3) names and address of witnesses along with the specialties of experts to be called; (4) a list of documents to be used at the hearing; (5) special evidentiary or other legal issues; and (6) the estimated time for the party's case. Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with a copy of any report generated by an expert witness designated on the prehearing statement. Any report subsequently received from a party's expert witness prior to hearing shall be supplied to the other party within 2 business days. Copies of expert reports need not be filed with the Administrative Hearings Office. Experts will be permitted to testify only on matters substantially contemplated by reports supplied to the other party in accordance with this paragraph.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to

participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-4194.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-2009. Filed for public inspection October 23, 2009, 9:00 a.m.]

Medical Care Availability and Reduction of Error Fund; Notice of and Amount of Assessment Action; Notice No. 2009-08

The Insurance Department (Department), Medical Care Availability and Reduction of Error Fund, by Peter J. Adams, Deputy Insurance Commissioner, under section 712 of the Medical Care Availability and Reduction of Error (MCARE) Act (act) (40 P.S. § 1303.712), has determined that the annual assessment to be levied for calendar year 2010 shall be 21% applied to the prevailing primary premium for each participating health care provider.

The act defines "prevailing primary premium" as the schedule of occurrence rates approved by the Insurance Commissioner for the Joint Underwriting Association (JUA). For purposes of the 2010 annual assessment, the rates shall be those currently approved for use by the JUA.

Participating health care providers having approved self-insurance plans shall be assessed an amount equal to the assessment imposed on a participating health care provider of like class, size, risk and kind as determined by the Department.

Even though the 2010 assessment is 21% as compared to 19% in 2009, most health care providers in the same JUA class and territory will pay substantially the same MCARE assessment in 2010 as in 2009.

This action is subject to 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

PETER J. ADAMS,
Deputy Insurance Commissioner

[Pa.B. Doc. No. 09-2010. Filed for public inspection October 23, 2009, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insured has requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P.S. § 1171.8) in connection with their companies' termination of the insureds' policies. The administrative hearing will be held in the Insurance Department's regional office in Harrisburg, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

Appeal of Andrew Stergiou; file no. 09-183-75699; Insurance Placement Facility of PA; Doc. No. P09-10-007; November 17, 2009, 11 a.m.

Parties may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending.

Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-4194.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-2011. Filed for public inspection October 23, 2009, 9:00 a.m.]

Tanknology, Inc.; Hearing

Appeal of Tanknology, Inc. under the Storage Tank and Spill Prevention Act; Underground Storage Tank Indemnification Fund; USTIF File No. 2007-001THP(S); Doc. No. UT09-10-002

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure); and any other relevant procedure provisions of law.

A prehearing telephone conference shall be held on December 8, 2009, at 10 a.m. Motions preliminary to those at hearing, protests, petitions to intervene, notices of appearance or notices of intervention, if any, must be filed with the Hearings Administrator, at the Administrative Hearings Office, Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102, on or before November 23, 2009. Answers to petitions to intervene, if any, shall be filed on or before December 7, 2009.

A date for a hearing shall be determined, if necessary, at the prehearing/settlement telephone conference.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-4194.

JOEL SCOTT ARIO,
Insurance Commissioner

[Pa.B. Doc. No. 09-2012. Filed for public inspection October 23, 2009, 9:00 a.m.]

MILK MARKETING BOARD

Hearing and Presubmission Schedule; Milk Marketing Area No. 4

Under the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Area No. 4 on January 6, 2010, commencing at 10 a.m. in Room 202 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and exhibits concerning cost replacement in Milk Marketing Area No. 4. Evidence will be limited to the following: annualized processing, packaging and delivery costs; updated costs for containers, ingredients and Class II products; updated labor, utility and insurance costs based on comparisons between costs per point for the third quarters of calendar years 2008 and 2009; skim and butterfat contents of products regulated by the Board; adjustment for shrinkage, sales of bulk products and cream processing costs; monthly adjustments to in-store handling costs; and a reasonable rate of return to milk dealers and stores. In accordance with OGO A-937, evidence and testimony will be considered regarding the heating fuel adjuster in Area No. 4. In accordance with OGO A-939, evidence and testimony will be considered regarding the diesel fuel cost adjuster in Area No. 4.

The staff of the Board is deemed to be a party to this hearing, and the attorney representing staff is deemed to have entered his appearance. Other persons who wish to present evidence may be included on the Board's list of parties by: (1) having their attorney file with the Board on or before 4 p.m. on December 4, 2009, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25 (relating to form of notice of appearance); or (2) if unrepresented by counsel, filing with the Board on or before 4 p.m. on December 4, 2009, notification of their desire to be included as a party. Parties may indicate in their notices of appearance if alternate means of service, that is, e-mail or fax, are acceptable. Notices of appearance filed electronically should be directed to deberly@state.pa.us.

The parties shall observe the following requirements for advance filing of witness information and exhibits:

1. By 2 p.m. on December 9, 2009, Board Staff shall file with the Board, in person or by mail, one original and six copies and ensure receipt by all other parties of one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise. For expert witnesses there shall also be filed a statement of the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 2 p.m. on December 23, 2009, responding parties shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

3. By 2 p.m. on December 30, 2009, each party shall file and serve as set forth in paragraph 1 information concerning surrebuttal witnesses and copies of surrebuttal exhibits.

Parties that wish to offer in evidence documents on file with the Board, public documents, or records in other proceedings before the Board, or who wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code §§ 35.164, 35.165, 35.167 or 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office by 11 a.m. on December 24, 2009.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

KEITH BIERLY,
Secretary

[Pa.B. Doc. No. 09-2013. Filed for public inspection October 23, 2009, 9:00 a.m.]

Hearing and Presubmission Schedule; Milk Marketing Area No. 5

Under the Milk Marketing Law (31 P.S. §§ 700j-101—700j-1302), the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Area No. 5 on January 6, 2010, commencing at 11 a.m. in Room 202 of the Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and exhibits concerning cost replacement in Milk Marketing Area No. 5. Evidence will be limited to the following: annualized processing, packaging and delivery costs; updated costs for containers, ingredients and Class II products; updated labor, utility and insurance costs based on comparisons between costs per point for the third quarters of calendar years 2008 and 2009; skim and butterfat contents of products regulated by the Board; adjustment for shrinkage, sales of bulk products and

cream processing costs; monthly adjustments to in-store handling costs; and a reasonable rate of return to milk dealers and stores. In accordance with OGO A-937, evidence and testimony will be considered regarding the heating fuel adjuster in Area No. 5. In accordance with OGO A-939, evidence and testimony will be considered regarding the diesel fuel cost adjuster in Area No. 5.

The staff of the Board is deemed to be a party to this hearing, and the attorney representing staff is deemed to have entered his appearance. Other persons who wish to present evidence may be included on the Board's list of parties by: (1) having their attorney file with the Board on or before 4 p.m. on December 4, 2009, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25 (relating to form of notice of appearance); or (2) if unrepresented by counsel, filing with the Board on or before 4 p.m. on December 4, 2009, notification of their desire to be included as a party. Parties may indicate in their notices of appearance if alternate means of service, that is, e-mail or fax, are acceptable. Notices of appearance filed electronically should be directed to deberly@state.pa.us.

The parties shall observe the following requirements for advance filing of witness information and exhibits:

1. By 2 p.m. on December 9, 2009, Board Staff shall file with the Board, in person or by mail, one original and six copies and ensure receipt by all other parties of one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise. For expert witnesses there shall also be filed a statement of the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 2 p.m. on December 23, 2009, responding parties shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

3. By 2 p.m. on December 30, 2009, each party shall file and serve as set forth in paragraph 1 information concerning surrebuttal witnesses and copies of surrebuttal exhibits.

Parties that wish to offer in evidence documents on file with the Board, public documents, or records in other proceedings before the Board, or who wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code §§ 35.164, 35.165, 35.167 or 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office by 11 a.m. on December 24, 2009.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

KEITH BIERLY,
Secretary

[Pa.B. Doc. No. 09-2014. Filed for public inspection October 23, 2009, 9:00 a.m.]

OFFICE OF ATTORNEY GENERAL

Public Meeting

Public notice is hereby given of a meeting of the Lobbying Disclosure Regulation Committee (Committee) established under November 1, 2006 (P. L. 1213, No. 134) (Act 134). The meeting will be held on Thursday, October 29, 2009, at 10 a.m. in Hearing Room 2, North Office Building, Harrisburg, PA.

The purpose of the meeting will be for the Committee to consider regulations under Act 134 of 2006 and to receive public comments. Visit www.attorneygeneral.gov for more information and to view a copy of the complete agenda.

THOMAS CORBETT,
Attorney General

[Pa.B. Doc. No. 09-2015. Filed for public inspection October 23, 2009, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Default Service Plan

P-2009-2135500. Duquesne Light Company. Petition of Duquesne Light Company for approval of Default Service Plan for the Period January 1, 2011, through May 31, 2013.

Formal protests, petitions to intervene and answers 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 petitioner and a copy provided to the Administrative Law Judge, on or before November 9, 2009. The documents filed in support of the petition 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 petitioner's business address.

Applicant: Duquesne Light Company

Through and by Counsel: David B. MacGregor, Post and Schell, P.C., Four Penn Center, 1600 John F. Kennedy Boulevard, Philadelphia, PA 19103-2808

Michael W. Gang, Anthony Kanagy, Post and Schell, P.C., 17 North Second Street, 12th Floor, Harrisburg, PA 17101-1601

Erin Creahan, Duquesne Light Company, 411 Seventh Avenue, Pittsburgh, PA 15219

Petition of Duquesne Light Company

For Approval of its Default Service Program

Notice

This is to inform you that an initial prehearing conference on the previously-captioned case will be held as follows:

Type: Initial Prehearing Conference

Date: Thursday, November 12, 2009

Time: 10 a.m.

Location: 11th floor hearing room—
Pittsburgh Parties
Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222

Location: Hearing Room 2—Harrisburg Parties
Plaza Level
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Presiding: Administrative Law
Judge John H. Corbett, Jr.
1103 Pittsburgh State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222

Phone: (412) 565-3550

Fax: (412) 565-5692

Persons with a disability, who wish to attend the hearing, may be able to make arrangements for their special needs. Call the scheduling office at the Pennsylvania Public Utility Commission (Commission) at least 5 business days prior to your hearing to submit your request.

If an interpreter is required to participate in the hearings, the Commission will make every reasonable effort to have an interpreter present. Call the scheduling office at the Commission at least 10 business days prior to your hearing to submit your request.

- Scheduling Office: (717) 787-1399
- Pennsylvania AT&T Relay Service number for persons who are deaf or hearing-impaired: (800) 654-5988

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-2016. Filed for public inspection October 23, 2009, 9:00 a.m.]

Default Service Program

P-2009-2135496 and G-2009-2135510. UGI Utilities, Inc.—Electric Division. Petition of UGI Utilities, Inc.—Electric Division for approval of a Default Service Program under 52 Pa. Code §§ 54.181—54.189, and associated potential transactions with affiliated entities.

Formal protests, petitions to intervene and answers 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 petitioner and a copy provided to the Administrative

Law Judge, on or before November 9, 2009. The documents filed in support of the petition 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 petitioner's business address.

Applicant: UGI Utilities, Inc.—Electric Division

Through and by Counsel: Mark C. Morrow, Kent D. Murphy, UGI Corporation, 460 North Gulph Road, King of Prussia, PA 19406

Petition of UGI Utilities, Inc.

For Approval of its Default Service Program

Notice

This is to inform you that an initial prehearing conference on the previously-captioned case will be held as follows:

Type: Initial Prehearing Conference
Date: Friday, November 13, 2009
Time: 10 a.m.
Location: Hearing Room 2
 Plaza Level
 Commonwealth Keystone Building
 400 North Street
 Harrisburg, PA 17120
Presiding: Administrative Law
 Judge Louis G. Cocheres
 P. O. Box 3265
 Harrisburg, PA 17105-3265
 Phone: (717) 783-5452
 Fax: (717) 787-0481

Persons with a disability, who wish to attend the hearing, may be able to make arrangements for their special needs. Call the scheduling office at the Pennsylvania Public Utility Commission (Commission) at least 5 business days prior to your hearing to submit your request.

If an interpreter is required to participate in the hearings, the Commission will make every reasonable effort to have an interpreter present. Call the scheduling office at the Commission at least 10 business days prior to your hearing to submit your request.

- Scheduling Office: (717) 787-1399
- Pennsylvania AT&T Relay Service number for persons who are deaf or hearing-impaired: (800) 654-5988

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-2017. Filed for public inspection October 23, 2009, 9:00 a.m.]

**RE: Comment and Reply Comment Schedule for:
 PMO III—Directory Listings (Folder 16)—M-2009-2134347; PMO—Performance Metrics and Remedies—M-00011468**

On October 1, 2009, Verizon Pennsylvania, Inc. (Verizon) filed a proposal to establish a CLEC Directory Error Remedy Plan. This proposal encompasses: (1) reim-

bursements from Verizon to a CLEC for amounts the CLEC has credited to its customers as a result of Verizon errors in the customers' listings in a Verizon telephone directory up to a stated maximum amount; (2) revisions to Verizon's PA P.U.C.—No. 216 Tariff; and (3) deletion of directory-related metrics in the Pennsylvania Carrier-to-Carrier Guidelines that have been adopted but not implemented. This Secretarial Letter sets forth a comment period ending October 28, 2009, and a reply comment period ending November 19, 2009.

Verizon filed and electronically served the proposal to all members of the PA Carrier Working Group (PA CWG) on October 1, 2009, and has posted the filing at <http://www22.verizon.com/wholesale/cwgroup/>. The filing may also be viewed at <http://www.puc.state.pa.us/general/ConsolidatedCaseView.aspx?Docket=M-2009-2134347>.

The proposal has been the subject of extensive discussion in the PA CWG and may be the subject of further discussions in the PA CWG on November 3, 2009 (special meeting), and/or December 1, 2009 (regular meeting). Consistent with the procedures at the PMO docket, in addition to filing comments or reply comments, interested persons must serve the PA CWG parties and staff named herein with electronic copies on or before the due dates. Reply comments may be filed without having first filed comments. For questions, information on participating in the PA CWG, or a copy of the electronic PA CWG service list, contact Jim Strausbaugh, (717) 787-4700, jstrausbau@state.pa.us, in the Commission's Bureau of Fixed Utility Services; Ted Farrar, (717) 783-5941, tfarrar@state.pa.us, in the Commission's Office of Special Assistants; Louise Fink Smith, (717) 787-8866, finksmith@state.pa.us, in the Commission's Law Bureau; or Michael Clancy, Michael_Clancy@cable.comcast.com, Chair of the PA CWG.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-2018. Filed for public inspection October 23, 2009, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by November 9, 2009. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.*

A-2009-2134546. Hybrid Planet Chauffeur Services, LLC (200 James Drive, Havertown, Delaware

County, PA 19083)—a limited liability company of the Commonwealth, to begin to transport, as a common carrier, by motor vehicle, persons, in airport transfer service, from points in the Counties of Delaware, Bucks, Chester and Montgomery to the Philadelphia International Airport located in Philadelphia.

A-2009-2134734. Royal Transportation Group, LLC (383 Kane Boulevard, Pittsburgh, Allegheny County, PA 15243), a limited liability company of the Commonwealth—persons, in group and party service, in vehicle seating 11—15 passengers, including the driver, from points in the Counties of Allegheny and Washington, to points in Pennsylvania and return, excluding service that is under the jurisdiction of the Philadelphia Parking Authority and excluding service between points in Allegheny County. *Attorney:* David M. O’Boyle, 1450 Two Chatham Center, 112 Washington Place, Pittsburgh, PA 15219.

Application of the following for the approval of the transfer of stock as described under the application.

A-2009-2135686. Fullington Trailways, LLC (P. O. Box 211, Clearfield, Clearfield County, PA 16830), a limited liability company of the Commonwealth—stock transfer—for the approval of the transfer of 51% of the shares of issued and outstanding shares of its parent company, Fullington Auto Bus Company, a corporation of the Commonwealth, held by Ariel Fullington Weisman, Michael L. Fullington, the Fullington Family Trust, and the Weisman Family Trust to RATP Dev USA, LLC. *Attorney:* Andrew Tubbs, Post & Schell, PC, 17 North 2nd Street, Harrisburg, PA 17101.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 09-2019. Filed for public inspection October 23, 2009, 9:00 a.m.]

PENNSYLVANIA STIMULUS OVERSIGHT COMMISSION

Public Meeting

The next public meeting of the Pennsylvania Stimulus Oversight Commission is scheduled for Friday, October 30, 2009, at 11 a.m. in Conference Room 1, 6th Floor, Forum Place Building, 555 Walnut Street, Harrisburg, PA.

RONALD NAPLES,
Chairperson

[Pa.B. Doc. No. 09-2020. Filed for public inspection October 23, 2009, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Proposals

The Philadelphia Regional Port Authority (PRPA) will accept proposals for Project No. 09-103.P—planning, preconstruction, investigation and design, Packer Avenue Marine Terminal until 2 p.m. on Thursday, December 3, 2009. The proposal documents can be obtained on line at www.philaport.com under the Procurement link and will be available October 27, 2009. PRPA is an equal opportunity employer. Firms must comply with all applicable equal employment opportunity laws and regulations.

A mandatory site visit is scheduled for 10 a.m. on Thursday, November 5, 2009. Meet at Packer Avenue Marine Terminal, 3200 South Columbus Boulevard, Philadelphia, PA 19148 (South Gate). Attendance must be confirmed to the Procurement Department at (215) 426-2600.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 09-2021. Filed for public inspection October 23, 2009, 9:00 a.m.]

