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PENNSYLVANIA BULLETIN

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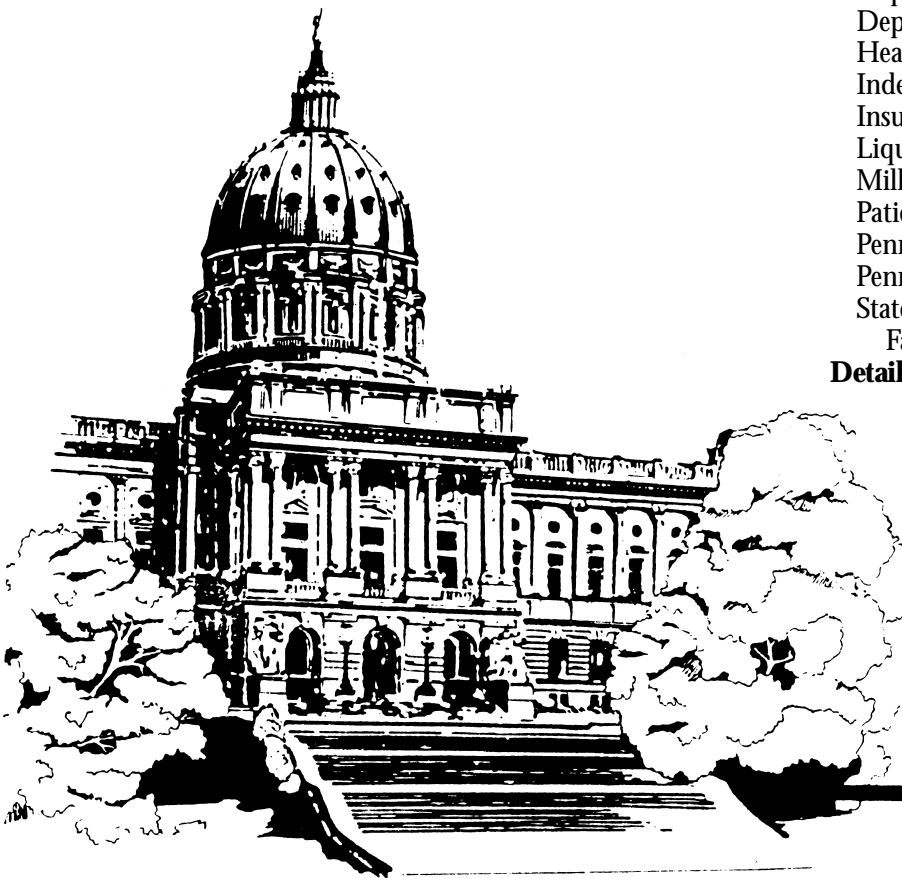
See Part II page 573
for the Department of Health's
Sexual Assault Victim
Emergency Services

Part I

Agencies in this issue

The Governor
The Courts
Department of Environmental Protection
Department of Health
Department of Labor and Industry
Department of Transportation
Health Care Cost Containment Council
Independent Regulatory Review Commission
Insurance Department
Liquor Control Board
Milk Marketing Board
Patient Safety Authority
Pennsylvania Gaming Control Board
Pennsylvania Public Utility Commission
State Board of Social Workers, Marriage and
Family Therapists and Professional Counselors

Detailed list of contents appears inside.



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

No. 398, January 2008

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CONTENTS

THE GOVERNOR

EXECUTIVE ORDER

Contractor social responsibility and offshore services	474
--	-----

THE COURTS

JUVENILE RULES

Proposed modifications of rules 1120, 1123, 1124, 1364 and 1800 and addition of rule 1140	477
---	-----

LOCAL COURT RULES

Armstrong County

Adoption of new local rules of court—2002; CP-03-AD-0000001-2008; no. 2002-0189-misc.	481
--	-----

Northampton County

Administrative order 2008-1; private counsel notice of appearance	482
---	-----

Pike County

Local rule 117; no. 42-2008-Civil	482
---	-----

EXECUTIVE AGENCIES

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices

Applications, actions and special notices	503
Availability of technical guidance	548
Submission date for recycling program development and implementation grants under the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988	548

DEPARTMENT OF HEALTH

Rules and Regulations

Sexual assault victim emergency services	573
--	-----

Notices

Application for exception:	
The Bux-Mont Endoscopy Center	550
The Children's Institute	551
Clearfield Hospital	551
Dubois Regional Medical Center	551
Lowry Surgicenter	552
Montgomery Hospital	552
PGC Endoscopy Center, Inc.	552
Penn Medicine at Radnor Endoscopy Facility	552
Laboratories approved to perform blood lead and/or erythrocyte protoporphyrin determinations	553

DEPARTMENT OF LABOR AND INDUSTRY

Notices

Current Prevailing Wage Act debarments	556
Liquefied petroleum gas facility; notice of application	556
Maximum Pennsylvania workers' compensation payable	556
Table specified for determination of rate and amount of benefits	557

DEPARTMENT OF TRANSPORTATION

Notices

Finding (2 documents)	561
-----------------------------	-----

HEALTH CARE COST CONTAINMENT COUNCIL

Notices

Request for proposal	561
----------------------------	-----

INDEPENDENT REGULATORY REVIEW COMMISSION

Notices

Action taken by the Commission	562
--------------------------------------	-----

INSURANCE DEPARTMENT

Notices

Agency contract termination of Triad Insurance management and services agency under Act 143; Great American Insurance Company; doc. no. AT08-01-001	562
Geisinger Health Plan—employer group (with fewer than 51 subscribers); prescription drug rider; rate filing	562
Geisinger Health Plan—employer group (with 51 or more subscribers); prescription drug rider; rate filing	563
Geisinger Health Plan—prescription drug large group experience rate formula filing; rate filing	563
Golden Living Center—Erie; prehearing	563
Mohammad Ali Jafar, M. D.; prehearing	564
Yelena Kipervas, D. O.; prehearing	564
Long-Term Care Partnership Program effective date and guidance announcement; notice 2008-03	564
Review procedure hearing; cancellation or refusal of insurance	567
RiverSource Life Insurance Company; rate increase filing for LTC form 30240-PA; rate filing	568
RiverSource Life Insurance Company; rate increase filing for LTC forms 30225-PA, 30225-PA1 and 30225A-PA1; rate filing	568
United Services Automobile Association, USAA Casualty Insurance Company and USAA General Indemnity Company; private passenger automobile rate and rule revisions; rate filing	568
Phillip S. Yussen, M. D.; prehearing	569

LIQUOR CONTROL BOARD

Proposed Rulemaking

Responsible Alcohol Management Program	499
--	-----

MILK MARKETING BOARD

Notice

Hearing and presubmission schedule; milk marketing area no. 2; general price hearing	569
--	-----

PATIENT SAFETY AUTHORITY

Notice

Public meeting	570
----------------------	-----

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PENNSYLVANIA GAMING CONTROL BOARD

Notices

Revised filing and copying fees 570

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rules and Regulations

Interexchange telecommunications carriers and service 488

STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

Rules and Regulations

Technical amendments 484

READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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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 2008.

4 Pa. Code (Administration)		57	435
Adopted Rules		59	435
7	474	61	435
		63	435
		65	435
22 Pa. Code (Education)		52 Pa. Code (Public Utilities)	
Adopted Rules		Adopted Rules	
36	339	63	488
338	76		
25 Pa. Code (Environmental Protection)		58 Pa. Code (Recreation)	
Proposed Rules		Proposed Rules	
86	80	461a	343
93	236		
121	229	Statements of Policy	
126	229	461b	354
Statements of Policy			
16	258	201 Pa. Code (Judicial Administration)	
28 Pa. Code (Health and Safety)		Adopted Rules	
Adopted Rules		2	220
101	573	7	220
117	573		
40 Pa. Code (Liquor)		204 Pa. Code (Judicial System General Provisions)	
Proposed Rules		Proposed Rules	
5	499	303	9
49 Pa. Code (Professional and Vocational Standards)		231 Pa. Code (Rules of Civil Procedure)	
Adopted Rules		Proposed Rules	
47	484	200	337
49	484		
Proposed Rules		234 Pa. Code (Rules of Criminal Procedure)	
21	344	Proposed Rules	
27	350, 351	1	61
51 Pa. Code (Public Officers)		237 Pa. Code (Juvenile Rules)	
Proposed Rules		Proposed Rules	
31	435	5	63
33	435	11	477
35	435	13	477
37	435	18	477
39	435		
41	435	249 Pa. Code (Philadelphia Rules)	
43	435	Unclassified	223
45	435		
51	435	252 Pa. Code (Allegheny Rules)	
53	435	Unclassified	64
55	435		
		255 Pa. Code (Local Court Rules)	
		Unclassified	72, 223, 225, 338, 481, 482

THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 7]

[EXECUTIVE ORDER NO. 2006-08]

Contractor Social Responsibility and Offshore Services

September 14, 2006

Whereas, the Commonwealth spends more than 100 million dollars in public funds each year for the procurement of various necessary services that could potentially be outsourced offshore and bears a responsibility to the taxpayers to ensure that these funds are spent reasonably and appropriately; and

Whereas, increasingly many of the companies with whom the Commonwealth contracts with for services provide key elements of these services outside of the geographical boundaries of the United States; and

Whereas, in many cases sending these services off-shore raise significant concerns about contract compliance, the treatment of sensitive and confidential information and other security concerns; and

Whereas, offshore outsourcing can result in the partial or full elimination of domestic jobs and has the potential to weaken the economy of the Commonwealth and the United States; and

Whereas, the U.S. Department of Labor has certified that, since January 2000 to the present, there have been 1,391 Pennsylvania businesses, with a total of 268,672 workers in Pennsylvania, negatively impacted by trade/foreign imports typically resulting in the elimination of jobs; and

Whereas, according to *The Economist Magazine* (February 2005) data from Forrester Research estimates that 3.3 million service industry jobs will have moved overseas by 2015 to take advantage of cheaper labor markets; and

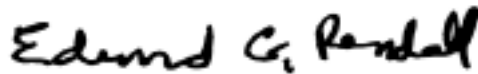
Whereas, the Commonwealth recognizes that it operates in a global economy and that prohibitions against contracting for services performed abroad may implicate agreements negotiated by the United States government and may increase the costs paid by taxpayers for goods and services; and

Whereas, the Commonwealth must balance the interest of ensuring efficient and effective use of taxpayer funds in serving the public interest with the need of ensuring the security of sensitive information and monitoring contract compliance, and therefore has an interest in understanding the extent to which contractors and potential bidders provide contracted services outside of the geographical boundaries of the United States; and

Whereas, therefore, it can be appropriate under certain circumstances to use the competitive bidding process to create incentives for companies to utilize domestic labor when performing services under a contract with the

Commonwealth by giving additional consideration in the contractor selection process to those companies that certify that they will perform contracted services within the geographical boundaries of the United States.

Now, Therefore, to the extent permitted by the laws and agreements of the United States and the Commonwealth of Pennsylvania, it shall be the policy of the Commonwealth that, when Commonwealth executive agencies procure services using the competitive sealed proposals method or the multiple award best value selection method, additional consideration will be given to those companies that certify that they will perform contracted services within the geographical boundaries of the United States.



Governor

Fiscal Note: GOV 06-11. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 7. MISCELLANEOUS PROVISIONS

Subchapter ZZ. CONTRACTOR SOCIAL RESPONSIBILITY AND OFFSHORE SERVICES

- Sec.
- 7.831. Additional solicitation requirement.
- 7.832. Certification.
- 7.833. Evaluation.
- 7.834. Remedies.
- 7.835. Audit.

§ 7.831. Additional solicitation requirement.

Every entity submitting a bid or proposal to provide services to a Commonwealth executive agency shall clearly identify which, if any, elements of the service it proposes to perform outside of the United States in the bid or proposal documents as required under § 7.832 (relating to certification), either directly or through other contracts. In developing the criteria for evaluating proposals and selecting contractors, the Commonwealth executive agency shall consider the extent to which each potential contractor proposes to perform elements of the service being procured outside of the United States to the extent permitted by the laws and treaties of the United States and clearly state the criteria being used to make evaluation in all requests for proposals or other bidding documents. This requirement applies to contracts issued under 62 Pa.C.S. §§ 513 and 517 (relating to competitive sealed proposals; and multiple awards).

§ 7.832. Certification.

Potential contractors who propose to perform contracted services provide a signed, written certification with their bid or proposal as to those elements or services which will be provided physically or by contract outside of the geographical boundaries of the United States. This requirement applies to contracts issued under 62 Pa.C.S. §§ 513 and 517 (relating to competitive sealed proposals; and multiple awards).

§ 7.833. Evaluation.

In the selection process, the Commonwealth executive agency shall award points commensurate with the amount of contracted services performed in

the United States relative to amount of contracted services performed in the United States by other offerors or contractors. Those offerors or contractors who do not provide the certification required under § 7.832 (relating to certification) will not receive any of the points allotted for this criterion/evaluation factor.

§ 7.834. Remedies.

Any contractor or subcontractor who is found to have falsely certified that services covered under a proposed contract will be performed within the United States or who fails to otherwise conform to the certification by providing services outside of the United States which had been certified as being provided within the United States shall be subject to one or more of the following:

- (1) The contract at issue may be cancelled.
- (2) The contractor may be debarred from doing business with the Commonwealth.
- (3) Criminal action may be taken for filing a false certification with a public official.
- (4) Payment may be withheld by the Commonwealth purchasing agency.
- (5) The Commonwealth purchasing agency may take action to recover any payments made.

§ 7.385. Audit.

The Commonwealth purchasing agency shall reserve the contractual right to audit the books and records of a contractor or any subcontractor under any contract or subcontract to ensure compliance with the certification submitted by the contractor or subcontractor under § 7.832 (relating to certification).

[Pa.B. Doc. No. 08-126. Filed for public inspection January 25, 2008, 9:00 a.m.]

THE COURTS

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 11, 13 AND 18]

Proposed Modifications of Rules 1120, 1123, 1124, 1364 and 1800 and Addition of Rule 1140

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modifications of Rules 1120, 1123, 1124, 1364, and 1800 and the new rule 1140 be adopted and prescribed. The proposed modified Rule 1120 provides for the definition of a child, minor, and an adult. The proposed modified Rule 1123 provides that a copy of a subpoena is to be served upon the guardian of a minor witness and that a judge may issue a bench warrant pursuant to new Rule 1140. The proposed modified Rule 1124 provides that a judge is to issue a bench warrant pursuant to the new Rule 1140. Rule 1140 sets forth the procedures of a bench warrant when a person fails to appear before the court. The proposed modified Rule 1364 sets forth the procedures that a judge may issue a bench warrant pursuant to new Rule 1140. Rule 1800 adds Rule 1140 to paragraph one, which suspends 42 Pa.C.S. § 6335(c) only insofar as the Act is inconsistent with the Rules. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the intent of the rules. Please note that the Committee's Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

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

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

no later than Monday, March 17, 2008.

By the Juvenile Court
Procedural Rules Committee:

FRANCIS BARRY MCCARTHY,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart B. DEPENDENCY MATERS

CHAPTER 11. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 1120. Definitions.

ADULT is any person, other than a child, eighteen years old or older.

* * * * *

CHILD is a person who is under the age of eighteen who is the subject of the dependency petition, or

who was adjudicated dependent before reaching the age of eighteen years and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, but in no event shall remain in a course of instruction or treatment past the age of twenty-one years.

* * * * *

MINOR is any person under the age of eighteen.

* * * * *

Rule 1123. Subpoenas

* * * * *

D. *Bench Warrant.* If any subpoenaed person fails to appear for the hearing and the court finds that sufficient notice was given, the [court] judge may issue a bench warrant pursuant to Rule 1140.

E. Parental notification.

1) **Generally. If a witness is a minor, the witness's guardian shall be notified that the minor has been subpoenaed.**

2) **Exception. Upon prior court approval and good cause shown, a subpoena may be served upon a minor without such notification to the guardian. If and when necessary, request for such prior court approval may be obtained ex parte.**

Comment

* * * * *

Prior to issuing a bench warrant for a minor, the judge should determine if the guardian of the witness was served. Nothing in these rules gives the guardians of witnesses legal standing in the matter being heard by the court or creates a right for witnesses to have their guardians present. In addition, lack of required notice to the guardian does not prevent the minor witness from testifying. See Rule 1140 for procedures on bench warrants.

For power to compel attendance, see 42 Pa.C.S. § 6333. Nothing in this rule prohibits the court from holding a contempt hearing. See *In re Crawford*, 360 Pa. Super. 36, 519 A.2d 978 (1987) for punishment of contempt (children). See also *In re Griffin*, 456 Pa. Super. 440, 690 A.2d 1192 (1997) (foster parents), *Janet D. v. Carros*, 240 Pa. Super. 291, 362 A.2d 1060 (1976) (county agency), and *In re Rose*, 161 Pa. Super. 204, 54 A.2d 297 (1947) (parents) for additional guidance on contempt for other parties.

Rule 1124. Summons

* * * * *

D) *Bench Warrant.* If any summoned person fails to appear for the hearing and the court finds that sufficient notice was given, the [court] judge may issue a bench warrant pursuant to Rule 1140.

Comment

In paragraph (D), this rule provides that a summoned person is to fail to appear and the court is to find that sufficient notice was given before a bench warrant may be issued. The Juvenile Act, 42 Pa.C.S. § 6335(c), which provides for the issuance of arrest warrants if the child may abscond or may not attend or be brought to a hearing, is suspended to the extent that it conflicts with this rule. See Rule 1800 for suspensions.

See Rules 1360(A), 1500(A), and 1600(A) for service of the parties for a proceeding.

See Rule 1140 for procedures on bench warrants.

* * * * *

Rule 1140. Bench Warrants For Failure to Appear.

A. Issuance of warrant.

1) Before a bench warrant may be issued by a judge, the judge shall find that the subpoenaed or summoned person received sufficient notice of the hearing and failed to appear.

2) For the purpose of a bench warrant, a judge may not find notice solely based on first-class mail service.

B. Party.

1) Where to take the party.

a) When a party is taken into custody pursuant to a bench warrant, the party shall be taken without unnecessary delay to the judge who issued the warrant or a judge designated by the President Judge to hear bench warrants.

b) If the party is not brought before a judge, the party shall be released unless the warrant specifically orders detention of the party.

c) If the warrant specifically orders detention of a party, the party shall be detained pending a hearing.

1) Minor. If the party is a minor, the party shall be detained in a shelter-care facility or other appropriate care.

2) Adult. If the party is an adult, the witness shall be detained at the county jail.

2) Prompt hearing.

a) If a party is detained pursuant to a specific order in the bench warrant, the party shall be brought before the judge who issued the warrant, a judge designated by the President Judge to hear bench warrants, or an out-of-county judge pursuant to paragraph (B)(4) within seventy-two hours.

b) If the party is not brought before a judge within this time, the party shall be released.

3) Notification of guardian. If a party is a child and is taken into custody pursuant to a bench warrant, the arresting officer shall immediately notify the child's guardian of the child's whereabouts and the reasons for the issuance of the bench warrant.

4) Out-of-county custody.

a) If a party is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.

b) Arrangements to transport the party shall be made immediately.

c) If transportation cannot be arranged immediately, then the party shall be taken without unnecessary delay to a judge of the county where the party is found.

d) The judge will identify the party as the subject of the warrant, decide whether detention is warranted, and order that arrangements be made to transport the party to the county of issuance.

5) Time requirements. The time requirements of Rules 1242, 1404, 1510, and 1607 shall be followed.

C. Witnesses.

1) Where to take the witness.

a) When a witness is taken into custody pursuant to a bench warrant, the witness shall be taken without unnecessary delay to the judge who issued the warrant or a judge designated by the President Judge to hear bench warrants.

b) If the witness is not brought before a judge, the witness shall be released unless the warrant specifically orders detention of the witness.

c) A motion for detention as a witness may be filed anytime before or after the issuance of a bench warrant. The judge may order detention of the witness pending a hearing.

1) Minor. If a detained witness is a minor, the witness shall be detained in a shelter-care or detention facility.

2) Adult. If a detained witness is an adult, the witness shall be detained at the county jail.

2) Prompt hearing.

a) If a witness is detained pursuant to paragraph (C)(1)(c) or brought back to the county of issuance pursuant to paragraph (C)(4)(f), the witness shall be brought before the judge by the next business day.

b) If the witness is not brought before a judge within this time, the witness shall be released.

3) Notification of guardian. If a witness who is taken into custody pursuant to a bench warrant is a minor, the arresting officer shall immediately notify the witness's guardian of the witness's whereabouts and the reasons for the issuance of the bench warrant.

4) Out-of-county custody.

a) If a witness is taken into custody pursuant to a bench warrant in a county other than the county of issuance, the county of issuance shall be notified immediately.

b) The witness shall be taken without unnecessary delay and within the next business day to a judge of the county where the witness is found.

c) The judge will identify the witness as the subject of the warrant, decide whether detention as a witness is warranted, and order that arrangements be made to transport the witness to the county of issuance.

d) Arrangements to transport the witness shall be made immediately.

e) If transportation cannot be arranged immediately, the witness shall be released unless the warrant or other order of court specifically orders detention of the witness.

i) Minor. If the witness is a minor, the witness may be detained in an out-of-county shelter-care or detention facility.

ii) Adult. If the witness is an adult, the witness may be detained in an out-of-county jail.

f) If detention is ordered, the witness shall be brought back to the county of issuance within seventy-two hours from the execution of the warrant.

g) If the time requirements of this paragraph are not met, the witness shall be released.

D. Return & execution of the warrant for parties and witnesses.

1) The bench warrant shall be executed without unnecessary delay.

2) The bench warrant shall be returned to the judge who issued the warrant or to the judge designated by the President Judge to hear bench warrants.

3) When the bench warrant is executed, the arresting officer shall immediately execute a return of the warrant with the judge.

4) Upon the return of the warrant, the judge shall vacate the bench warrant.

Comment

Pursuant to paragraph (A), the judge is to ensure that the person received sufficient notice of the hearing and failed to attend. The judge may order that the person be served in-person or by certified mail, return receipt. The judge may rely on first-class mail service if additional evidence of sufficient notice is presented. For example, testimony that the person was told in person about the hearing is sufficient notice. Before issuing a bench warrant, the judge should determine if the guardian was notified.

Under Rule 1800, 42 Pa.C.S. § 6335(c) was suspended only to the extent that it is inconsistent with this rule. Under paragraph (A)(1), the judge is to find a subpoenaed or summoned person failed to appear and sufficient notice was given to issue a bench warrant. The fact that the party or witness may abscond or may not attend or be brought to a hearing is not sufficient evidence for a bench warrant. The normal rules of procedure in these rules are to be followed if a child is detained. See Chapter Two, Part D.

Pursuant to paragraph (B)(1)(a), the party is to be taken immediately to the judge who issued the bench warrant or a judge designated by the President Judge of that county to hear bench warrants. Pursuant to paragraph (B)(1)(b), if a bench warrant specifically provides that the party may be detained, the party may be detained without having to be brought before the judge until a hearing within seventy-two hours under paragraph (B)(2)(a). Pursuant to this paragraph, if a hearing is not held promptly, the party is to be released. See paragraph (B)(2)(b).

Under paragraphs (B)(2) and (B)(4), a party taken into custody pursuant to a bench warrant is to have a hearing within seventy-two hours regardless of where the party is found. See Rule 1240 (C).

Pursuant to paragraph (B)(4), the party may be detained out-of-county until transportation arrangements can be made.

Pursuant to paragraph (B)(5), the time requirements of all other rules are to apply to children who are detained. See, e.g., Rules 1242, 1404, 1510, and 1607.

Pursuant to paragraph (C)(1)(a), the witness is to be taken immediately to the judge who issued the bench warrant or a judge designated by the President Judge of that county to hear bench warrants. Pursuant to paragraph (C)(1)(b), if the judge is not available, the witness is to be released immediately unless the warrant specifically orders detention. Pursuant to paragraph (C)(1)(c), a motion for detention as a witness may be filed. If the witness is detained, a prompt hearing pursuant to paragraph (C)(2) is to be held by the next business day or the witness is to be released. See paragraph (C)(2)(b).

Pursuant to paragraph (C)(4)(b), a witness is to be brought before an out-of-county judge by the next business day unless the witness can be brought before the judge who issued the bench warrant within this time. When the witness is transported back to the county of issuance within seventy-two hours of the execution of the bench warrant, the witness is to be brought before the judge who issued the bench warrant by the next business day. See paragraph (C)(4)(f).

Pursuant to paragraph (D)(2), the bench warrant is to be returned to the judge who issued the warrant or to the judge designated by the President Judge to hear warrants by the arresting officer executing a return of warrant. See paragraph (D)(3).

Pursuant to paragraph (D)(4), the bench warrant is to be vacated after the return of the warrant is executed so the party or witness is not taken into custody on the same warrant if the party or witness is released. "Vacated" is to mean that the bench warrant has been served, dissolved, executed, dismissed, canceled, returned, or any other similar language used by the judge to terminate the warrant. The bench warrant is no longer in effect once it has been vacated.

See 42 Pa.C.S. § 4132 for punishment of contempt for children and witnesses.

Throughout these rules, the "child" is the subject of the dependency proceedings. When a witness or another party is under the age of eighteen, the witness or party is referred to as a "minor." When "minor" is used, it may include a child. This distinction is made to differentiate between children who are alleged dependants and other minors who are witnesses. See also Rule 1120 for the definitions of "child" and "minor."

CHAPTER 13. PRE-ADJUDICATORY PROCEDURES

PART D(2). ADJUDICATORY SUMMONS AND NOTICE PROCEDURES

Rule 1364. Failure to Appear on the Summons.

If any summoned person fails to appear for the adjudicatory hearing and the court finds that sufficient notice was given, the judge may issue a bench warrant pursuant to Rule 1140.

Comment

See Rule 1140 for issuance of a bench warrant.

CHAPTER 18. SUSPENSIONS

Rule 1800. Suspensions of Acts of Assembly.

This rule provides for the suspension of the following Acts of Assembly that apply to dependency proceedings only:

1) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6335(c), which provides for the issuance of arrest warrants if the child may abscond or may not attend or be brought to a hearing, is suspended only insofar as the Act is inconsistent with [**Rule**] **Rules 1124 and 1140**, which requires a summoned person to fail to appear and the court to find that sufficient notice was given.

* * * * *

EXPLANATORY REPORT

Rule 1120. Definitions

The Committee is proposing two new definitions and the modification of one definition. The Committee is modifying the definition of a child by adding that the child is the subject of the dependency proceeding. Currently, a child is a person under the age of eighteen or was adjudicated dependent before reaching the age of eighteen years and who, while engaged in the course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, but in no event is to remain in the course of instruction or treatment past the age of twenty-one.

The Committee is adding the definition of an "adult." The proposed definition of "adult" includes anyone eighteen years or older, except a child who is engaged in a course of instruction or treatment and requested the court to retain jurisdiction of them as a dependent child after turning eighteen years old.

The Committee is adding the term "minor." A "minor" is a person under the age of eighteen. This definition includes a dependent child, a minor witness, or other minor party. Therefore, a "child" can be a "minor" but a "minor" is not a "child" because a "child" must also be the subject of the dependency proceeding.

Rule 1123. Subpoena

The Committee is proposing that paragraph (D) be modified because a master can not issue a bench warrant.

The Committee is proposing that paragraph (E) be added to Rule 1123. The Committee feels that it is important that the guardian of a minor witness be given a copy of the subpoena to impress upon their child the importance of a subpoena. It also allows the guardian to ensure his or her child is present for a hearing.

Rule 1124. Summons

The Committee is proposing that paragraph (D) be modified because a master can not issue a bench warrant.

The additions in the Comment reference the rules for service of parties for a proceeding and the new Bench Warrant Rule.

Rule 1140. Bench Warrants

This new proposed rule provides for procedures when a bench warrant is issued for failing to appear for a hearing. There are separate procedures when the warrant is issued for a party to the proceedings and a witness to the proceeding.

Pursuant to paragraph (B)(1), if a party is arrested for a bench warrant, the party is to be brought to the judge who issued the warrant unless the judge specifically authorized detention in the warrant. Pursuant to paragraph (B)(2), if detention was authorized in the warrant, the party must have a hearing before the judge by the next business day or the party is to be released.

Pursuant to paragraph (B)(3), if a party is a minor and is arrested for a bench warrant, the guardian of the minor is to be notified immediately of the minor's whereabouts and the reason for the issuance of the bench warrant. This provision ensures that the guardian knows of the detention and the reasons for the detention.

Under paragraph (B)(4), if a party is arrested in another county, the party is to be transported immediately back to the county of issuance. If transportation cannot be arranged immediately, the party is to be taken to a judge of the county where the party is found. The judge is to decide: 1) if the person is the subject of the warrant; 2) if detention of the party is warranted; and 3) what arrangements for transporting the party back to the county of issuance are necessary.

If a witness is arrested for a bench warrant pursuant to paragraph (C)(1), the witness is to be brought to the judge immediately. If the witness is not brought before a judge, the witness is to be released unless a motion to detain the witness has been filed. Pursuant to paragraph (C)(2), if a motion has been filed, the witness is to see a judge no later than the next business day or is to be released.

A motion to detain a witness can be filed by any party. The motion should aver the necessity of the witness's detention. This averment should be supported by facts leading to this necessity.

When the witness is brought before the judge, the judge is to address the motion and the reasons for the necessity of the witness's detention. For example, the witness may be harmed if the witness is not taken into protective custody or the witness may flee the jurisdiction because of threats of bodily injury or fear of implication in a crime or delinquent act.

Pursuant to paragraph (C)(3), if a witness is a minor, the witness's guardian is to be notified immediately of the witness's whereabouts and the reasons for the issuance of the bench warrant. This provision ensures that the guardian is told about the bench warrant and the place of detention.

Pursuant to paragraph (C)(4), if a bench warrant is executed in another county, the county of issuance is to be notified immediately and the witness is to be transported to the county of issuance. If transportation cannot be arranged immediately, the witness is to be released unless a motion to detain the witness has been filed.

If a motion to detain the witness has been filed, the witness is to appear before a judge within twenty-four hours or the next business day unless the witness can be brought before the judge who issued the bench warrant within this time. The out-of-county judge is to determine: 1) if the witness is the subject of the warrant; 2) if detention is warranted; and 3) what arrangements for transporting the witness back to the county of issuance are necessary. In no circumstances is the witness to remain in another county for more than seventy-two hours of the execution of the warrant.

Pursuant to paragraph (D), in all cases, the bench warrant is to be executed without unnecessary delay. When the bench warrant is executed, the bench warrant is to be returned to the issuing judge. Upon the return of the warrant, the judge is to vacate the bench warrant. The bench warrant is to be marked as executed in the system to ensure the subject of the warrant is not arrested again on the same warrant.

Rule 1364. Failure to Appear on The Summons

A reference to the new bench warrant rule has been added.

Rule 1800. Suspensions of Acts of Assembly

The new bench warrant rule has been added to paragraph one, which suspends 42 Pa.C.S. § 6335(c) only insofar as the Act is inconsistent with the Rules. The Rules require that a summoned person is to fail to appear for the hearing and the court is to find that sufficient notice was given to the summoned person.

[Pa.B. Doc. No. 08-127. Filed for public inspection January 25, 2008, 9:00 a.m.]

**Title 255—LOCAL
COURT RULES**

ARMSTRONG COUNTY

**Adoption of New Local Rules of Court—2002;
CP-03-AD-000001-2008; No. 2002-0189-Misc.**

Order

And Now, this 7th day of January, 2008, it is hereby Ordered as follows:

1) A new Local Rule of Criminal Procedure numbered 106 is hereby promulgated to read as follows.

Rule 106. Continuances in Court Cases.

(a) A motion seeking the continuance of any proceeding shall be substantially in the form prescribed by Appendix Y of these Rules.

(b) When appropriate, a motion seeking a continuance shall have attached thereto a waiver of Pa.R.CrimP. 600 signed by the defendant.

(c) A proposed order substantially in the form prescribed by Appendix Z of these Rules shall be attached to the motion seeking the continuance.

2) A new Local Rule of Criminal Procedure numbered 114 is hereby promulgated to read as follows:

Rule 114. Orders and Court Notices. Service.

(a) Except as stated in subsection (b), below, the Clerk of Courts shall serve copies of all orders and court notices.

(b) The Court Administrator shall serve copies of all notices for criminal case status conferences, omnibus pretrial motion hearings, ARD court, plea court, trials and sentencing.

3) A new Local Rule of Criminal Procedure numbered 310 is hereby promulgated to read as follows:

Rule 310. Placing Case on ARD Court List.

Upon written request delivered directly to the Court Administrator and signed by the District Attorney, the Court Administrator shall place a case on the ARD Court List.

4) Local Rule of Criminal Procedure 313 is hereby repealed.

5) A new Local Rule of Criminal Procedure numbered 578 is hereby promulgated to read as follows:

Rule 578. Omnibus Pretrial Motions for Relief. Cover Sheet.

Every omnibus pretrial motion for relief requiring an evidentiary hearing or argument shall have attached thereto a cover sheet as a front page. The cover sheet shall be substantially in the following form:

[CAPTION]

**COVER SHEET
FOR OMNIBUS PRETRIAL MOTION REQUIRING
EVIDENTIARY HEARING**

-1-

Has any judge heard this matter previously?

_____ Yes _____ No

-2-

If yes, which judge has heard it? _____

-3-

How many witnesses do you believe will testify (combined total)? _____

-4-

How much time will be reasonably necessary to conduct the hearing?

_____ minutes _____ hours _____ days

I hereby certify all of the above statements are true and correct to the best of my knowledge.

Attorney for

6) A new Local Rule of Criminal Procedure numbered 590 is hereby promulgated to read as follows:

Rule 590. Pleas and Plea Agreements.

(a) Upon written request delivered directly to the Court Administrator and signed by both the District Attorney and defense counsel (or by a defendant if there is no defense counsel), the Court Administrator shall place a case on the Plea Court List.

(b) No written request directing that a case be placed on a Plea Court List shall be signed by the District Attorney or defense counsel (or by a defendant, if there is no defense counsel) unless the applicable plea agreement, if any, has first been signed by the District Attorney, the defendant, and defense counsel, if any.

By the Court,

KENNETH G. VALASEK,
President Judge

APPENDIX Y

[CAPTION]

MOTION FOR CONTINUANCE

NOW COMES _____, by and through (his)
(Name of Movant)
(her) (its) attorney, _____, who applies for a
(Name of Attorney)
continuance based on the following:

1. The above-captioned matter is scheduled for

(Name of proceeding, i.e., argument, hearing, trial, etc.)
on _____, the _____ day of _____, 2_____,
at _____ .M., before _____ .
(Name of Judge)

2. The other party is represented by _____ .

3. The proceeding was scheduled by _____ (Order or Notice)

dated _____ . (Date)

4. The proceeding (has) (has not) been previously continued (_____ time(s)). (The party filing this application has obtained a continuance _____ time(s)).

5. A continuance is requested because _____

(State specific reason for request. If continuance is requested because of a conflicting court matter, state (1) name of the case; (2) the court; (3) the nature of the scheduled proceeding; (4) the date, time and expected duration of the conflicting proceeding; and (5) the date of the order or notice scheduling the conflicting proceeding. Attach a copy of the order or notice.)

6. Check all that apply: (a) The (Commonwealth) (Defendant) has been notified of the presentation of this motion, as follows: _____

(b) The (Commonwealth) (Defendant) has not been notified of the presentation of this Motion. The reasons therefor are the following: _____

(c) The (Commonwealth) (Defendant) has informed me that (he)(she)(it) has no objection to a continuance.

7. The proceeding, when heard, will not exceed _____ . No. of hours/days

8. I specifically request a continuance to the next available date.

Respectfully submitted, _____

APPENDIX Z

[CAPTION]

ORDER

AND NOW, this _____ day of _____, 2 _____, upon consideration of the foregoing Motion for Continuance:

_____ the Motion is denied.

_____ the Motion is granted and the matter is

scheduled for _____, 2 _____ at _____ .m. before _____ (Date) (Time)

_____ is hereby continued until _____, (Name of Judge)

2 _____ at _____ .M. before _____, (Name of Judge)

2 _____ at _____ .M.

The applicant shall promptly notify all interested parties of this Order.

Thereafter, the Clerk of Courts shall serve notice of the entry of this Order upon all parties.

BY THE COURT,

_____ J.

[Pa.B. Doc. No. 08-128. Filed for public inspection January 25, 2008, 9:00 a.m.]

NORTHAMPTON COUNTY

Administrative Order 2008-1; Private Counsel Notice of Appearance

Administrative Order

And Now, this 9th day of January, 2008, the court adopts the following Rule N120, Private Counsel Notice of Appearance.

By the Court

ROBERT A. FREEDBERG, President Judge

Rule N120.

In cases in which the public defender has entered an appearance and defendant then retains private counsel for representation at the preliminary hearing, if defendant is bound over, within ten (10) days private counsel shall either enter an appearance with a copy to the public defender or notify the public defender that he or she has not entered an appearance.

[Pa.B. Doc. No. 08-129. Filed for public inspection January 25, 2008, 9:00 a.m.]

PIKE COUNTY

Local Rule 117; No. 42-2008-Civil

Order

And Now, this 31st day of December, 2007, the Court Orders the following:

1. Local Rule of Criminal Procedure 117 is hereby adopted effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

2. The Court Administrator of the 60th Judicial District is hereby Ordered to do the following:

a. File seven (7) certified copies of this Order and the pertinent Rules with the Administrative Office of Pennsylvania Courts;

b. File two (2) certified copies and a computer diskette containing this Order and the pertinent Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

c. File one (1) certified copy of this Order and the pertinent Rule with the Civil Procedural Committee;

d. Provide one (1) copy of this Order and the Local Rule to each member of the Pike County Bar Association who maintain an active practice in Pike County; and

e. Keep continuously available for public inspection, copies of this *Order* and the Local Rules.

By the Court

JOSEPH F. KAMEEN,
President Judge

Local Rule 117—Coverage: Issuing Warrants; Preliminary Arraignments; and Setting and Accepting Bail.

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

(B) Magisterial District Judges shall be available twenty-four hours a day, every day of the calendar year to provide continuous coverage for issuance of warrants, setting and acceptance of bail and the issuance of emergency orders under the Protection from Abuse Act.

This rule shall be satisfied by the Magisterial District Justice remaining on-call during non-business hours on a rotating basis, pursuant to an annual schedule prepared by the District Court Administrator.

(C) Each Magisterial District Court during regular business hours, an on-call Magisterial District Justice while on-call, and the Clerk of Courts during business hours, are authorized to accept bail in accordance with the provisions and subject to the limitations of the Pennsylvania Rules of Criminal Procedure.

(D) A Magisterial District Justice assigned to on-call duty shall be available for preliminary arraignments in accordance with the following schedule:

(1) For arrests occurring after the close of regular business hours but before 8:00 p.m., and for arrests occurring on weekends or holidays between 8:00 a.m. and 8:00 p.m. the Magisterial District Judge shall respond to the call and conduct a preliminary arraignment prior to detention at the Pike County Correctional Facility.

(2) Arrests occurring after 8:00 p.m. but before 8:00 a.m. shall be subject to the following rules:

a. For all cases requiring District Attorney approval for filing of the Complaint as provided for in Local Criminal Rule 507, the Magisterial District Justice shall respond to the call by conducting a preliminary arraignment prior to detention at the Pike County Correctional Facility;

b. For arrests requiring preliminary arraignment but not set forth in paragraph D(2)(a), the arresting agency, including the state police, municipal police, sheriff or constable is authorized to detain the prisoner at the Pike County Correctional Facility until 8:00 a.m. the following morning. For Defendants so detained, the on duty Magisterial District Justice shall appear in person or by video conferencing at the Pike County Correctional Facility at 8:00 a.m. to preside at the Preliminary Arraignment;

c. Prior to detaining a prisoner at the Pike County Correctional Facility under this Rule, the arresting agency shall contact the facility to ascertain that adequate detention facilities are available for temporary detention in accordance with this Rule. If no detention facilities are available at the facility, then the arresting agency shall notify the Magisterial District Judge of that fact and a preliminary arraignment shall be required prior to detention or commitment to the facility.

d. The arresting agency detaining the Defendant shall provide to the Magisterial District Justice the original and copies of the Criminal Complaint with Probable Cause Affidavit attached, a copy of the Defendant's criminal record, and any recommendation regarding bail for the Defendant, by depositing the same at the Pike County Correctional Facility and faxing copies to the Magisterial District Court Office.

e. The arresting officer or officers need not appear at the Preliminary Arraignment provided the documents identified in paragraph 4(d) are provided. In the alternative, the arresting officer may appear at the Preliminary Arraignment in lieu of prior submission of the criminal record or bail recommendation forms. However, no person shall be detained under this rule without the completion and submission of a completed criminal Complaint and Affidavit of Probable Cause which shall be delivered to the Pike County Correctional Facility for use by the Magisterial District Justice.

f. The provisions of this Rule allowing for temporary detention of prisoners shall not apply to the performance of any other duties on the on-duty Magisterial District Justice during the hours of 8:00 p.m. to 8:00 a.m.

(3) The Pike County Correctional Facility is directed to identify a detention area for prisoners so detained in accordance with the Standard Operating Procedures of the Pike County Correctional Facility for temporary detention of individuals at the Facility.

(4) The Pike County Correctional Facility is directed to make available to the on-duty Magisterial District Justice appropriate space or video conferencing availability between the hours of 8:00 a.m. and 9:00 a.m. to perform the Preliminary Arraignment at the Facility.

(5) Upon completion of the Preliminary Arraignment, the detention authorized by this Rule shall terminate and the person detained shall be processed in accordance with the Orders of the Magisterial District Justice at the Preliminary Arraignment.

(6) If the Preliminary Arraignment is done by video conferencing, upon completion of the Preliminary Arraignment, copies of all commitment orders, bail orders, etc. shall be faxed from the Magisterial District Justice to the Facility, and the originals mailed to the facility on the next regular business day. If the Preliminary Arraignment is done at the Correctional Facility, original documents shall be provided to the Facility at the time of the Preliminary Arraignment.

[Pa.B. Doc. No. 08-130. Filed for public inspection January 25, 2008, 9:00 a.m.]

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

[49 PA. CODE CHS. 47 AND 49]

Technical Amendments

The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) amends §§ 47.1, 47.1a, 47.11, 47.12a and 49.1 to read as set forth in Annex A.

Effective Date

The amendments take effect upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

Statutory Authority

The amendments are authorized under section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (act) (63 P. S. § 1906(2)), and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3(a)).

Summary of Comments and Responses on Proposed Rulemaking

Notice of the proposed rulemaking was published at 35 Pa.B. 5530 (October 8, 2005). Publication was followed by a 30-day public comment period during which the Board received comments from the Pennsylvania Chapter of the National Association of Social Workers (NASW-PA), the Association of Social Work Boards (ASWB) and Dr. Edward W. Sites, professor at University of Pittsburgh School of Social Work.

Following the close of the public comment period, the Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment. The following is a response to the comments and a description of changes in final rulemaking.

§ 47.1 (relating to definitions).

The HPLC and IRRC commented that in light of the change in definition of “accredited school,” there may no longer be a need for the definition of “accredited program.” The Board agrees and has deleted the definition of “accredited program” in final-form rulemaking.

§ 47.1a (relating to qualification for supervisors).

The HPLC and IRRC brought to the Board’s attention that it was proposing to amend paragraph (3), a provision which expired as of January 1, 2006. The Board originally intended to have this change implemented long before the expiration date. Since this is obviously not the case, the Board recognizes that this change is unnecessary.

§ 47.11 (relating to licensure examination).

NASW-PA wrote in support of the Board’s proposal to permit applicants for social work licensure to take either the master’s level examination or the clinical level examination.

ASWB objected strenuously to the Board’s proposal that applicants for the social work license be permitted to take either the master’s level examination or the clinical level examination. In particular, ASWB commented that the master’s level examination surveys a broad range of skills necessary in many different areas of social work, only one of which is clinical. When MSW graduates are permitted to take the clinical examination to measure minimum competence, they are not tested on many aspects of social work they will encounter in the beginning of their careers. In addition, they are asked on the clinical exam to have mastered knowledge and skills for advanced applications, when they have not yet attained the experience necessary to enhance their competence. Also, they cannot yet meet the Board’s regulatory requirements of 2 years of supervised practice before they advance to the licensure level of clinical social worker.

HPLC and IRRC raised objections to the proposed amendments to § 47.11(a) and commented that the proposal violates the intent of the General Assembly as expressed in the act. IRRC also commented that the proposal is not sound policy because the master’s level examination and the clinical examination are very different. In particular, IRRC referred to ASWB’s comments that permitting entry level MSW’s to take the clinical examination without the experience required in the statute and regulations would be tantamount to allowing those who have not concentrated in clinical social work to advance to the status of prospective clinical social workers without the background to assure competence.

The Board reviewed all of these comments and decided it needed additional information relating to the master’s level examination and the clinical level examination. The Board invited representatives of ASWB to a Board meeting to address this issue. On March 14, 2006, the Board heard expert testimony of Troy Elliott, Communications Director, ASWB and Nisha Mittal, a psychometrician involved in the development of the ASWB examinations. The testimony elicited indicated that the master’s level examination tests entry level skills in many different areas of social work practice and the clinical examination tests advanced applications.

Based upon the comments received and the testimony elicited, the Board has determined that the master’s examination and the clinical level examination are, indeed, very different. For this reason, the Board has agreed, in this final-form rulemaking, to delete the option of allowing applicants for social work licensure to take the clinical level examination.

§ 47.12a (relating to licensed social worker).

Dr. Edward W. Sites commented that the Board should not permit students who graduate from social work or social welfare master’s degree programs that are in candidacy for accreditation at the time of their graduation to apply for a license when the program obtains accreditation. Dr. Sites explained that the Council on Social Work Education (CSWE), the official accrediting body, always specifies an exact effective date for accreditation and that date is retroactive at least 2 years back into candidacy.

HPLC and IRRC also objected to this proposed change in that the Board lacks statutory authority to allow the licensure of individuals who did not graduate from accredited schools.

In determining whether to amend this proposal, the Board looked to the CSWE for guidance on what it means when a program is in candidacy for accreditation. It learned that programs working toward accreditation are first in precandidacy and then in candidacy. Precandidacy is a time that a new program and its institutional administration engages in a period of preliminary planning, securing resources, and hiring faculty before submitting an application for candidacy. Candidacy is the first step toward the initial accreditation process. Once a program is granted initial accreditation, it automatically covers those graduating classes of students who were admitted during or after the academic year, August to June, in which the program was granted candidacy. Students admitted prior to the academic year in which the program was granted candidacy (such as precandidacy) will not have graduated from a CSWE program. Based upon this information, the Board, in final rulemaking, has decided to delete the changes made in proposed rulemaking and to move the provision that states that students who graduate from social work or social welfare master's degree programs that are in candidacy for accreditation at the time of their graduation may apply for licensure once the program obtains accreditation. The Board believes this amendment does not violate the legislative intent because, as the CSWE has explained, accreditation relates back to cover the period of candidacy, but not precandidacy. Therefore, when the program becomes accredited, the students who were admitted while the program was in candidacy are then considered graduates of an accredited program.

NASW-PA also commented and asked the Board to revise the regulation to allow a student to become licensed upon graduation from a school in candidacy with the understanding that if the school is not successful in becoming accredited, that the license is thereby revoked. The Board's response is that, under the law of the Commonwealth, it cannot administratively revoke licenses once they are issued. However, the provision allowing students who graduate from programs that are in candidacy for accreditation at the time they graduate to apply for licensure once the program obtains accreditation should be a successful resolution of this issue.

Fiscal Impact and Paperwork Requirements

This final-form rulemaking will have no fiscal impact and will not impose additional paperwork requirements on the private sector, the general public or the Commonwealth and its political subdivisions.

Sunset Date

The Board continually monitors the effectiveness of its regulations through communication with the regulated population. Accordingly, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 26, 2005, the Board submitted copies of the notice of proposed rulemaking, published at 35 Pa.B. 5530, to IRRC and the Chairpersons of the SCP/PLC and the HPLC for review and comment.

Under section 5(c) of the Regulatory Review Act, the Board also provided IRRC, SCP/PLC and HPLC with copies of comments received as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments received from IRRC, the HPLC and the public. The Board did not receive comments from the SCP/PLC.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(f.2)), this final-form regulation was approved by the HPLC on November 20, 2007, and deemed approved by SCP/PLC on December 19, 2007. Under section 5.1(e) of the Regulatory Review Act (71 P. S. § 745.51(e)), IRRC met on December 20, 2007, and approved the final-form rulemaking.

Contact Person

Further information may be obtained by contacting Sandra Matter, Administrative Assistant, State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-1389.

Findings

The Board finds that:

- (1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided as required by law and all comments were considered.
- (3) The amendments to this final-form rulemaking do not enlarge the purpose of proposed rulemaking published at 35 Pa.B. 5530.
- (4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing acts identified in this Preamble.

Order

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

- (a) The regulations of the Board, 49 Pa. Code Chapters 47 and 49, are amended by amending §§ 47.1, 47.11, 47.12a and 49.1 to read as set forth in Annex A.
- (b) The Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General as required by law.
- (c) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

MICHAEL J. DESTEFANO,
Chairperson

(Editor's Note: The amendment of § 47.1a, included in the proposed rulemaking at 35 Pa.B. 5530, has been withdrawn by the Board.)

Fiscal Note: Fiscal Note 16A-699 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 47. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

GENERAL PROVISIONS

§ 47.1. Definitions.

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

Accredited school—A graduate program in social work or social welfare accredited by the Council on Social Work Education.

Act—The Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P. S. §§ 1901—1922).

Board—The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors.

Client/patient—An individual, group or family for whom a licensed social worker or licensed clinical social worker provides social work services or clinical social work services. In the case of an individual with a legal guardian, such as a minor or legally incapacitated adult, the individual is the client/patient.

Immediate family member—A parent/guardian, child, sibling, spouse or other family member with whom the client/patient resides.

Licensed clinical social worker—A person who is currently licensed as a licensed clinical social worker under section 7 of the act (63 P. S. § 1907).

Licensed social worker—A person who is currently licensed as a licensed social worker under section 7 of the act.

Professional relationship—A therapeutic relationship which is deemed to exist for the period of time beginning with the first professional contact or consultation between a licensed social worker or licensed clinical social worker and a client/patient and continuing thereafter until the last date of a professional service. If a licensed social worker or licensed clinical social worker sees a client/patient on an intermittent basis, the professional relationship is deemed to start anew on each date that the licensed social worker or licensed clinical social worker provides a professional service to the client/patient.

Provisional licensed social worker—A person who is currently licensed as a provisional licensed social worker under section 7 of the act.

Related field—Includes the fields of psychiatry, psychology, marriage and family therapy, counseling, art therapy, dance/movement therapy, drama therapy, music therapy, human services and counseling education.

Sexual intimacies—Romantic, sexually suggestive, sexually demeaning or erotic behavior. Examples of this behavior include the following:

(i) Sexual intercourse, or any touching of the sexual or intimate parts of the person for the purpose of arousing or gratifying sexual desire in either person.

(ii) Nontherapeutic verbal communication or inappropriate nonverbal communication of a sexual or romantic nature.

(iii) Sexual invitations.

(iv) Soliciting or accepting a date from a client/patient.

(v) Masturbating in the presence of a client/patient or encouraging a client/patient to masturbate in the presence of the licensed social worker or licensed clinical social worker.

(vi) Indecent exposure, kissing, hugging, touching, physical contact or self-disclosure of a sexual or erotic nature.

Supervisee—An individual who is fulfilling the supervised experience requirement for licensure as a clinical social worker.

Supervision—The act of overseeing, directing or instructing the activity or course of action of another.

Supervisor—An individual providing supervision to a supervisee who meets the criteria in § 47.1a (relating to qualifications for supervisors).

LICENSURE

§ 47.11. Licensure examination.

(a) The examination required as a prerequisite to original licensure as a licensed social worker is the Association of Social Work Boards' (ASWB) (formerly known as the American Association of State Social Work Boards' (AASSWB)) master's level examination.

(b) The examination required as a prerequisite to being granted a license to hold oneself out as a social worker with a provisional license is the ASWB (formerly known as AASSWB) bachelor's level examination.

(c) The examination required as a prerequisite to being granted a license to hold oneself out as a licensed clinical social worker is the ASWB (formerly known as AASSWB) clinical level examination.

(d) The applicant shall apply to the testing organization for admission to the applicable licensure examination and shall pay the required fee at the direction of the testing organization.

(e) The passing grade for the examination will be determined by the Board.

(f) The applicant shall be responsible for directing that the testing organization send examination results and other information requested to the Board.

§ 47.12a. Licensed social worker.

(a) To be issued a license to hold oneself out as a licensed social worker, an applicant shall provide proof satisfactory to the Board, that the applicant has met the following conditions:

(1) Satisfied the general requirements for licensure of § 47.12 (relating to qualifications for licensure).

(2) Received a master's degree in social work or social welfare from a school which was an accredited school on the date the degree was awarded or a doctoral degree in social work.

(3) Passed the examination required by § 47.11 (relating to licensure examination).

(b) Students who graduate from social work or social welfare master's degree programs that are in candidacy

for accreditation at the time of their graduation may apply for licensure when the program obtains accreditation.

(c) An applicant who is a graduate of a foreign school shall submit to the Board an evaluation of foreign credentials performed by the Council on Social Work Education, which assesses the foreign credentials to be the equivalent of the curriculum policy of an accredited graduate school during the same time period, to be considered as meeting the requirements of having earned a master's degree in social work or social welfare from an accredited school.

(d) If an applicant has a graduate or an equivalent degree or certificate in social work or social welfare, which was granted prior to July 1, 1952, the Board will review the complete application individually.

CHAPTER 49. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—LICENSURE OF PROFESSIONAL COUNSELORS
GENERAL PROVISIONS

§ 49.1. Definitions.

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

Accredited educational institution—A graduate school which is recognized as an institution of higher education or which is accredited by a regional accrediting association recognized by the Council for Higher Education Accreditation.

Act—The Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P. S. §§ 1901—1922).

Board—The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors.

Client/patient—An individual, group or family for whom a licensed professional counselor provides professional counseling services. In the case of an individual with a legal guardian such as a minor or legally incapacitated adult, the individual is the client/patient.

Doctoral degree in a field closely related to the practice of professional counseling—Includes one of the following:

(i) Doctoral degrees in social work, psychiatry, psychology, art therapy, dance/movement therapy, drama therapy, music therapy, human services, counseling education and child development and family studies.

(ii) Another doctoral degree in any applied behavioral science which is awarded after successful completion of a master's degree in a field closely related to the practice of professional counseling and that includes advanced (beyond the master's level) clinical instruction and advanced (beyond the master's level) coursework in any five of the educational requirements in § 49.2(1)—(8) (relating to educational requirements).

Doctoral degree in professional counseling—A doctoral degree which is awarded upon successful completion of a program which includes coursework that meets and builds upon the educational requirements in § 49.2.

Immediate family member—A parent/guardian, child, sibling, spouse or other family member with whom the client/patient resides.

Institution of higher education—An independent institution of higher education, a community college, a State-related institution or a member institution of the State System. See 22 Pa. Code § 33.102 (relating to definitions).

Master's degree in a field closely related to the practice of professional counseling—Includes one of the following:

(i) Degrees in social work, psychology, art therapy, dance/movement therapy, drama therapy, music therapy, human services, counseling education and child development and family studies.

(ii) A degree in any applied behavioral science that includes a practicum or internship and meets any five of the educational requirements in § 49.2(1)—(8).

Planned program of 60 semester hours or 90 quarter hours of graduate coursework in counseling or a field closely related to the practice of professional counseling—A program which includes coursework that meets the criteria in § 49.2.

Professional relationship—A therapeutic relationship which is deemed to exist for the period of time beginning with the first professional contact or consultation between a licensed professional counselor and a client/patient and continuing thereafter until the last date of a professional service. If a licensed professional counselor sees a client/patient on an intermittent basis, the professional relationship is deemed to start anew on each date that the licensed professional counselor provides a professional service to the client/patient.

Related field—Includes the fields of psychiatry, psychology, social work, marriage and family therapy, art therapy, dance/movement therapy, drama therapy, music therapy, human services and counseling education.

Sexual intimacies—Romantic, sexually suggestive, sexually demeaning or erotic behavior. Examples of this behavior include the following:

(i) Sexual intercourse, or any touching of the sexual or intimate parts of the person for the purpose of arousing or gratifying sexual desire in either person.

(ii) Nontherapeutic verbal communication or inappropriate nonverbal communication of a sexual or romantic nature.

(iii) Sexual invitations.

(iv) Soliciting or accepting a date from a client/patient.

(v) Masturbating in the presence of a client/patient or encouraging a client/patient to masturbate in the presence of the licensed professional counselor.

(vi) Indecent exposure, kissing, hugging, touching, physical contact or self-disclosure of a sexual or erotic nature.

Supervisee—An individual who is fulfilling the supervised experience requirement for licensure.

Supervision—The act of overseeing, directing or instructing the activity or course of action of another.

Supervisor—An individual providing supervision to a supervisee who meets the criteria in § 49.3 (relating to qualifications for supervisors).

[Pa.B. Doc. No. 08-131. Filed for public inspection January 25, 2008, 9:00 a.m.]

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION [52 PA. CODE CH. 63]

[L-00050170/57-239]

Interexchange Telecommunications Carriers and Service

The Pennsylvania Public Utility Commission (Commission) on August 8, 2007, adopted a final rulemaking order which sets forth provisions of Act 183 of 2004, which enacts an amended version of original Chapter 30 providing for regulatory reform of the telephone industry in this Commonwealth.

Executive Summary

Pursuant to 66 Pa.C.S. § 3018, jurisdictional interexchange telecommunications carriers (IXCs) have been excused from the traditional obligation to file tariffs, tariff supplements, or tariff revisions that contained the rate, provisions, rules and regulations governing the offering of their respective competitive services. This rulemaking eliminates regulations that require IXCs to file tariffs for intraState competitive services and establishes a permissive detariffing policy for the statutory categories of competitive services offered by IXCs.

The regulations ensure that the intraState interexchange market more closely resembles a traditional unregulated market. IXCs are required to disclose to the public information about the rates, terms and conditions of all of their respective competitive services at their business location during regular business hours and at their Internet web sites.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 7, 2005, the Commission submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 6777 (December 17, 2005), to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on December 5, 2007, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on December 6, 2007, and approved the final-form rulemaking.

Public Meeting held
August 8, 2007

Commissioners Present: Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Terrance J. Fitzpatrick; Tyrone J. Christy; Kim Pizzingrilli

Final Rulemaking for Revision of Chapter 63 of Title 52 of the Pennsylvania Code Pertaining to Regulation of Interexchange Telecommunications Carriers And Service;
Doc. No. L-00050170

Final Rulemaking Order

By the Commission:

Introduction

By Order entered March 29, 2005 at the previously-captioned docket, the Commission issued a proposed rulemaking order that sought to codify the provisions of the new 66 Pa. Code Chapter 30 (relating to interexchange telecommunications carriers) that were related to interexchange telecommunications carriers (IXCs). In particular, the proposed rulemaking order no longer requires IXCs to file tariffs for intraState competitive services and establishes a permissive detariffing policy for the statutory categories of competitive services offered by IXCs. Additionally, the proposed rulemaking clarifies various terms, imposes a new public notice requirement on IXCs, and changes the jurisdictional forum relating to the processing of consumer complaints against IXCs. The Commission requested comments on the proposed regulations from participants in the intrastate, interexchange market and other interested parties. This order addresses the comments to the Commission's proposed regulations and sets forth final regulations relating to interexchange telecommunications carriers.

Background

By Order entered September 20, 1991, at L-00900054, this Commission finalized regulations that codified our view that interexchange resellers are public utilities subject to our jurisdiction under Pennsylvania state law and modified the definition of "interexchange carrier" to include the subgroup of interexchange resellers.¹ See 22 Pa.B. 1554. The regulations were codified at 52 Pa. Code Chapter 63, Subchapter I (relating to interexchange resellers), and became effective April 4, 1992.

On July 8, 1993, the General Assembly enacted the original 66 Pa.C.S. Chapter 30 of the Public Utility Code, 66 Pa.C.S. §§ 3001—3009, which, among other things, modified and streamlined our procedures related to the regulation of IXCs. The original Chapter 30 included a provision that gave us the option of requiring IXCs to file tariffs or price lists for their competitive services.² See 66 Pa.C.S. § 3008(b).

On December 28, 1993, we entered an Order at L-00940099 prescribing interim guidelines for the regulation of IXCs under the original 66 Pa.C.S. Chapter 30. Despite the fact that we had been granted the option to discontinue the tariff filing requirement for competitive services offered by IXCs, we directed all jurisdictional IXCs to continue to submit tariffs for all of their services until further notice.

Subsequently, we determined that it was necessary that our interim guidelines regarding the regulation of IXCs under the original 66 Pa.C.S. Chapter 30 be permanently established in the context of a proposed rulemaking. Accordingly, by a Declaratory Order entered January 10, 1995, we adopted a revised set of interim guidelines and initiated a comprehensive rulemaking at the same L-docket proposing regulations to be codified at 52 Pa. Code §§ 63.101—63.107. The proposed regulations were published at 25 Pa.B. 1418 (April 15, 1995).

¹ Historically, we had declined to exercise jurisdiction over resellers of intrastate, interexchange telephone services as public utilities. The Commission had initially determined that resellers were not public utilities as defined in 66 Pa.C.S. § 102 because they did not own or operate facilities or equipment utilized to transmit messages. Nevertheless, the Commission determined that its initial view and interpretation of the statutory term "equipment and facilities" was too narrow. See 22 Pa.B. 1554. As a result, the Commission promulgated regulations so as to clarify and codify the policy that resellers of interexchange telephone services are subject to Commission jurisdiction as public utilities. *Id.* The above-mentioned regulations were codified at 52 Pa. Code §§ 63.111—63.118.

² Cf. 66 Pa.C.S. § 1302.

By an Order entered April 29, 1997, we promulgated final regulations to implement and codify the effect of the original Chapter 30 on our procedures related to the regulation of IXCs. See 27 Pa.B. 3217 (April 29, 1997). The regulations contained streamlined procedures applicable to the statutory categories of existing competitive services, new competitive services and noncompetitive services. The regulations also established procedures related to reclassification of services offered by IXCs. Nevertheless, the final regulations did not definitively prohibit IXCs from continuing to file tariffs or tariff supplements for their competitive services. 52 Pa. Code §§ 63.103 and 63.104.

On December 1, 2004, Act 183, P. L. 1398, 66 Pa.C.S. §§ 3011, et seq. ("Act 183" or "new Chapter 30") became effective. Act 183 enacted an amended version of the original Chapter 30 which had provided for the regulatory reform of the telephone industry in Pennsylvania and had expired pursuant to a sunset provision. In particular, Act 183 addressed specifically regulation of IXC intraState services and operations. However, unlike the previous version of Chapter 30, Act 183 initiated a permissive detariffing policy for the competitive services of IXCs. See 66 Pa.C.S. § 3018(b)(2). Essentially, IXCs have been excused from the traditional obligation to file tariffs, tariff supplements, or tariff revisions that contained the rates, provisions, rules and regulations governing the offering of their respective competitive services.

The Commission's proposed rulemaking order revised our existing regulations related to IXCs in order to be consistent with the provisions of the new Chapter 30. The notice requesting comments from interested parties on the proposed rules was published at 35 Pa.B. 6777 (December 17, 2005). Comments were received from Sprint Nextel Corporation ("Sprint"), Bell Atlantic Communications Inc. (d/b/a Verizon Long Distance); NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions); Verizon Select Services Inc. and MCI Communications Services, Inc. (hereinafter collectively referred to as "Verizon"), the Pennsylvania Office of Consumer Advocate (OCA), Independent Regulatory Review Commission (IRRC) and the Pennsylvania Office of Attorney General (OAG). Verizon and the OCA filed reply comments.

Comments

Sprint Nextel Corporation

Sprint stated that it supports the Commission's rulemaking and its adoption of rules that give IXCs the option of discontinuing the filing of tariffs for their services. Specifically, Sprint sought clarification regarding proposed § 63.104(c)(2) (relating to disclosure requirements for competitive services). This subsection embodies the public notice requirements for IXCs that post information concerning their interexchange services on their Internet web sites. Sprint stated that IXCs should be allowed flexibility in how they structure their web sites to comply with this requirement. Sprint noted that it would not want to post the rates, terms, and conditions for its Pennsylvania intrastate services on its existing interstate terms and conditions web site section. Rather, Sprint proposed that it would post a Pennsylvania-specific price list or rate scheduled on its existing tariff web site that hosts rates, terms, and conditions applicable to services that are offered in the state. Sprint further states that the document would be posted on the same web page as the state tariffs. Sprint asserts that its proposal comports with the intent of the rule and that the rule, as written, gives it the flexibility to proceed in this manner.

Bell Atlantic Communications, Inc., et al

Verizon states that it supports the Commission's initiative to move towards deregulation of IXCs as it believes that the competitive marketplace, rather than the regulation, should guide the conduct of IXCs. Verizon further states that the proposed detariffing regulations are an appropriate acknowledgment of this reality. Nevertheless, Verizon suggests that the Commission clarify its proposed regulations so that they do not create any new or additional obligations on IXCs, which Verizon suggests may be at odds with the deregulatory emphasis of the proposed regulations. Verizon proposes several modifications to the proposed regulations.

Verizon states that proposed § 63.101 (relating to statement of purpose) should be clarified so that it is consistent with the statements made in the Commission's Order that the regulations are intended to "more closely resemble a traditional unregulated market." See Proposed Rulemaking Order at 5. Verizon asserts it is necessary that this statement be incorporated so that the new regulations are "interpreted in a manner consistent with the Commission's will and that the changes do in fact promote the Commission's goal of deregulation in a market that the Commission has recognized is 'an increasingly competitive' one." Verizon Comments at 2. Accordingly, Verizon proposes that the following sentence be added to proposed § 63.101: "The policy of this subchapter is to codify provisions that more closely resemble a traditional unregulated market."

Verizon further states that there are portions of the proposed regulations that could be misconstrued as creating new and additional obligations that are inconsistent with the Commission's de-regulatory intent and the will of the Pennsylvania Legislature. Verizon suggests that the following revision be made to proposed § 63.102 (relating to definitions): Delete in its entirety the definition for the phrase "Clear and conspicuous manner." Verizon asserts that this definition is unnecessary and introduces the unintended possibility of an additional and wholly subjective review process by the Commission staff. Verizon further asserts that it would hardly be a move toward deregulation if the Commission unintentionally assigned to Commission staff the obligation to determine whether "information" no longer subject to a tariffing obligation and constituting private contract terms was "plain language." Additionally, Verizon states that the possibility that IXCs could be subjected to a new layer of review, one that would apply vague and subjective standards, completely undermines the deregulatory impetus behind these modifications. Furthermore, Verizon suggests that any such new and additional regulations could well be at odds with Act 183, which enumerates and expressly limits the power of this Commission to regulate IXCs. See 66 Pa.C.S. § 3018(b)(1). In the alternative, Verizon suggests that if the Commission is not willing to delete this definition, then the Commission should at least clarify that in adopting this provision, it is not creating new and additional obligations for IXCs, or new and additional responsibilities for the Commission staff.

Verizon also proposes that the Commission make the following modifications to proposed § 63.104: Insert the word "tariffed" before the word "competitive" in the first sentence of subpart (b) ("An interexchange telecommunications carrier may maintain tariffs and file tariff supplements with the Commission that set forth the rates, charges, and service description information relating to each of its tariffed competitive services."). Verizon states that this change merely clarifies that competitive services do not automatically need to be tariffed.

Additionally, Verizon proposes the elimination of the phrase “in an easily accessible and clear and conspicuous manner” subsection (c). The revised subsection would look like this: (“If an interexchange telecommunications carrier chooses to detariff its competitive services, it shall make available for public inspection information concerning the rates, charges, terms and conditions for its competitive services [delete phrase] at the following locations:”) Verizon asserts that this change clarifies that these deregulatory modifications do not introduce a new and additional authority to inspect IXC publicly posted language pertaining to detariffed competitive services. Furthermore, Verizon asserts that standards such as “easily accessible,” “clear,” and in a “conspicuous manner” introduce uncertainty, chill deregulation, and could be read to provide for the micromanagement of detariffed competitive services.

Verizon also proposes to replace “subsection (d)” with “paragraph (3)”; insert the word “detariffed” before the phrase “competitive services”; insert the word “either” before the phrase “principal office,”; replace the word “and” with the word “or” after the phrase “principal office.” The revised subsection would appear like this: (“An interexchange telecommunications carrier shall update information concerning changes in rates, charges, terms and conditions for its “detariffed” competitive services “either” at its principal office “or” [delete “and”] its Internet web site no later than 48 hours after the effective date of the change so it provides the current information concerning service offerings.”). Verizon asserts that these changes clarify that the obligations contained in this subpart apply only to those competitive services that the IXC chooses to detariff, and that they are not new and additional obligations for competitive services that an IXC chooses to continue to tariff. Furthermore, the suggested changes recognize that this subpart’s updating requirement is an extremely broad one that not only encompasses rates, but also each and every term and condition associated with the provisioning of IXC service. Given the competitiveness of the IXC market, it is sufficient for an IXC to update the information either at its principal office or on the Internet. Verizon states that requiring both of these obligations would be unnecessary and burdensome.

Finally, Verizon proposes re-labeling subsections (e) and (f) and (d) and (e) consistent with the recommended changes listed previously.

Office of Consumer Advocate

The OCA states that certain amendments to the proposed regulations are necessary to better codify 66 Pa.C.S. § 3018 and so give IXCs and consumers clear and adequate notice of the Commission’s authority preserved by 66 Pa.C.S. Chapter 30 for the protection of customers of IXCs. The OCA notes that under the proposed regulations, the Commission would enforce consumer complaints against IXCs only in very limited circumstances. The OCA states that proposed § 63.109 (relating to enforcement) would draw a line such that the Commission only will hear those consumer complaints which concern an IXC’s compliance with the Commission’s newly added disclosure requirements for detariffed services. All other consumer complaints regarding intrastate interexchange services will be referred to the Office of Attorney General’s Bureau of Consumer Protection. The OCA states that the proposed Subchapter H omits any mention of the Commission’s preserved authority over the provision of service by IXCs, including customer privacy, ordering, installation, restoration and disconnection, as

well as the quality of service provided by IXCs to Pennsylvania consumers. 66 Pa.C.S. § 3018(b)(3) and (d)(1). The OCA suggests that the Commission should rectify this omission in any final-form regulations it promulgates in order to affirmatively state the scope of its ongoing authority to regulate the services of IXCs and its jurisdiction to hear consumer complaints on these issues.

Independent Regulatory Review Commission

IRRC notes that the OCA comments indicate that the limits the Commission has established over its jurisdiction over IXCs in the proposed regulations are not consistent with 66 Pa.C.S § 3018. IRRC states it agrees with the OCA that the Commission does have the authority to exercise jurisdiction over IXCs. However, IRRC notes that the Commission is well within its powers to decide which areas it will not exercise jurisdiction in order to promote competition. Nevertheless, IRRC states that the final form regulation should explicitly state which enforcement powers the Commission will retain, consistent with the OCA’s comment.

Next, IRRC states that the last sentence in the definition of “interexchange facilities-based carriers” is substantive. IRRC notes that substantive provisions in a definition cannot be enforced. IRRC suggests that the sentence should be removed from the definition and placed in an appropriate section of the regulation.

Additionally, IRRC questions whether the Commission intends the term “interexchange transporter” to be the same as the defined term in § 63.112 of the Commission’s existing regulations. IRRC notes if that is the case, the Commission should add a cross-reference to the definition.

IRRC takes note of Sprint’s comments that IXCs should be allowed the flexibility to structure their web sites in a way that best allows them to give the public disclosure of information. IRRC agrees that proposed § 63.104(c) (relating to disclosure requirements for competition services) should be amended to allow for such flexibility. Additionally, IRRC states that proposed § 63.104(c)(1) mentions a “designated office;” however, the regulations do not state what a “designated office” is or how an office becomes designated. IRRC suggests that this information should be clearly set forth in the final form regulation or the term should be deleted. IRRC also agrees with Verizon’s comments that the language in proposed § 63.104(d) should be amended to clarify that the provisions of this subsection apply only to the services that an IXC chooses to detariff.

IRRC commented on what are the “other factors deemed relevant by the Commission” in a reclassification proceeding. IRRC further questions how will an IXC know or become aware of these other relevant factors. Similarly, IRRC also states that the language in proposed § 63.106(b) (relating to noncompetitive services and tariffs) is unclear. IRRC states that the language in this subsection should be amended to state clearly the Commission’s intention. IRRC questions as to how will an IXC know the “other reasonable justification or any relevant data that is requested by the Commission” in order to modify its tariff. IRRC suggests that this subsection should be broken out into a new section that details that other reasonable information might be requested by the Commission after initial review of the tariff. IRRC further notes that based upon its discussion with Commission staff, the phrase “may not” in proposed § 63.106(d) will be replaced with the phrase “is not required to.”

Furthermore, IRRC suggests that the phrase “as closely as possible” should be deleted from proposed § 63.107(a) (relating to applications for authority). IRRC notes that the term “noncompetitive interexchange call” is not defined anywhere in the proposed regulations. IRRC suggests that either the definition of the term be added to proposed § 63.102 or the cross-reference in this subsection should be deleted. IRRC also suggests that the last sentence in proposed § 63.106(c) should be amended to state clearly the Commission’s intention that a tariff will be deemed to be just and reasonable if it is at or below the reasonable charge established by proposed subsection § 63.106(b).

Finally, IRRC states that the last sentence in proposed § 63.108(c) is unclear and suggests that the subsection should be amended to state clearly the Commission’s intent.

Pennsylvania Office of Attorney General

The OAG states that in proposed § 63.102, the definitions of “interexchange reseller carrier” and “interexchange facilities-based carrier” contain the phrase “interexchange transporter.” The OAG questions if the term “interexchange transporter” should be separately defined in the proposed regulations.

The OAG notes that § 63.105 (relating to reclassification of services) provides that the Commission may reclassify interexchange services of an interexchange telecommunications carrier as noncompetitive after an appropriate hearing. However, the statutory and regulatory definitions of “interexchange telecommunication carrier” exclude local exchange telecommunication companies authorized to provide interexchange services. The OAG states that by using the term “interexchange services” without qualification in § 63.105(a), the regulation appears to include those interexchange services provided by local exchange telecommunications companies and appears to violate 66 Pa.C.S. § 3018(c), which applies only to interexchange telecommunication carriers.

The OAG further notes that § 63.107(b) states that “rates for noncompetitive services provided for in the proposed tariff may not exceed the reasonable charge for a noncompetitive interexchange call as defined in § 63.102 relating to definitions.” However, a definition for “noncompetitive interexchange call” does not appear in § 63.102. The OAG states that § 63.107(b) should be further clarified.

Reply Comments

Bell Atlantic Communications, Inc., et al

Verizon took exception to the OCA’s comments. Verizon asserts that the Commission should reject the proposals of the OCA to continue to regulate aspects of IXC services. Verizon states that the OCA’s proposed language increases, rather than lessens, regulation. Verizon further asserts that the OCA’s position is inconsistent with the highly competitive state of the IXC market, and the Commission’s recognition that the IXC market should be guided by competition, not regulatory oversight. Verizon argues that 66 Pa.C.S. § 3018 does not require the Commission to exercise jurisdiction where it is not necessary. In direct contravention to the OCA’s position, Verizon concludes that the proposed regulations are entirely consistent with the law and do not need to be expanded or clarified.

Office of Consumer Advocate

The OCA states that Sprint’s plan to meet the notice and disclosure requirements set forth in the proposed

regulations is reasonable. However, the OCA opposes Verizon’s proposed revisions, which they assert reflects greater degree of deregulation and reduction in Commission authority over IXCs. The OCA further asserts that Verizon’s revisions to the proposed regulations are inconsistent with Chapter 30, which expressly preserved the Commission’s authority to regulate the provisioning, quality and privacy of IXC services. The OCA states that it opposes Verizon’s proposed revision to § 63.101 for the new regulations. The OCA states that the Commission should reject the broader language requested by Verizon because it is not supported by the language of the General Assembly as stated in 66 Pa.C.S. Chapter 30. The OCA continues to assert that the Commission should promulgate final-form regulations that affirm the Commission’s on-going jurisdiction and authority to regulate the provision of service by IXCs for the protection of consumers.

The OCA is also opposed to Verizon’s proposed revisions to § 63.104(c) and (d) of the new regulations. The OCA states that the General Assembly’s prohibition against rate setting for interexchange services does not equate to complete deregulation. The OCA notes that the Commission’s proposed regulations requiring disclosure of the rates, terms and conditions of competitive services is entirely within the Commission’s continuing authority to regulate the provision and quality of service provided by IXCs, pursuant to 66 Pa.C.S. §§ 1501 and 3018(b)(2),(3). The OCA argues that proposed § 63.104 properly advises IXCs of the standard to be met in conveying such information regarding detariffed services to the public. Finally, the OCA takes exception to Verizon’s request to allow an IXC to update its information either at the principal office or on its web site. The OCA notes that 66 Pa.C.S. § 3018(b)(2) preserves a role for the Commission in assuring the price list information for detariffed services is available to the public. The OCA asserts that requiring IXCs to update in a timely manner the information available to the public at two locations benefits consumers by assuring there is consistency and accuracy of information. The OCA states that the Commission should reject Verizon’s proposed revision to § 63.104(c) and (d) as the subsections are reasonable and proper to protect consumers.

Discussion

Based upon our review of the received comments, we shall modify various portions of the proposed regulations. We shall present and discuss each section for which we received comments from the parties.

Section 63.101

We note Verizon’s suggestion that we clarify proposed § 63.101 so that it is consistent with the statements made in the Commission’s Order that the regulations are intended to “more closely resemble a traditional unregulated market.” See Proposed Rulemaking Order at 5. Verizon suggested that the following sentence be added to proposed § 63.101: “The policy of this subchapter is to codify provisions that more closely resemble a traditional unregulated market.”

Chapter 30 of 66 Pa.C.S. clearly indicates that the intraState interexchange services market is competitive. However, we believe that the language that Verizon proposes we incorporate into the new regulations is unnecessary. We believe that it is only necessary that we adopt regulations that reflect and promote the rationale of the increasingly competitive nature of the intraState interexchange telecommunications market. Accordingly, we shall not incorporate Verizon’s language into proposed § 63.101.

Section 63.102

The OAG noted that in proposed § 63.102, the definitions of “interexchange reseller carrier” and “interexchange facilities-based carrier” contain the term “interexchange transporter.” The OAG questioned whether the term “interexchange transporter” should be separately defined in the proposed regulations. We note the term “interexchange transporter” is an archaic term. Accordingly, we will simply delete the term from the final-form regulations.

Verizon stated that there are portions of the proposed regulations that could be misconstrued as creating new and additional obligations that are inconsistent with the Commission’s de-regulatory intent and the will of the Pennsylvania Legislature. Verizon suggested deleting in its entirety the definition for the phrase “Clear and conspicuous manner” from the proposed § 63.102. Verizon asserted that this definition is unnecessary and introduces the unintended possibility of an additional and wholly subjective review process by the Commission staff. Verizon further asserted that it would hardly be a move toward deregulation if the Commission unintentionally assigned to Commission staff the obligation to determine whether “information” no longer subject to a tariffing obligation and constituting private contract terms was “plain language.” Additionally, Verizon stated that the possibility that IXCs could be subjected to a new layer of review, one that would apply vague and subjective standards, completely undermines the deregulatory impetus behind these modifications. Furthermore, Verizon suggested that any such new and additional regulations could well be at odds with Act 183, which enumerates and expressly limits the power of this Commission to regulate IXCs. See 66 Pa.C.S. § 3018(b)(1). In the alternative, Verizon suggests that if the Commission is not willing to delete this definition, then the Commission should at least clarify that in adopting this provision, it is not creating new and additional obligations for IXCs, or new and additional responsibilities for the Commission staff.

We do not agree with Verizon’s assertions. A plain language review does not necessarily undermine the deregulatory impetus for the intraState, interexchange telecommunications market. We note that the Commission has previously adopted a “plain language” policy statement that sets forth guidelines for written material provided to residential customers by public utilities. See 52 Pa. Code § 69.251 (relating to plain language-statement of policy). The Commission recognizes the need for carriers to provide information regarding their services in a format that is “easy to understand.” Furthermore, this information is critical in order to allow consumers to make comparisons among various services offered by the carrier and services offered by other carriers. Moreover, we note that the Federal Communications Commission requires interstate interexchange carriers to include information that is “easy to understand” and encouraged the carriers to work with the FCC’s Consumer Information Bureau to develop appropriate formats for the required disclosures. Accordingly, the Commission does not believe that it is onerous to include a provision in the proposed regulations that requires IXCs to provide information to consumers that is “clear and conspicuous” or that is in an easy to understand format. We encourage IXCs to work with the Commission’s Bureau of Consumer Services so that it can review any written material provided to residential customers by IXCs regarding their services.

IRRC stated that the last sentence in the definition of “interexchange facilities-based carriers” is substantive.

IRRC notes that substantive provisions in a definition cannot be enforced. IRRC suggests that the sentence should be removed from the definition and placed in an appropriate section of the regulation. We agree with IRRC and will delete the last sentence from the definitional section of the proposed regulations and place it within the appropriate subsection.

Additionally, IRRC questioned whether the Commission intends the term “interexchange transporter” to be the same as the defined term in § 63.112 of the Commission’s existing regulations. IRRC notes if that is the case, the Commission should add a cross-reference to the definition. As mentioned previously, we note that the term “interexchange transporter” is an archaic term of the telecommunications industry and will delete it from the final form regulations.

Section 63.103

In light of the OAG’s comments regarding the term “interexchange transporter” and our response to the OAG’s comment as noted above, the Commission also deletes the term “interexchange transporter” from the caption of this section and from the body of this section in order to provide uniformity to the final regulations. Additionally, in order to provide consistency with the definitional section, the Commission adds the term “carriers” to the caption of this section and to the body of this section.

Section 63.104

Verizon also proposed that the Commission make the following modifications to proposed § 63.104: Insert the word “tariffed” before the word “competitive” in the first sentence of subsection (b) (“An interexchange telecommunications carrier may maintain tariffs and file tariff supplements with the Commission that set forth the rates, charges, and service description information relating to each of its tariffed competitive services.”). Verizon stated that this change merely clarifies that competitive services do not automatically need to be tariffed. We agree with this clarification and adopt it.

Additionally, Verizon proposed the elimination of the phrase “in an easily accessible and clear and conspicuous manner” in subsection (c). The revised subsection would look like this: (“If an interexchange telecommunications carrier chooses to detariff its competitive services, it shall make available for public inspection information concerning the rates, charges, terms and conditions for its competitive services [delete phrase] at the following locations:”) Verizon asserted that this change clarifies that these deregulatory modifications do not introduce a new and additional authority to inspect IXC publicly posted language pertaining to detariffed competitive services. Furthermore, Verizon asserted that standards such as “easily accessible,” “clear,” and in a “conspicuous manner” introduce uncertainty, chill deregulation, and could be read to provide for the micromanagement of detariffed competitive services. As we mentioned above, requiring some sort of “plain language” review is not diametrically opposed to the deregulatory impetus behind these regulations. We recognize the need for carriers to provide information regarding their services in a format which is “easy to understand” and, accordingly, decline to adopt Verizon’s suggested revisions regarding the subsection.

Verizon also proposed to replace “subsection (d)” with “paragraph (3)”; insert the word “detariffed” before the phrase “competitive services”; insert the word “either” before the phrase “principal office.”; replace the word “and” with the word “or” after the phrase “principal

office.” The revised subsection would appear like this: (“An interexchange telecommunications carrier shall update information concerning changes in rates, charges, terms and conditions for its “detariffed” competitive services “either” at its principal office “or” [delete “and”] its Internet web site no later than 48 hours after the effective date of the change so it provides the current information concerning service offerings.”).

Verizon asserts that these changes clarify that the obligations contained in this subpart apply only to those competitive services that the IXC chooses to detariff, and that they are not new and additional obligations for competitive services that an IXC chooses to continue to tariff. IRRC also agreed with Verizon’s comments that the language in proposed § 63.104(d) should be amended to clarify that the provisions of this subsection apply only to the services that an IXC chooses to detariff. We agree with Verizon’s clarification and adopt it but will not redesignate the subparts.

Furthermore, Verizon suggested that its changes recognize that this subpart’s updating requirement is an extremely broad one that not only encompasses rates, but also each term and condition associated with the provisioning of IXC service. Given the competitiveness of the IXC market, Verizon asserted that it is sufficient for an IXC to update the information either at its principal office or on the Internet. Verizon states that requiring both of these obligations would be unnecessary and burdensome.

The OCA opposed Verizon’s proposed revisions to § 63.104(c) and (d) of the new regulations. The OCA stated that the General Assembly’s prohibition against rate setting for interexchange services does not equate to complete deregulation. The OCA noted that the Commission’s proposed regulations requiring disclosure of the rates, terms and conditions of competitive services is entirely within the Commission’s continuing authority to regulate the provision and quality of service provided by IXCs, pursuant to 66 Pa.C.S. §§ 1501 and 3018(b)(2),(3). Finally, the OCA took exception to Verizon’s request to allow an IXC to update its information either at the principal office or on its web site. The OCA noted that 66 Pa.C.S. § 3018(b)(2) preserves a role for the Commission in assuring the price list information for detariffed services is available to the public. The OCA further asserted that requiring IXCs to update in a timely manner the information available to the public at two locations benefits consumers by assuring there is consistency and accuracy of information. The OCA states that the Commission should reject Verizon’s proposed revision to § 63.104(c) and (d) as the subsections are reasonable and proper to protect consumers.

We agree with the OCA and oppose Verizon’s rationale. We determined that it is in the public interest that IXCs make available to the public information on current rates, terms and conditions for the detariffed competitive services in a timely manner and in at least one business location during regular business hours. In addition, the Commission required IXCs that have established Internet web sites to post that same information on-line and to update the information regularly. Consumers should have continuous access to information and we believe that an IXC should provide such information on its Internet web site and at its principal office or at a local business office.

Finally, Verizon proposes renaming subsections (e) and (f) and (d) and (e) consistent with the recommended changes above. We will not make these revisions to the proposed regulations as we find them unnecessary.

Sprint also submitted comments regarding this section. Specifically, Sprint sought clarification regarding proposed § 63.104(c)(2). Sprint stated that IXCs should be allowed flexibility in how they structure their web sites to comply with this requirement. Sprint noted that it would not want to post the rates, terms, and conditions for its Pennsylvania intraState services on its existing interstate terms and conditions web site section. Rather, Sprint proposed that it would post a Pennsylvania-specific price list or rate scheduled on its existing tariff web site that hosts rates, terms, and conditions applicable to services that are offered in the state. Sprint further states that the document would be posted on the same web page as the state tariffs. Sprint asserts that its proposal comports with the intent of the rule and that the rule, as written, gives it the flexibility to proceed in this manner. IRRC took note of Sprint’s comments that IXCs should be allowed the flexibility to structure their web sites in a way that best allows them to give the public disclosure of information. IRRC agreed that proposed § 63.104(c) should be amended to allow for such flexibility.

We determined that the public information locations should contain information on a carrier’s current rates, terms and conditions for all their detariffed intraState competitive interexchange services. However, the Commission did not require that public disclosure of this information be provided in any particular manner, except that the information must be posted on the web sites of those IXCs that currently maintain them over the Internet. Therefore, we are not opposed to Sprint’s manner of presenting its information concerning its detariffed intrastate competitive services on its web site. We agree with Sprint and the IRRC that IXCs should have the flexibility to present the information on their web sites in any manner that they choose, as long as the information is easily accessible to the public.

IRRC also stated that this proposed subsection mentions a “designated office;” however, the regulations do not state what a “designated office” is or how an office becomes designated. IRRC suggested that this information should be clearly set forth in the final-form regulation or the term should be deleted. We shall delete the term “designated office” from the final-form regulations.

Section 63.105

The OAG noted that § 63.105 provides that the Commission may reclassify interexchange services of an interexchange telecommunications carrier as noncompetitive after an appropriate hearing. However, the statutory and regulatory definitions of “interexchange telecommunication carrier” exclude local exchange telecommunication companies authorized to provide interexchange services. The OAG stated that by using the term “interexchange services” without qualification in § 63.105(a), the regulation appears to include those interexchange services provided by local exchange telecommunications companies and appears to violate 66 Pa.C.S. § 3018(c), which applies only to interexchange telecommunication carriers.

The Commission agrees with the OAG’s comment and will insert the language “reclassify the services of an interexchange telecommunications carrier as a noncompetitive service” after the word “hearing” in § 63.105(a). We believe that the insertion of this qualifying language addresses the OAG’s concern.

IRRC questioned how will an IXC know the “other factors deemed relevant by the Commission” in a reclassification proceeding. We initially suggested to IRRC that the Commission would inform the IXC of the other

relevant factors it would consider in the notice initiating the reclassification proceeding. However, upon further reflection, it is more likely that the Commission will present this information to the IXC during the course of the reclassification proceeding through data requests rather than through the notice initiating the reclassification proceeding. Accordingly, we will strike § 63.105(c)(5) from the final-form regulations and will indicate that the Commission may possibly inform the IXC of the factors it deems relevant in the notice initiating the reclassification proceeding.

Section 63.106

IRRC stated that the language in proposed § 63.106(b) is unclear. IRRC questioned the purpose of the 45-day notice requirement for the tariff in the subsection if the Commission makes a decision on the tariff within 14 days. IRRC stated that the language should be amended to state clearly the Commission's intention. We agree with IRRC that this subsection should be clarified so that it indicates the 45-day notice requirement occurs prior to the filing of the tariff and the Commission's notice will come within 14 days after the filing of the tariff.

IRRC commented as to how an IXC will know the "other reasonable justification or any relevant data that is requested by the Commission" to modify its tariff. IRRC suggests that this subsection should be broken out into a new section that details the other reasonable information that might be requested by the Commission after initial review of the tariff. We disagree with IRRC's suggestion that we need to detail the other reasonable information the Commission might request from an IXC in order to modify its tariff in the regulations. The information requested from an IXC may vary on a case-by-case basis and it would be imprudent to attempt to establish an exhaustive list in the regulations. Nevertheless, Commission Staff will promptly advise the IXC about any additional relevant data or supporting documentation it must provide in order to modify its tariff after Staff's initial review of the tariff supplement.

IRRC further noted that based upon its discussion with Commission staff, the phrase "may not" in proposed § 63.106(d) will be replaced with the phrase "is not required to."

Section 63.107

IRRC suggested that the phrase "as closely as possible" should be deleted from proposed § 63.107(a). We agree with IRRC's comment and will delete the term "as closely as possible" from the final-form regulations.

IRRC notes that the term "noncompetitive interexchange call" is not defined anywhere in the proposed regulations. IRRC suggests that either the definition of the term be added to proposed § 63.102 or the cross-reference in this subsection should be deleted. The OAG noted this same discrepancy and suggested that § 63.107(b) should be further clarified by including a definition for "noncompetitive interexchange call" within § 63.102. We agree with IRRC's and the OAG's comments and will rectify this discrepancy by deleting the cross-reference set forth in this subsection.

We note that our Staff does make a distinction between a facilities-based IXC and a reseller IXC. IXC providers can be resellers, facilities-based or mixed. A competitive IXC applicant must apply for separate and distinct authority to provide IXC reseller services or IXC facilities-based services. The Secretary's Bureau designates a different folder number and issues a separate certificate of public convenience for each type of authority

requested by the applicant. Accordingly, we will delete the last sentence of § 63.107(a) from the final-form regulations.

IRRC also suggests that the last sentence in proposed § 63.107(c) should be amended to state clearly the Commission's intention that a tariff will be deemed to be just and reasonable if it is at or below the reasonable charge as established by proposed § 63.107(b). We agree with IRRC's comment and will amend the subsection to clearly express this intention.

Section 63.108

IRRC states that the last sentence in proposed § 63.108(c) (relating to reporting requirements) is unclear. IRRC suggests that the subsection should be amended to state clearly the Commission's intention that the IXC should provide the required information in its annual report if it is technologically possible to collect the data. We agree with IRRC's comment and will clarify this subsection.

Section 63.109

The OCA expressed concerns regarding proposed § 63.109 (relating to enforcement). The OCA notes that under the proposed regulations, the Commission would enforce consumer complaints against IXCs only in very limited circumstances. Specifically, this proposed section draws a line such that the Commission only will hear those consumer complaints that concern an IXC's compliance with the Commission's newly added disclosure requirements for detariffed services. All other consumer complaints regarding intrastate interexchange services will be referred to the Office of Attorney General's Bureau of Consumer Protection. The OCA states that the proposed Subchapter H generally omits any mention of the Commission's preserved authority over the provision of service by IXCs, including customer privacy, ordering, installation, restoration and disconnection, as well as the quality of service provided by IXCs to Pennsylvania consumers. 66 Pa.C.S. § 3018(b)(3) and (d)(1). The OCA suggests that the Commission should rectify this omission in any final form regulations it promulgates in order to affirmatively state the scope of its ongoing authority to regulate the services of IXCs and its jurisdiction to hear consumer complaints on these issues.

Additionally, IRRC took note of the OCA's comments regarding the Commission's jurisdiction over IXCs in the proposed regulations. IRRC stated that it agrees somewhat with the OCA that the Commission does have the authority to exercise jurisdiction over IXCs. However, IRRC noted that the Commission is well within its powers to decide which areas it will not exercise jurisdiction in order to promote competition. Nevertheless, IRRC stated that the final-form regulation should explicitly state which enforcement powers the Commission will retain, consistent with the OCA's comment.

However, Verizon asserted that the Commission should reject the proposals of the OCA to continue to regulate aspects of IXC services. Verizon stated that the OCA's proposed language increases, rather than lessens, regulation. Verizon further argued that 66 Pa.C.S. § 3018 does not require the Commission to exercise jurisdiction where it is not necessary. In direct contravention to the OCA's position, Verizon concluded that the proposed regulations are entirely consistent with the law and do not need to be expanded or clarified.

The OCA believes that Verizon's proposed revisions reflect a greater degree of deregulation and reduction in Commission authority over IXCs, which it believes are

inconsistent with 66 Pa.C.S. Chapter 30. The OCA states that the Commission should reject the broader language requested by Verizon because it is not supported by the language of the General Assembly as stated in 66 Pa.C.S. Chapter 30, which expressly preserved the Commission's authority to regulate the provisioning, quality and privacy of IXC services. The OCA asserted that the Commission should promulgate final-form regulations that affirm the Commission's on-going jurisdiction and authority to regulate the provision of service by IXCs for the protection of consumers.

We agree with the OCA's and IRRC's observations. The proposed regulations do not reference the fact that the Commission continues to have authority over the provision of service by IXCs, including customer privacy, ordering, installation, restoration and disconnection, as well as the quality of service provided by IXCs to Pennsylvania consumers. See 66 Pa.C.S. § 3018(b)(3), (d)(1). Noting this omission, we will revise the proposed regulations so that the Commission's preserved authority over provisioning, quality and privacy of IXC services by IXCs is included within the proposed regulations.

Conclusion

Accordingly, under sections 501, 1501 and 3018 of the Public Utility Code, 66 Pa.C.S § 501, § 1501 and § 3018, and the Commonwealth Documents Law (45 P. S. § 1201, et seq.), and regulations promulgated thereunder in 1 Pa. Code §§ 7.1—7.4, we amend the regulations at 52 Pa. Code Chapter 63 as noted previously and as set forth in Annex A; *Therefore,*

It Is Ordered that:

1. The regulations of the Commission in 52 Pa. Code are amended by amending §§ 63.101—63.107; by adding §§ 63.108 and 63.109; and by deleting §§ 63.111, 63.112, 63.112a and 63.113—63.118 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 approval as to form and legality.
3. The Secretary shall submit a copy of this order, together with Annex A, to the Governor's Office of Budget for review of fiscal impact.
4. The Secretary shall submit this order and Annex A for formal review by the designated standing committees of both Houses of the General Assembly, and for formal review and approval by the Independent Regulatory Review Commission.
5. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
6. This final-form rulemaking shall be come effective upon publication in the *Pennsylvania Bulletin*.
7. The contact persons for this matter are David E. Screven, Law Bureau, (717) 787-2126, Rhonda Staver, Bureau of Fixed Utility Services, (717) 787-7703 and Sherri DelBiondo, Regulatory Review Coordinator, (717) 772-4597.

JAMES J. MCNULTY,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 37 Pa.B. 6859 (December 22, 2007)).

Fiscal Note: Fiscal Note 57-239 remains valid for the final adoption of the subject regulations.

Annex A

**TITLE 52. PUBLIC UTILITIES
PART I. PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES
CHAPTER 63. TELEPHONE SERVICE**

Subchapter H. INTEREXCHANGE CARRIERS

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| Sec. | |
| 63.101. | Statement of purpose and policy. |
| 63.102. | Definitions. |
| 63.103. | Jurisdiction of interexchange reseller carriers. |
| 63.104. | Disclosure requirements for competitive services. |
| 63.105. | Reclassification of services. |
| 63.106. | Noncompetitive services and tariffs. |
| 63.107. | Applications for authority. |
| 63.108. | Reporting requirements. |
| 63.109. | Enforcement. |

§ 63.101. Statement of purpose and policy.

On December 1, 2004, the General Assembly enacted Chapter 30 of the code (relating to alternative form of regulation of telecommunications services), which provided for the regulatory reform of the telephone industry in this Commonwealth. Sections 3018 and 3019(b) of the code (relating to interexchange telecommunications carriers; and additional powers and duties) have significant effect on the future regulation by the Commission of intraState interexchange telecommunications carriers, which include interexchange resellers. The purpose of this subchapter is to codify the application of Chapter 30 of the code to intraState, interexchange telecommunications carriers and to codify the modification of procedures to address the application of Chapter 30 of the code.

§ 63.102. Definitions.

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

Clear and conspicuous manner—Information that is legible, stated in plain language and printed in 10-point type or larger.

Code—The Public Utility Code. (66 Pa.C.S. §§ 101—3316).

Competitive services—Interexchange services other than noncompetitive services.

Interexchange facilities-based carrier—A person or entity whose facilities carry intraState interexchange service on a wholesale or retail basis through line, wire, cable, microwave, radio wave, satellite or other analogous facilities owned or operated by it.

Interexchange reseller carrier—A person or entity which directly or indirectly acquires intraState interexchange service capacity and establishes rates to sell interexchange service through the use of technology to a residential or nonresidential subscriber or consumer.

Interexchange services—The transmission of interLATA or intraLATA toll messages or data outside the local calling area.

Interexchange telecommunications carrier—

(i) A public utility, including both interexchange reseller carrier and interexchange facilities-based carrier, as those terms are defined in this section, authorized by the Commission to provide intraState interexchange service on a wholesale or retail basis.

(ii) The term does not include a local exchange telecommunications company authorized by the Commission to provide intraState, interexchange services.

Noncompetitive services—The term only includes those interexchange services or business activities that have been determined expressly by the Commission to be noncompetitive under § 63.105 (relating to reclassification of services).

§ 63.103. Jurisdiction of interexchange reseller carriers.

Under the definition of “public utility” in section 102 of the code (relating to definitions), a person or corporation now or hereafter owning or operating in this Commonwealth equipment or facilities for transmitting intraState interexchange services is subject to Commission jurisdiction as a public utility. Interexchange reseller carriers operate equipment or facilities utilized for the transmission of interexchange services and therefore, under the statutory definition of “public utility,” are jurisdictional.

§ 63.104. Disclosure requirements for competitive services.

(a) All services, new or existing, offered by interexchange telecommunications carriers are deemed competitive.

(b) An interexchange telecommunications carrier may maintain tariffs and file tariff supplements with the Commission that set forth the rates, charges and service description information relating to each of its tariffed competitive services. If an interexchange telecommunications carrier files a tariff or a tariff supplement with the Commission for its competitive services, it shall become effective on 1-day’s notice.

(c) If an interexchange telecommunications carrier chooses to detariff its competitive services, it shall make available for public inspection information concerning the rates, charges, terms and conditions for its competitive services in an easily accessible and clear and conspicuous manner at the following locations:

(1) At the interexchange telecommunications carrier’s principal office, if it is located within this Commonwealth, or at any local business office of the utility during regular business hours.

(2) At the web site of the interexchange telecommunications carrier. An interexchange telecommunications carrier has the flexibility to structure and present information concerning the rates, charges, terms and conditions for its competitive services on its internet web site in any manner that it chooses, as long as the information is easily accessible to the public.

(d) An interexchange telecommunications carrier shall update information concerning changes in rates, charges, terms and conditions for its detariffed competitive services either at its principal office or any local business office within 5 days and on its Internet web site no later than 48 hours after the effective date of the change so it provides the current information concerning service offerings.

(e) An interexchange telecommunications carrier that chooses to detariff its competitive services shall disclose to customers their right to request information concerning the rates, charges, terms and conditions for its competitive services and shall provide contact information for this purpose.

(f) This section supersedes Chapter 53 (relating to tariffs for noncommon carriers) to the extent that Chapter 53 is inconsistent with this section.

§ 63.105. Reclassification of services.

(a) The Commission has authority, under section 3018(c) of the code (relating to interexchange telecommu-

nications carriers), after notice and an opportunity for a hearing, to reclassify the services of an interexchange telecommunications carrier as a noncompetitive service.

(b) The Commission will review whether a competitive service should be reclassified as a noncompetitive service within the scope of a Commission investigation conducted under section 331(a) of the code (relating to powers of commission and administrative law judges), or upon consideration of a complaint filed under section 701 of the code (relating to complaints). The notice to the interexchange telecommunications carrier may contain the information deemed relevant by the Commission in holding a reclassification proceeding.

(c) When reviewing whether a service should be reclassified, the Commission will consider all relevant information submitted to it, including the following factors:

(1) The ease of entry by potential competitors into the market for the specific service at issue.

(2) The presence of other existing interexchange telecommunications carriers in the market for the specific service at issue.

(3) The ability of other interexchange telecommunications carriers to offer the service at competitive prices, terms and conditions.

(4) The availability of like or substitute service alternatives in the relevant geographic area for the service at issue.

§ 63.106. Noncompetitive services and tariffs.

(a) A noncompetitive service, as defined in § 63.102 (relating to definitions), offered by an interexchange telecommunications carrier shall be included in a tariff filed in compliance with sections 1302 and 1303 of the code (relating to tariffs; filing and inspection; and adherence to tariffs).

(b) Modifications to the rates, terms or conditions of the noncompetitive service set forth in the interexchange carrier’s tariff shall be implemented through the filing of a tariff supplement and verified supporting documentation. The interexchange telecommunications carrier shall serve the tariff supplement on the Office of Consumer Advocate, the Office of Small Business Advocate and the Commission’s Office of Trial Staff. The interexchange telecommunications carrier shall provide notice to the customer of the proposed change to the noncompetitive service 45 days prior to the filing of the tariff supplement with the Commission.

(c) The tariff supplement and verified supporting documentation must contain the following information:

(1) An indication on each page of the tariff supplement that the page pertains to the noncompetitive service.

(2) A description of the noncompetitive service.

(3) The rates proposed for the noncompetitive service.

(4) Supporting data justifying the proposed rates for the noncompetitive service.

(5) An executive overview summarizing the reason for the filing which includes relevant information regarding the safety, adequacy, reliability and privacy considerations related to the proposed service.

(6) Other reasonable justification or any relevant data that is requested by the Commission after its initial review.

(d) The interexchange telecommunications carrier is not required to submit cost justification, cost-of-service or

revenue data relating to the proposed change as directed in subsection (c)(4) if one of the following applies:

(1) The proposed change does not purport to increase an existing rate or surcharge.

(2) The proposed change to the noncompetitive service is designed to make the rates, terms or conditions for that service comparable to the rates, terms and conditions that have been approved by several other state commissions.

(e) The noncompetitive service tariff supplement shall be filed to become effective on 16-days' notice by the interexchange telecommunications carrier.

(f) Review of noncompetitive service tariff supplements shall be conducted consistent with the following procedures:

(1) Within 14 days of the date of filing of the tariff supplement with the Commission, the Commission will issue a notice allowing the tariff supplement to become effective or issue a report that explains why the tariff supplement may not become effective without modification. The report must identify modifications which would eliminate inadequacies in the tariff supplement. The Commission will deliver or transmit the notice or report to the filing interexchange telecommunications carrier at the time of issuance.

(2) When the Commission issues a notice allowing the tariff supplement to go into effect, the tariff supplement shall become effective, without modification, 16 days after the filing date. If the Commission does not issue a notice or report on the tariff supplement within the 14-day period, the tariff supplement will go into effect by operation of law at the end of the 16-days' notice period.

(3) When the Commission prohibits a tariff supplement from going into effect and issues a report addressing the inadequacies in the tariff supplement, the tariff supplement shall be suspended pending consideration of the tariff supplement under paragraphs (4) and (5).

(4) The filing interexchange telecommunications carrier may file a response to the suspension of the carrier's tariff supplement. The response shall be filed within 7 days of the issuance of the report.

(5) In the alternative, the interexchange telecommunications carrier may withdraw the tariff supplement and file a new tariff supplement which adopts the modifications addressed in the report or which reflects a version of the tariff supplement that has been agreed to by the carrier and the Commission. When a modified tariff supplement is filed, the modified tariff supplement shall become effective on 1-day's notice.

(g) An interexchange telecommunications carrier requesting rate decreases for its existing noncompetitive services shall be permitted to put them into effect at the end of the specified 16-day notice period without further review or approval by the Commission.

(h) An interexchange telecommunications carrier requesting changes in the terms and conditions of its existing noncompetitive services, when the changes do not result in any rate changes, shall be permitted to put them into effect at the end of the specified 16-day notice period without further review or approval by the Commission.

(i) This section supersedes Chapter 53 (relating to tariffs for noncommon carriers) to the extent that Chapter 53 is inconsistent with this section.

§ 63.107. Applications for authority.

(a) An applicant shall specifically indicate in the application for authority to commence service that it is

requesting authorization to provide interexchange services to the public and comply with § 3.551 (relating to official forms).

(b) If an applicant is offering noncompetitive services to the public, it shall attach a proposed tariff to its application containing the proposed rates of the noncompetitive services and the rules and policies under which the interexchange telecommunications carrier intends to provide its service. Rates for noncompetitive services provided for in the proposed tariff may not exceed the reasonable charge for a noncompetitive interexchange call.

(c) In addition to review of the general evidentiary criteria applicable to interexchange telecommunications carrier application proceedings, the Commission will review the proposed tariff to determine if it complies with subsection (b). The Commission will grant applications only upon a finding that the proposed tariff complies with subsection (b). If the proposed tariff contains rates for noncompetitive services that do not exceed the reasonable charge for a noncompetitive interexchange call, the Commission will presume that the rates for the noncompetitive services are just and reasonable.

(d) Upon the grant of an application for authority to commence interexchange service, the applicant proposing to offer noncompetitive services shall file an initial tariff with the Commission for its noncompetitive services only. The initial tariff must contain the same rates, rules and policies for the noncompetitive services as set forth in the proposed tariff reviewed by the Commission. The initial tariff must become effective immediately upon filing. Initial tariffs must comply with §§ 53.1—53.10 and 53.21—53.26 (relating to filing regulations; and form and content of tariffs).

(e) Upon the grant of an application for authority to commence interexchange service, a new interexchange telecommunications carrier may file or maintain with the Commission tariffs containing the rates, terms and conditions for its competitive services. If the new interexchange telecommunications carrier files a tariff with the Commission, the tariff shall become effective on 1-day's notice.

(f) If a new interexchange telecommunications carrier chooses to detariff its competitive services, the information regarding the rates, terms and conditions for its competitive services shall be made available at the public disclosure locations established in § 63.104(c) (relating to disclosure requirements for competitive services). The new carrier shall post the information at the public disclosure locations within 48 hours of the date that its application to commence interexchange service has been approved by the Commission.

(g) This section supersedes Chapter 53 (relating to tariffs for noncommon carriers) to the extent that Chapter 53 is inconsistent with this section.

§ 63.108. Reporting requirements.

(a) Interexchange telecommunications carriers shall file affiliated interest and affiliated transaction agreements with the Commission unless the agreements involve services declared to be competitive. The filings constitute notice to the Commission only. The Commission may use the filings to audit the accounting and reporting systems of interexchange telecommunications carriers for transactions with their affiliates.

(b) On or before May 31 of a calendar year, a certified interexchange telecommunications carrier, as de-

fined in § 63.102 (relating to definitions), shall file with the Commission an annual report for the preceding calendar year. The annual report shall be filed with the Commission's Bureau of Fixed Utility Services.

(c) The annual report must contain aggregate total revenue and traffic volume data measured in minutes of use for the carrier's intraState operations during the preceding calendar year.

(d) The interexchange telecommunications carrier shall provide disaggregated information in its annual report if it is technologically feasible for the interexchange telecommunications carrier to collect the data. Some examples of the information that shall be disaggregated in the carrier's major service categories are:

(1) Message toll service (MTS) and associated services including operator assisted and calling card services.

(2) Services corresponding to outbound Wide Area Telecommunications Services (WATS).

(3) Services corresponding to inbound WATS or "800" type services.

(4) Private line or dedicated communication path services.

(5) Dedicated network type services, including virtual network type services.

§ 63.109. Enforcement.

(a) For the purpose of enforcement of consumer complaints regarding competitive services, the Commission will have jurisdiction to enforce consumer complaints that

involve violations of the applicable public notice requirements established in this subchapter. The Commission will have jurisdiction to enforce consumer complaints regarding the provisioning of service by interexchange telecommunications carriers, including customer privacy, ordering, installation, restoration and disconnection, as well as the quality of service issues. Other consumer complaints, including those complaints involving violations that fall under the Unfair Trade Practices and Consumer Protection Law (73 P. S. §§ 201-1—209-9.3), will be referred by the Commission's Bureau of Consumer Services to the Office of Attorney General's Bureau of Consumer Protection.

(b) For the purpose of enforcement of consumer complaints related to noncompetitive services, the Commission will utilize the dispute and informal complaint procedures prescribed for residential billing disputes under Chapter 64 (relating to standards and billing practices for residential telephone service). The Bureau of Consumer Services will have primary jurisdiction over informal complaints arising under this subchapter for designated noncompetitive services.

Subchapter I. (Reserved)

§ 63.111. (Reserved).

§ 63.112. (Reserved).

§ 63.112a. (Reserved).

§§ 63.113—63.118. (Reserved).

[Pa.B. Doc. No. 08-132. Filed for public inspection January 25, 2008, 9:00 a.m.]

PROPOSED RULEMAKING

LICQUOR CONTROL BOARD

[40 PA. CODE CH. 5]

Responsible Alcohol Management Program

The Liquor Control Board (Board), under the authority of section 207(i) of the Liquor Code (47 P. S. § 2-207(i)), proposes to amend Chapter 5 (relating to duties and rights of licensees).

Summary

This proposed rulemaking implements section 471.1 of the Liquor Code (47 P. S. § 4-471.1).

The following is a summary:

- The proposed rulemaking explains how training providers are approved to train retail licensees in responsible alcohol service practices.
- It defines qualifications for certifying and decertifying instructors.
- The effect of Responsible Alcohol Management Program (RAMP) certification is explained, as are requirements for signs to be posted in licensed premises.
- It explains training of managers and owners and how managers shall train their staff for a licensee to be "RAMP-Certified."

Affected Parties

This proposed rulemaking will affect retail and wholesale licensees and applicants for certification as training providers and instructors.

Paperwork Requirements

This proposed rulemaking will not significantly increase paperwork for the Board or the regulated community.

Fiscal Impact

RAMP training and certification has been in effect under section 471.1 of the Liquor Code since 2002. The current annual cost of this program to the Board is \$1,011,551.37.

Effective Date

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

Public Comment/Contact Person

Written comments, suggestions or objections will be accepted for 30 days after publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Comments should be addressed to James F. Maher, Assistant Counsel, Office of Chief Counsel, Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001.

Regulatory Review:

Under section 5(a) of the Regulatory Review Act (act) (71 P. S. § 745.5(a)), on December 28, 2007, the agency submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Liquor Control Committee and Senate Committee on Law and Justice. A copy of this material is available to the public upon request.

Under section 5(g) of the act, IRRC may convey any comments, recommendations or objections to the proposed regulations within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The act specifies detailed procedures for review by the agency, the General Assembly and the Governor of comments, recommendations or objections raised prior to final-form publication of the regulations.

PATRICK J. STAPLETON, III,
Chairperson

Fiscal Note: 54-60. No fiscal impact; (8) recommends adoption. This proposed rulemaking implements the Responsible Alcohol Management Program as mandated in the 2002 Liquor Code amendments. There are no new costs to the Liquor Control Board; funds for this program are included in the Board's budget.

Annex A

TITLE 40. LIQUOR

PART I. LIQUOR CONTROL BOARD

CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES

Subchapter I. RESPONSIBLE ALCOHOL MANAGEMENT PROGRAM

GENERAL

Sec.
5.201. Purpose.
5.202. Definitions.

COURSE OF STUDY

5.211. Course of study for alcohol service personnel.

PROVIDERS

5.221. Provider certification.
5.222. Provider changes.

INSTRUCTORS

5.231. Instructor certification.
5.232. Instructor responsibilities.
5.233. Minimum standards of training.

TRAINING/ORIENTATION

5.241. Manager/owner training.
5.242. New employee orientation.
5.243. Records.

PROHIBITED CONDUCT

5.251. Prohibited conduct.

SIGNS

5.261. Signs.

CERTIFICATION

5.271. Premises certification.

GENERAL

§ 5.201. Purpose.

This subchapter implements the program authorized under section 471.1 of the Liquor Control (47 P. S. § 4-471.1), regarding responsible alcohol management. This provision authorizes the Board to establish a four-part program including:

- (1) New employee orientation.
- (2) Training for alcohol service personnel.
- (3) Manager/owner training.
- (4) Display of responsible alcohol service signage.

§ 5.202. Definitions.

When used in this subchapter, the following words and phrases, have the following meanings, unless the context clearly indicates otherwise:

Certify—To approve and confirm the approval in writing.

Instructor—An individual who is a provider or is an agent of a provider and who is certified by the Board to instruct students in responsible server practices.

Manager/owner training—Training conducted by the Board or its employees for individuals who manage or own licensed premises.

New employee—An individual who has not been employed at the licensed premises seeking certification in any capacity during the preceding year.

Provider—A person certified by the Board to provide instructors and a course of study in responsible server practices.

RAMP—Responsible Alcohol Management Program—The program and office in the Board's Bureau of Alcohol Education that manages the program.

Responsible server practices—Procedures and practices used by alcohol service personnel to prevent the furnishing or selling of alcoholic beverages to minors and visibly intoxicated persons.

COURSE OF STUDY**§ 5.211. Course of study for alcohol service personnel.**

The course of study offered by a provider must, at a minimum:

- (1) Explain that alcohol is a drug and its effect on the human body and behavior, especially driving ability.
- (2) Specify factors leading to alcohol intoxication, as well as the effects of alcohol in combination with drugs (legal and illegal).
- (3) Examine cases, statutes and court decisions pertaining to liquor liability, driving under the influence, minors unlawfully frequenting licensed premises, furnishing alcoholic beverages to minors and visibly intoxicated persons and the penalties associated with violations of statutes and regulations.
- (4) Teach servers how to effectively intervene and recognize customers showing signs of visible intoxication or becoming disruptive.
- (5) Show options for determining validity of age identification documents.
- (6) Demonstrate proper incident documentation.
- (7) Provide recommended policies for licensed establishments to promote safe and responsible consumption of alcoholic beverages.

PROVIDERS**§ 5.221. Provider certification.**

- (a) The Board may certify a person as a provider if the person:
 - (1) Files an application on forms provided by the Board.
 - (2) Pays a \$500 nonrefundable application fee.
 - (3) Submits a course of study outline meeting the Board's requirements as set forth in § 5.211 (relating to course of study for alcohol service personnel).

(4) Sends a copy of the teaching materials planned for use along with the application.

(5) Uses only Board-certified instructors as teachers.

(b) If the applicant meets the minimum requirements for certification, the Board will issue a Notice of Certification to the provider. The provider may then hold itself out as a Board-certified RAMP instruction provider. The period of certification shall be 2 years from the date of issuance of the Notice of Certification.

(c) Renewal of certification shall be submitted to the Board at least 30 days prior to the expiration of the provider's current certification. The same forms, provided by the Board, shall be used for renewals as for initial certification. The same fee will be submitted with the renewal application as is submitted for the original certification.

§ 5.222. Provider changes.

A provider shall report changes in ownership or management of the provider, the employment status of instructors and changes in the course of study by letter or e-mail to RAMP, no later than 30 days after the change.

INSTRUCTORS**§ 5.231. Instructor certification.**

RAMP will have a procedure to confirm a candidate's competency to begin and continue working as an instructor. Part of this procedure will include observation of an instructor's training sessions.

(1) A person desiring certification as an instructor shall submit an application on forms issued by the Board and shall pay a \$100 nonrefundable application fee.

(2) The minimum qualifications of an instructor include the following:

- (i) Possessing a high school diploma or GED.
- (ii) Possessing a minimum of 2 years of experience, full-time, in the field of education, law, law enforcement, substance abuse prevention, hospitality or alcohol service training.
- (iii) Being 21 years of age or older.
- (iv) Having no arrests that are related to alcohol, narcotics or other controlled substances in the previous 10 years.

(v) Attending manager/owner training once in the year preceding the date the application for instructor certification is filed.

(3) If the applicant meets the minimum requirements for certification, it will issue to the instructor a Notice of Certification. The period of certification shall be 2 years from the date of issuance of the Notice of Certification.

(4) Renewal of certification shall be submitted to the Board at least than 30 days prior to the expiration of the instructor's current certification. The same forms, provided by the Board, shall be used for renewals as for initial certification. The same fee will be submitted with the renewal application as is submitted for the original certification.

§ 5.232. Instructor responsibilities.

Instructors shall have the responsibility to do the following:

- (1) Provide students with current and accurate information.

(2) Schedule training sessions in locations throughout this Commonwealth.

(3) Conduct at least two training sessions per quarter unless the Board approves a lower quarterly minimum.

(4) Train a minimum of 225 students per year unless the Board approves a lower annual minimum.

(5) Provide accurate records of attendance and course completion to RAMP by letter or e-mail.

(6) Attend instructor meetings twice per year as scheduled by RAMP.

(7) Attend manager/owner training at least once per year.

§ 5.233. Minimum standards of training.

(a) Instructors shall conduct training sessions conforming to the provider's course of study and using the provider's training materials.

(1) Each training session shall consist of at least 2 1/2 hours of instructional time.

(2) The ratio of students per instructor may not exceed 40 to 1.

(b) Instructors shall notify RAMP of the following by letter or e-mail:

(1) At least 7 days in advance of scheduling any training session.

(2) Immediately of any training session cancellation.

(3) Immediately of any changes to the training schedule.

(c) Instructors shall obtain the student information indicated in paragraphs (1)—(3) at the beginning of the training session. An instructor shall send a completed attendance sheet to RAMP within 7 days of the end of the training session, including the following information from each student:

(1) Name.

(2) Home address.

(3) Home telephone number.

(4) Student identification number issued by RAMP.

(5) Pass/fail score on the test.

(6) Licensed establishment name, address and licensee identification.

(7) Time and location of training.

(d) At the conclusion of the training, the instructor shall administer a standardized test prepared by RAMP, insuring that students complete the examination as a "closed book exam," without access to references to aid in the completion of the examination.

(e) The instructor shall grade examinations and notify students of their grades. A test score of 80% or better is required to pass. A student who does not pass may, at the first opportunity, schedule training and take the test again.

TRAINING/ORIENTATION

§ 5.241. Manager/owner training.

(a) Manager/owner training will be conducted by the Board.

(b) This training will include the following:

(1) Instruction on how to monitor employees;

(2) Proper service of alcohol.

(3) How to develop an appropriate alcohol service policy.

(c) The Board will maintain records establishing the names of individuals who have successfully undergone manager/owner training.

§ 5.242. New employee orientation.

(a) Licensees applying for certification of compliance under section 471.1 of the Liquor Code (47 P. S. § 4-471.1) shall conduct new employee orientation within 30 days of the employee's hire, in accordance with a checklist of responsible server practices provided by RAMP including:

(1) Penalties for furnishing or selling alcohol to minors.

(2) Acceptable forms of identification.

(3) Practices for checking identification.

(4) Penalties for furnishing or selling alcohol to visibly intoxicated customers.

(5) Practices for refusing service of alcohol to visibly intoxicated customers.

(6) Procedures for handling situations when criminal activity is occurring in or about the premises.

(b) The licensee is responsible for ensuring that the owner, manager or designated trainer conducts the new employee orientation.

§ 5.243. Records.

(a) The licensee shall keep the following records:

(1) Certification status of its employees, managers and owners, consisting of the name of the employee, manager or owner, date of hire, date of training and the name of the trainer.

(2) Date of premises certification.

(3) Records of its new employee orientation program.

(4) Responsible alcohol service signs it posted, where and when the signs were posted, revised and reposted.

(b) These records shall be maintained as part of the licensee's operating records required to be kept for 2 years in accordance with section 493(12) of the Liquor Code (47 P. S. § 4-493(12)).

PROHIBITED CONDUCT

§ 5.251. Prohibited conduct.

(a) The Board may decertify providers and instructors for violating any of the provisions of this subchapter or engaging in the following conduct:

(1) Discrimination or harassment based on age, race, sex, disability, national origin or religion.

(2) An act that is in violation of the Liquor Code or this title.

(3) An act resulting in a misdemeanor or felony conviction.

(4) An act resulting in admittance into an Accelerated Rehabilitative Disposition (ARD) Program if the underlying activity is related to alcoholic beverages, narcotics or controlled substances.

(5) Being under the influence of alcoholic beverages, narcotics or controlled substances during training presentations, examinations or breaks.

(6) Knowingly permitting students to be under the influence of alcoholic beverages, narcotics or controlled substances during training presentations, examinations or breaks.

(7) Cheating or condoning cheating by students.

(8) Knowingly providing false information on reports submitted to the Board.

(9) Having three or more unsatisfactory evaluations regarding the presentation of the course of study from class observations conducted by RAMP.

(b) The Board will send a Notice of Decertification to a provider or instructor by certified United States mail. Appeal of the Board's decision to decertify a provider shall be as set forth in 2 Pa.C.S. § 702 (relating to appeals).

(c) The Board will send a Notice of Decertification by certified United States mail to an instructor and to the provider. Appeal of the Board's decision to decertify an instructor shall be as set forth in 2 Pa.C.S. § 702.

(d) The Board will not consider a provider's or instructor's application for recertification until 1 year after the date of decertification.

SIGNS

§ 5.261. Signs

(a) Signs for posting in the licensed premises will be provided by the Board. A licensee may use its own signs provided that they are equivalent in size and content to the Board's signs.

(b) The following signs shall be posted, notifying patrons about:

(1) Acceptable forms of identification as described in section 495(a) of the Liquor Code (47 P. S. § 4-495(a)).

(2) The licensee's duty to refuse service to minors and visibly intoxicated patrons under section 493(1) of the Liquor Code (47 P. S. § 4-493(1)).

(c) The design of the signs must be such that they are legible from a distance of 10 feet. Signs shall be located where patrons will easily see them.

(d) The licensee is responsible for the posting and maintenance of signs.

CERTIFICATION

§ 5.271. Premises certification.

(a) A licensee may request that the Board certify that it complies with section 471.1 of the Liquor Code (47 P. S. § 4-471.1). The request may be made by personal contact, telephone or written communication to RAMP.

(b) Certification or recertification will be issued by the Board after investigation and approval of the licensed premises.

(c) There is no fee for certification or recertification.

(d) If the Board finds that a licensee has met the requirements of section 471.1 of the Liquor Code, the licensee shall be issued a Certificate of Compliance valid for 2 years.

(e) If the Board finds that a licensee has not met the requirements of section 471.1 of the Liquor Code or this subchapter, and the licensee's compliance with section 471.1 of the Liquor Code or this subchapter was not mandated by the Office of Administrative Law Judge, by statute, by regulation or by a conditional licensing agreement, the Board will refuse certification or decertify the licensee.

(f) If the Board finds that a licensee has not met the requirements of section 471.1 of the Liquor Code or this subchapter and the licensee's compliance with section 471.1 of the Liquor Code or this subchapter was required by the Office of Administrative Law Judge, by statute, by regulation or by a conditional licensing agreement, the Board will refuse the application for certification or decertify the licensee and refer the matter to the Pennsylvania State Police, Bureau of Liquor Control Enforcement.

(g) The Board will send a Notice of Decertification to the licensee by certified United States mail. Appeal of the Board's decision to decertify a licensee shall be as set forth in 2 Pa.C.S. § 702 (relating to appeals).

(h) A licensee may apply for recertification at any time after the date of decertification.

(i) The Office of Administrative Law Judge will take official notice of the Board's records with regard to the licensee's certification.

[Pa.B. Doc. No. 08-133. Filed for public inspection January 25, 2008, 9:00 a.m.]

NOTICES

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 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>
PA0247120 (CAFO)	Theodore Esbenshade Shady Brae Farms, Inc. 29 Engle Road Marietta, PA 17547	Lancaster County Conoy Township	Chickies Creek 7-G	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>
PA0102768	Penncrest School District P. O. Box 808 Saegertown, PA 16433-4315	Randolph Township Crawford County	UNT to Woodcock Creek 16-A	Y
PA0238899	Oil Creek Plastics, Inc. 45619 State Highway 27 Titusville, PA 16354	Oil Creek Township Crawford County	UNT to Pine Creek 16-E	Y
PA0002151	Pittsburgh Corning Corporation P. O. Box 39 Port Allegany, PA 16743	Port Allegany Borough McKean County	Allegheny River 16-C	Y

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

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

PA004466, Sewerage (4952), **Karthus-Burnside Joint Sewer Authority**, P. O. Box 97, Karthus, PA 16845. The proposed facility is located in Karthus Township, **Clearfield County**.

Description of Proposed Activity: The applicant has applied for coverage under an NPDES permit for the discharge of treated sewage in Karthus Township, Clearfield County. The facility is proposed to serve both Karthus and Burnside Townships.

The receiving stream for Outfall 001, the West Branch of the Susquehanna River, is in the State Water Plan Watershed 8D and is classified for: WWF. The nearest public water supply surface water intake, owned by Pennsylvania American Water Company, is located on the Susquehanna River approximately 120 miles below the point of discharge.

The existing effluent limits for Outfall 001 were based on a design flow of 0.115 mgd:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	Monitor and Report	
Fecal Coliforms (5-1 to 9-30)	200/100 ml	
(10-1 to 4-30)	2,000/100 ml	
CBOD ₅	25	50
Total Suspended Solids	30	60
Total Chlorine Residual	0.50	1.64
pH	within the range of 6.0 to 9.0	

Chesapeake Bay Tributary Strategy Nutrient Requirements:

<i>Parameter</i>	<i>Concentrating (mg/l)</i>		<i>Mass (lbs)</i>
	<i>Monthly Average</i>	<i>Monthly Loan</i>	<i>Annual Load</i>
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	5,625*
Net Total Phosphorus		Report	0*

* 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 the permit effective date. 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. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit through the expiration date of the permit.

** Total Annual Ammonia Load will be required to be reported on the Supplemental DMR.

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

PA0026352, Sewage, **Riverview Sanitary Authority**, 3100 University Boulevard, Coraopolis, PA 15108. This application is for renewal of an NPDES permit to discharge treated sewage from Riverview Sanitary Authority Wastewater Treatment Plant in Moon Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Ohio 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: Moon Township Municipal Water Authority.

Outfall 001: existing discharge, design flow of 4.34 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform				
(5-1 to 10-31)	200/100 ml as a geometric mean			
(11-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.5			1.6
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

PA0028703, Sewage, **Peters Township**, 3244 Washington Road, McMurray, PA 15317-3153. This application is for renewal of an NPDES permit to discharge treated sewage from Donaldson's Crossroads Water Pollution Control Plant in Peters Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Chartiers Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: West View Municipal Authority located on the Ohio River.

Outfall 001: existing discharge, design flow of 1.2 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	9.0	13.5		18.0
(11-1 to 4-30)	20.0	30.0		40.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.5			1.6
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

PA0042820, Sewage, **Donald J. Dallatore, Jr.**, 1011 South Main Street, Washington, PA 15301-3218. This application is for renewal of an NPDES permit to discharge treated sewage from Ridgecrest Mobile Home Park Sewage Treatment Plant in South Franklin Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Chartiers Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Western Pennsylvania Water Company.

Outfall 001: existing discharge, design flow of 0.001 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	12.0			24.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0097195, Sewage, **Kiski Area School District**, 200 Poplar Street, Vandergrift, PA 15690-1491. This application is for renewal of an NPDES permit to discharge treated sewage from Bell Avon Elementary School in Bell Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Wolford Run, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Buffalo Township Municipal Authority.

Outfall 001: existing discharge, design flow of 0.005 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			
Suspended Solids	30			
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)	1.4			
Total Residual Chlorine	3.3			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0098965, Sewage, **Carolyn S. Roberts**, P. O. Box 294, Murrysville, PA 15668. This application is for renewal of an NPDES permit to discharge treated sewage from Apartment Complex Sewage Treatment Plant in Plum Borough, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Little Plum Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Fox Chapel Water Authority.

Outfall 001: existing discharge, design flow of 0.0015 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			
Suspended Solids	30			
Ammonia Nitrogen	5.0			
(5-1 to 10-31)	15.0			
(11-1 to 4-30)	200/100 ml as a geometric mean			
Fecal Coliform	2,000/100 ml as a geometric mean			
(5-1 to 9-30)	1.0			
(10-1 to 4-30)	2.3			
Total Residual Chlorine	2.3			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0219436, Sewage, **Jack Lentz**, 12554 Route 286 Highway West, Clarksburg, PA 15725. This application is for renewal of an NPDES permit to discharge treated sewage from Clarksburg Mobile Home Park Sewage Treatment Plant in Young Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT to Blacklegs Creek, which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Buffalo Township Municipal Authority.

Outfall 001: existing discharge, design flow of 0.00585 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	1.9			3.8
(11-1 to 4-30)	2.8			5.6
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.08			0.18
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

PA0026387, Sewage, **St. Marys Municipal Authority**, P. O. Box 1994, 11 Lafayette Street, St. Marys, PA 15857-1994. This proposed facility is located in St. Marys, **Elk County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the PA American Water Company intake is located on the Clarion River and is approximately 70 miles below point of discharge.

The receiving stream, Elk Creek, is in Watershed 17-A and classified for: CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 4.31 mgd.

Parameters	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	XX			
CBOD ₅	900	1,440	25	40	50
Total Suspended Solids	1,080	1,620	30	45	60
NH ₃ -N					
(5-1 to 10-31)	72		2		4
(11-1 to 4-30)	216		6		12
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				
Chronic WET Limit	1.25TUc				
Zinc					
(Interim)	XX		0.31		0.62
(Final)	3.95		0.11		0.22
Bis (2-ethylhexyl) Phthalate					
(Interim)			0.011		0.022
(Final)			0.005		0.01
Ultraviolet Light Intensity	Monitor and report the average intensity from the UV intensity meter in microwatts/square centimeter for each bank of modules on the monthly DMRs.				
Dissolved Oxygen	Minimum of 6 mg/l at all times				
pH	6.0 to 9.0 standard units at all times				

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

The proposed effluent limits for Outfall 003 are based on a design flow of n/a mgd.

Parameter	Loadings			Concentrations	
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)

These discharges shall consist of uncontaminated stormwater runoff from the treatment plant site. Refer to Special Condition No. 6

XX—Monitor and report on monthly DMRs.

Special Conditions:

Chronic Whole Effluent Toxicity Limit.
 Toxics Reduction Evaluation for Zinc and Bis(2-Ethylhexyl) Phthalate.
 UV Light Intensity.
 Federal Pretreatment Program.
 Whole Effluent Toxicity Testing for the Renewal Permit.
 Stormwater Best Management Practices.

The EPA waiver is not in effect.

PA0026697, Amendment No. 1, Sewage, **Butler Area Sewer Authority**, 100 Littman Road, Butler, PA 16001-3256. This proposed facility is located in Butler Township, **Butler County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Beaver Falls Municipal Authority intake on the Beaver River located at Eastvale, approximately 50 miles below point of discharge.

The receiving stream, Connoquenessing Creek, is in Watershed 20-C and classified for: WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 10 mgd.

This amendment recommends the removal of the Chronic Whole Effluent Toxicity limit since all resampled tests demonstrated a Toxicity Unit less than the recommended value of 1.38.

The EPA waiver is not in effect.

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

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

WQM Permit No. 6407404, Sewerage, **Wayne Economic Development Corporation**, 303 Commercial Street, Suite 109, Honesdale, PA 18431. This proposed facility is located in Sterling Township, **Wayne County**, PA.

Description of Proposed Action/Activity: This project consists of construction of a new 35,000 gpd wastewater treatment plant to serve the Sterling Business Park that is situated on a 252 acre parcel with 23 commercial building sites.

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

WQM Permit No. 6507205, Industrial Waste, **BP Products North America**, 134 BP Tank Lane, Greensburg, PA 15601. This proposed facility is located in Hempfield Township, **Westmoreland County**.

Description of Proposed Action/Activity: Application for construction and operation of treatment plant.

WQM Permit No. 6371406-A2, Sewerage, **Pigeon Creek Sanitary Authority**, 508 Main Street, Bentleyville, PA 15314. This existing facility is located in Fallowfield Township, **Washington County**.

Description of Proposed Action/Activity: Application for permit amendment to reflect improvements to existing STP.

WQM Permit No. 6508401, Sewerage, **Irwin Borough**, 424 Main Street, Irwin, PA 15642. This proposed facility is located in Irwin Borough, **Westmoreland County**.

Description of Proposed Action/Activity: Application for separation of combined sewers.

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

WQM Permit No. 6508402, Sewerage, **Municipal Sewage Authority of the Township of Sewickley**, P. O. Box 46, Herminie, PA 15637. This proposed facility is located in Sewickley Township, **Westmoreland County**.

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

WQM Permit No. 6374406-A7, Sewerage, **Canonsburg Houston Joint Authority**, 68 East Pike Street, Canonsburg, PA 15317-1375. This existing facility is located in Canonsburg Borough, **Washington County**.

Description of Proposed Action/Activity: Application for permit amendment.

WQM Permit No. 0405403-A1, Sewerage, **Michael Baycura**, 131 Cardinal Drive, New Brighton, PA 15066. This existing facility is located in Daugherty Township, **Beaver County**.

Description of Proposed Action/Activity: Application for permit amendment.

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023908001	Alfred Picca Department of Transportation District 5-0 1002 Hamilton Boulevard Allentown, PA 18101	Lehigh	Upper Macungie Township	Little Lehigh Creek HQ-CWF
PAI023904029(1)	Vince Palumbo Palumbo & Shoemaker Partnership 1612 West Allen Street Allentown, PA 18102	Lehigh	Upper Macungie Township	Little Cedar Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025207006	William Weisser 257 Centerville Road Lancaster, PA 17603	Pike	Palmyra Township	Wallenpaupack Creek HQ-WWF

Northampton County Conservation District: Greystone Building, Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024808001	Department of Transportation District 5-0 1002 Hamilton Boulevard Allentown, PA 18101	Northampton	City of Bethlehem	Saucon Creek (Black River to SR412 Bridge) HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024507018	Romec, Inc. P. O. Box 99 Pocono Lake, PA 18347	Monroe	Middle Smithfield Township	Bushkill Creek HQ-CWF

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

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

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

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

Application No. 6407503, Public Water Supply.

Applicant	Aqua Pennsylvania, Inc. Waymart Borough Wayne County
Responsible Official	Steve Clark Aqua Pennsylvania, Inc. 106 Shook Road Suite 6 Hawley, PA 18428
Type of Facility	PWS
Consulting Engineer	Brennan Kelly, P. E. Aqua Pennsylvania, Inc. 762 Lancaster Avenue Bryn Mawr, PA 19010
Application Received Date	October 18, 2007
Description of Action	Distribution system improvements and booster station construction are proposed.

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

Permit No. 3607518, Public Water Supply.

Applicant	JoAnn Realty Associates, Ltd.
Municipality	Sadsbury Township
County	Lancaster
Responsible Official	JoAnn Realty Associates, Ltd. Chief Financial Officer 875 Brackbill Road Gap, PA 17527
Type of Facility	Public Water Supply
Consulting Engineer	Daniel S. Hershey ELA Group, Inc. 743 South Broad Street Lititz, PA 17543
Application Received:	December 24, 2007
Description of Action	Construction of a new community water system known as Huston Run with two wells, disinfection, storage tank and pump station.

MINOR AMENDMENT

Applications Received Under the Pennsylvania Safe Drinking Water Act

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

Application, Minor Amendment, Public Water Supply.

Applicant	Morea Citizens Water Co. Mahanoy Township Schuylkill County
Responsible Official	Joseph Dower, Chairperson P. O. Box 268 Mahanoy City, PA 17948
Type of Facility	Community Water System
Consulting Engineer	Michael J. Peleschak, P. E. Alfred Benesch & Company 400 One Norwegian Plaza Pottsville, PA 17901 (570) 622-4055

Application Received Date September 12, 2007

Description of Action Application for addition of polyphosphate for sequestering iron and manganese.

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

Application No. 2495501-MA2, Minor Amendment.

Applicant	Fox Township Municipal Authority
Township or Borough	Fox Township Elk County
Responsible Official	Joseph C. Largey Fox Township Municipal Authority 257 Coal Hollow Road Kersey, PA 15846
Type of Facility	Public Water Supply
Application Received Date	January 10, 2008
Description of Action	Installation of two 20,000 gallon fiberglass underground water storage tanks, to allow for back-up storage as tanks are drained and/or cleaned.

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 AT&T Relay Service at (800) 654-5984.

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

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

Peco North Wales MGP, North Wales Borough, **Montgomery County**. George Keil, URS Corporation, 335 Commerce Drive, Suite 300, Fort Washington, PA 19034 on behalf of Benjamin Henry, Peco and Exelon Company, 2301 Market Street, SP-1, Philadelphia, PA 19101 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted by release of inorganic. The future development plans for the property (and MGP Site) are not known at this time.

Uptown Worthington, East Malvern Township, **Chester County**. Jeffery Walsh, Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Guy Wolfington, Malvern Hill Associates, LP, has submitted a Notice of Intent to Remediate. Groundwater at the site has impacted by release of used motor oil. The site is currently being redeveloped as a mixed-use community, including residential, retail and commercial uses.

US Steel Fairless Works 14.2 Acre KIPC, Fall Township, **Bucks County**. Jeffery Smith, P G Langan Engineering and Environmental Services, Inc., 30 South

17th Street, Suite 1300, Philadelphia, PA 19103 on behalf of Kathleen Mayher, United States Steel Corporation, 600 Grant Street, Philadelphia, PA 15219 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of chlorinated solvents. The site is part of an industrial park and only nonresidential uses of the property will be permitted in the future. By deed recordation, the uses of the subject property will be restricted to nonresidential use.

Sunoco Pipeline Company, LP, Middletown Township, **Delaware County**. Holly Smoker, GES, Inc., 440 Creamery Way, Suite 500, Exton, PA 19341 on behalf of Lawrence Weathers, Weathers Dodge, 1187 West Baltimore Pike, P. O. Box 38 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted by release of PAHs. The proposed future use of the site is commercial.

Union Court Condominiums, West Chester Borough, **Chester County**. Richard Ley, R.M. L., Environmental, 1375 Steeple Chase Road, Downingtown, PA 19335 on behalf of Edward Cunius, Union Court Condominiums, 616 East Barnard Street, West Chester, PA 19382 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of inorganic. The current and future planned use of the UCC site is condominium tenant housing.

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

Harris Residence, Lackawaxen Township, **Pike County**. Mark Ellis, MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18013 has submitted a Notice of Intent to Remediate (on behalf of his client, Jane Harris, P. O. Box 115, 119 Kimbles Road, Hawley, PA 18428), concerning the remediation of soils and groundwater found or suspected to have been impacted by No. 2 fuel oil as a result of a leaking aboveground storage tank. The applicant proposes to remediate the site to meet the Statewide Health Standard. A Summary of the Notice of Intent to Remediate was published in *The News Eagle* on January 5, 2008.

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

Rotz Oil Spill—Schofield Residence, Montgomery Township, **Franklin County**. Environmental Products & Services of Vermont, Inc., 5100 Paxton Street, Harrisburg, PA 17111, on behalf of Ambrose Environmental Management, Inc. (for Rotz Oil), 5 Cherry Hill Drive, Suite L100, Danvers, MA 01923-2568 and Mr. and Mrs. Rob Schofield, 11269 Mercersburg Road, Mercersburg, PA 17236, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with fuel oil from an underground storage tank. The property is and will remain a private residence. The applicant is seeking to remediate to the Statewide Health Standard.

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

Robert M. Chambers, Inc.—Solid Waste Disposal Facility, Taylor Township, Lawrence County. R.A.R Engineering Group, Inc., 1135 Butler Avenue, New Castle, PA 16101 on behalf of R. W. Elliott & Sons, Inc., R. D. 1, Box 242, Ellwood City, PA 16117 has submitted a Notice of Intent to Remediate. Previous investigations conducted at the subject site indicated that site soils and groundwater have been impacted by heavy metals and semivolatile organics. The intended future use of the property is nonresidential for industrial and commercial use. The

Notice of Intent to Remediate was published in *The New Castle News* on December 18, 2007.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSES

Applications received or withdrawn under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and Act 93 of June 28, 1988 (P. L. 525, No. 93) and regulations to transport infectious and chemotherapeutic waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Renewal Applications Received

Ephrata Community Hospital, P. O. Box 1002, 169 Martin Avenue, Ephrata, PA 17522. License No. PA-HC 0204. Received on December 27, 2007.

DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Application for Determination of Applicability 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 WMGR065 D002. Sands Bethworks Gaming, LLC, 511 East 3rd Street, Bethlehem PA 18015-2201. General Permit Number WMGR065 authorizes beneficial use of various wastes from steelmaking and foundry operations taken from a remediation site as construction fill at an adjacent Act 2 remediation site. The application for determination of applicability was deemed to be administratively complete by Central Office on January 9, 2008.

Persons interested in reviewing the application may contact 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 Relay Service, (800) 654-5984.

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.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Neal Elko, New Source Review Chief, (570) 826-2531.

39-399-063: Diageo (7880 Penn Drive, Breinigsville, PA 18031) for re-activation of beer manufacturing operations including installation of a new keg filling line and a specialty malt handling line at their facility in Upper Macungie Township, **Lehigh County**.

48-309-130: Hercules Cement Co. (501 Hercules Drive, P. O. Box 69, Stockertown, PA 18083) for installation of SNCR on Kiln 1 at their facility in Stockertown Borough, **Northampton County**.

66-315-051: Procter & Gamble Paper Products Co. (P. O. Box 32, Mehoopany, PA 18629-0032) for modification of their existing fiber filtration capability at their facility in Washington Township, **Wyoming County**.

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

01-05029C: Reliant Energy Wholesale Generation, LLC (121 Champion Way, Canonsburg, PA 15317) for modifications to several conditions contained in plan approval No. 01-05029 which addresses the natural gas-fired 900 MW combined cycle electric generating facility at the Hunterstown Station in Straban Township, **Adams County**. The facility is subject to the following: 40 CFR Part 60, Subpart GG—Standards of Performance for Stationary Gas Turbines; 40 CFR Part 60, Subpart Da—Standards of Performance for Electric Utility Steam Generating Units; and 40 CFR Part 60, Subpart Dc—Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.

06-05007G: Carpenter Technology Corp. (P. O. Box 14662, Reading, PA 19612-4662) for installation of a fabric collector for the control of emissions from a welding station in Building 30 in the City of Reading, **Berks County**.

36-05008E: Tyson Foods, Inc. (403 South Custer Avenue, New Holland, PA 17557) for use of treated landfill gas in the facility's combustion sources in Earl Township, **Lancaster County**.

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

25-025L: General Electric Transportation Systems—Erie Plant (2901 East Lake Road, Room 9-201, Erie, PA 16531) for the increase in the VOC emission limitation for Source 944 (Wind turbine gearbox paint booth) in Lawrence Park Township, **Erie 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.

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

46-0037W: Cabot Supermetals—CSM (County Line Road, Boyertown, PA 19521) for Plantwide Applicability Limits (PAL) for VOC emissions units at the plant and for Reasonably Available Control Technology (RACT) determination revision of its wastewater treatment plant (WWTP) at its Boyertown plant in Douglass Township, **Montgomery County**, and Colebrookdale Township, **Berks County**.

In accordance with 25 Pa. Code §§ 127.44(b), 127.424(b) and 129.91(h), the Department of Environmental Protection (Department) intends to issue a plan approval to Cabot Supermetals. The provision of this plan approval will subsequently be incorporated into an operating permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

The Department has made a preliminary determination to approve RACT plans as amendments to the State Implementation Plan (SIP) for the facility. The proposed SIP revision does not adopt any new regulations. It incorporates the provisions and requirements contained in RACT approvals for the facility to comply with current regulations. The preliminary determination, if finally approved, will be incorporated into plan approvals and/or operating permits for the facility and will be submitted to the United States Environmental Protection Agency (EPA) as revision to Pennsylvania's SIP.

The following is a summary of the preliminary RACT determinations for the facility:

Cabot Supermetals (Plan Approval No. PA-46-0037W)

Source	Implementation Control Technique	Schedule
Building 74	Scrubber/Good Air Pollution Control Practices	In Effect
WWTP	Good Air Pollution Control Practices	In Effect
Building 19	Scrubber/Good Air Pollution Control Practices	In Effect
Building 47/101	Good Air Pollution Control Practices	In Effect

PAL for VOC emitting sources will be set at 241.7 tons and conform to the requirements of 25 Pa. Code § 127.218. The PAL plan approval will result in eliminating VOC emission limits for each individual source in the current operating permit No. 46-00037.

Interested persons may submit written comments, suggestions or objections concerning the proposed plan approval to the regional office on or before March 6, 2008. Written comments on the plan approval or the proposed SIP revision should be directed to Francine Carlini, Regional Manager, Air Quality, DEP Southeast Regional Office, 2 East Main Street, Norristown, PA 19401. Written comments submitted to the Department during the public comment period shall include the following:

Name, address and telephone number of the commenter

Identification of the proposed plan approval No. 46-0037W

A concise statement regarding the relevancy of the information or objections to the issuance of the plan approval.

One public hearing will be held for the purpose of receiving comments on the proposed SIP revision for VOC RACT and the Department's intent to issue a PAL plan approval. The hearing will be held at 2 p.m. on March 6, 2008, at the Department's Southeast Regional Office, 2 East Main Street, Norristown, PA. The hearing will represent the opportunity for oral comment to the Department on the proposed SIP revisions and PAL plan approval, and will not be a question and answer session. Persons wishing to present testimony at the hearing are encouraged to contact DEP Community Relations Coordinator, Mrs. Rebarchak, at (484) 250-5820 to register prior to the hearing, but may also register at the hearing. Individuals in need of an accommodation as provided for in the Americans With Disabilities Act should contact Mrs. Rebarchak at (484) 250-5820 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Copies of the application, the Department's analysis and other documents used in the evaluation of the plan approval application and RACT determination are available for review during normal business hours at the Department's Southeast Regional Office, 2 East Main Street, Norristown, PA 19401. Appointments for scheduling a review may be made by calling (484) 250-5910.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Neal Elko, New Source Review Chief, (570) 826-2531.

66-310-013: Airport Sand and Gravel (500 Swetland Lane, West Wyoming, PA 18644) for construction of a stone crushing plant with watersprays at their site in

Nicholson Township, **Wyoming County**. This facility is a non-Title V facility. The facility will be subject to NSPS Subpart OOO. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system.

39-399-059: GEO Specialty Chemicals, Inc. (2409 North Cedar Crest Boulevard, Allentown, PA 18104) for revision of operational terms listed in the Title V Operating Permit No. 39-00024 for the existing formaldehyde plant catalytic incinerator at their facility in South Whitehall Township, **Lehigh County**. The Plan Approval and Operating Permit will contain testing, monitoring, recordkeeping, reporting and work practice requirements and emission restrictions designed to keep the facility operating within all applicable air quality requirements. The facility currently has a Title V Operating Permit No. 39-00024. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date.

54-302-074: Guilford Mills, Inc.—Gold Mills, LLC (P. O. Box 19366, Greensboro, NC 27419-9366) for construction of a new steam boiler and modification of an existing boiler to fire on landfill gas/No. 6 oil at their facility in Pine Grove Borough, **Schuylkill County**. The new steam boiler will be able to fire on No. 2 oil, No. 6 oil, propane and landfill gas. The modified boiler will be able to fire on No. 6 oil, propane and landfill gas. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

40-317-033: Stroehmann Bakeries, LC (25 Kiwanis Boulevard, Hazleton, PA 18201) for installation of a new bread oven which will replace an existing bread oven of similar size at their facility in Hazle Township, **Luzerne County**. This facility is a non-Title V facility. The company shall comply with 25 Pa. Code § 123.31 for malodorous emissions. Their existing catalytic oxidizer will control emissions from the oven. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

18-318-014: Belles Springs Structures, LLC (P. O. Box 205, Mill Hall, PA 17751) for construction of a wood storage shed and gazebo surface coating and associated sealing and gluing operations in Lamar Township, **Clinton County**.

The total combined air contaminant emissions from the respective operations are not expected to exceed 9.58 tons of VOCs, 3.61 tons of volatile HAPs and 14.64 tons of PM including PM10 per year.

The facility in which the respective operations will be located is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection's (Department) review of the information submitted by Belles Springs Structures, LLC indicates that the surface coating and associated sealing and gluing operations will comply with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants, including the best available technology requirement of 25 Pa. Code §§ 127.1 and 127.12. Based

on this finding, the Department proposes to issue plan approval for the construction of the wood storage shed and gazebo surface coating and associated sealing and gluing operations.

The following is a summary of the conditions the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable requirements:

1. The total combined VOC emissions from the use of all coatings, sealants and adhesives shall not exceed 9.58 tons in any 12-consecutive month period and the total combined volatile HAP emissions shall not exceed 3.61 tons in any 12-consecutive month period.

2. No more than a total of 26,855 gallons of coatings shall be used in any 12-consecutive month period, of which none shall have a VOC content in excess of 3.0 pounds per gallon, no more than a total of 100 gallons shall have a VOC content in excess of 2.83 pounds per gallon, no more than a total of 646 gallons shall have a VOC content in excess of 2.08 pounds per gallons, no more than a total of 3,649 gallons shall have a VOC content in excess of .50 pound per gallon, no more than a total of 15,716 gallons shall have a VOC content in excess of .40 pound per gallon, no coating shall have a volatile HAP content in excess of .42 pound per gallon, no more than a total of 696 gallons shall have a volatile HAP content in excess of .40 pound per gallon, no more than a total of 6,498 gallons shall have a volatile HAP content in excess of .30 pound per gallon, no more than a total of 20,189 gallons shall have a volatile HAP content in excess of .15 pound per gallon and no more than a total of 23,206 gallons shall have a volatile HAP content in excess of zero pounds per gallon.

3. All coatings, sealants and adhesives shall be used as received from the coating vendor. Nothing shall be mixed with any of the coatings, sealants or adhesives on site (other than water).

4. No VOC-containing materials or volatile HAP-containing materials shall be used to clean coating application equipment (spray guns, spray lines, and the like).

5. All coatings shall be applied using an airless, air-assisted airless or HVLP (high volume low pressure) spray system or by brush, roller or wiping cloth.

6. Coating overspray shall be kept to a minimum at all times.

7. All surface coating involving the use of a spray application system shall take place inside of an enclosed building. Under no circumstances shall any surface coating involving the use of a spray application system take place in the outdoor atmosphere. Additionally, fans shall not be located in the immediate vicinity of any surface coating activity involving the use of a spray application system and all exterior building doors and windows and other exterior building openings located in the immediate vicinity of any surface coating activity involving the use of a spray application system shall be closed whenever surface coating is occurring.

8. The only sealants that may be used are Henkel Consumer Adhesives HM 270 sealant with a maximum VOC content of .35 pound per gallon and a maximum volatile HAP content of zero pounds per gallon (or an alternate sealant determined by the Department to have an equivalent, or lower, air contaminant emission potential) and Henkel Consumer Adhesives Pro Series H2U sealant with a maximum VOC content of 3.08 pounds per gallon and a maximum volatile HAP content of .20 pound

per gallon (or an alternate sealant determined by the Department to have an equivalent, or lower, air contaminant emission potential). Additionally, no more than 14.1 gallons of Henkel Consumer Adhesives HM 270 sealant (and/or alternate sealant) and 19.0 gallons of Henkel Consumer Adhesives Pro Series H2U sealant (and/or alternate sealant) shall be used in any 12-consecutive month period.

9. The only adhesive that shall be used is Henkel Consumer Adhesives PL-200 adhesive with a maximum VOC content of 3.04 pounds per gallon and a maximum volatile HAP content of .19 pound per gallon (or an alternate adhesive determined by the Department to have an equivalent, or lower, air contaminant emission potential). Additionally, no more than 131.3 gallons of Henkel Consumer Adhesives PL-200 adhesive (and/or alternate adhesive) shall be used in any 12-consecutive month period.

10. All containers of coatings, sealant, adhesive and any other VOC-containing materials or volatile HAP-containing materials shall be kept closed except when removing material from the container or placing material into the container.

11. Comprehensive accurate records shall be maintained of the identity, quantity, VOC content and volatile HAP content of each coating, sealant, adhesive and any other VOC-containing material or volatile HAP-containing material used each month. The records shall be retained for at least 5 years and shall be made available to the Department upon request. Additionally, the permittee shall submit an annual report of these records to the Department.

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

27-033B: National Forest Products, LTD (South Forest Street, Marienville, PA 16239) to authorize installation of two paint booths and a stain application area in Jenks Township, **Forest County**.

Under 25 Pa. Code §§ 127.44(a) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a Plan Approval for the facility located in Jenks Township, Forest County. This plan approval will authorize the applicant to install two paint booths and a stain application area, as described in the application of October 12, 2007. The Plan Approval will subsequently be incorporated into a State-only Operating Permit in accordance with 25 Pa. Code Chapter 127, Subchapter F.

Based on the information by the applicant and the Department's analysis, the sources will emit 5.13 tons of VOCs per year and 2 tons of HAPs.

Copies of the application, the Department's analysis, and other documents used in the evaluation are available for public inspection between 8 a.m. and 4 p.m. weekdays at the address shown as follows. To make an appointment, contact Records Management at (814) 332-6340, for an appointment.

Anyone wishing to provide the Department with additional information they believe should be considered may submit the information to the address shown as follows. Comments must be received, by the Department, within 30 days of the last day of publication. Written comments should include the following:

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

2. Identification of the proposed Plan Approval: 27-033B.

3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted on the comments received during the public comment period. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, when the Department determines telephone notification is sufficient. Written comments or requests for a public hearing should be directed to John Guth, Regional Air Quality Manager, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6940.

42-215A: Kane Area School District (400 West Hemlock Avenue, Kane, PA 16735-1695) to install a wood fired boiler in Wetmore Township, **McKean County**.

Under 25 Pa. Code §§ 127.44(a) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a Plan Approval for the facility located in Wetmore Township, McKean County. This plan approval will authorize the applicant to install a wood fired boiler, as described in the application of October 16, 2007. The Plan Approval will subsequently be incorporated into a State-only Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Based on the information by the applicant and the Department's analysis, the boiler will emit 8.1 tons of PM per year, 0.78 ton of SOx per year, 18.66 of CO per year and 11.04 tons of NOx per year.

Copies of the application, the Department's analysis and other documents used in the evaluation are available for public inspection between 8 a.m. and 4 p.m. weekdays at the address shown as follows. To make an appointment, contact Records Management at (814) 332-6340, for an appointment.

Anyone wishing to provide the Department with additional information they believe should be considered may submit the information to the address shown as follows. Comments must be received, by the Department, within 30 days of the last day of publication. Written comments should include the following:

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

5. Identification of the proposed Plan Approval: 42-215A.

6. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted on the comments received during the public comment period. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, when the Department determines notification is sufficient. Written comments or requests for a public hearing should be directed to John Guth, Regional Air Quality Manager, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6636.

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

AMS 07227: Grays Ferry Cogeneration Partnership (2600 Christian Street, Philadelphia, PA 19146) for amendment of Plan Approval 97019 in the City of Philadelphia, **Philadelphia County**. The amendment redefines the condition defining startup and shutdown of the Combustion Turbine. All conditions of the Plan Approval 97019 shall be incorporated by reference except for Condition II.B.1, which will be defined as follows:

a) Startup shall be defined as that period of time from initiation of the gas turbine operations until the unit reaches steady state, with the electric output greater than or equal to 5 megawatts.

b) Shutdown shall be defined as the cessation of the gas turbine operation.

c) Each period shall not exceed 30 minutes with a hot system and 180 minutes with a cold system

The amendment will not increase the potential emission of this unit.

PLAN APPROVAL

PUBLIC HEARINGS

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

Notice is hereby given that the Department of Environmental Protection (Department) a public hearing was conducted on Tuesday, July 31, 2007 beginning at 1 p.m.—3 p.m. in the Air Quality conference room at the Meadville Regional Office located at 230 Chestnut Street.

The hearing is for the Department to accept testimony concerning the Department's decision to approve, with conditions, the revised Reasonably Available Control Technology (RACT) plans by the following facility:

American Refining Group, Inc. located at 77 North Kendall Avenue, Bradford, PA 16701.

The hearing was held to meet the requirements under 25 Pa. Code §§ 129.91—129.95 (RACT), for the revision of the short-term emission limits for the No. 5 stoker boiler under the RACT Permit. The final RACT proposal will be submitted to the United States Environmental Protection Agency (EPA) as a revision to Pennsylvania's State Implementation Plan.

The proposed SIP revisions do not adopt any new regulations. They incorporate the provisions and requirements contained in RACT approvals for this facility to comply with current regulations.

The preliminary RACT determination, if finally approved, will be incorporated into a Plan Approval and/or Operating Permit for the facility and will be submitted to the EPA as a revision to Pennsylvania's State Implementation Plan.

ARG proposed the additional monitoring plan to demonstrate compliance with the new short-term emission limits and existing annual emission limit for NOx emissions. Periodic NOx testing will be conducted to determine the rate of NOx emissions for the No. 5 boiler. ARG will perform the periodic testing using a portable flue gas analyzer with a test protocol approved by the Department. For the initial test and yearly thereafter, the Department will require EPA Method testing for NOx

emissions in conjunction with the portable analyzer testing to verify consistency of the analyzer.

Approval of the RACT Permit 42-004 is recommended with the following conditions:

1. NOx emissions from Boiler No. 5 shall be limited to 0.65 lb/mmBtu, 109.9 lbs per hour and remain 370.11 tpy 492.2 tpy. The annual emission limit shall be calculated as a 12-month rolling sum.

2. Boiler No. 5 shall be stack tested on an annual basis to comply with the requirements of 25 Pa. Code § 129.91(i).

3. Within 30 days of the issuance of the revised RACT Approval, a test procedure and sketch with dimensions indicating the location of sampling ports and other data to ensure the collection of representative samples shall be submitted to the Department for boiler No. 5.

4. Within 60 days of the issuance of the revised RACT Approval, stack tests shall be performed in accordance with the provisions of 25 Pa. Code Chapter 139 to show compliance with the NOx emission limitations in Condition No. 3. The stack tests shall be performed while the source is operated at the maximum obtainable capacity.

5. At least 2 weeks prior to the test, the Department shall be informed of the date and time of the test.

6. Within 30 days after completion of the test, two copies of the complete test report, including all operating conditions, shall be submitted to the Department for approval.

7. ARG will perform the periodic testing using a portable flue gas analyzer with a test protocol approved by the Department. For the initial test and yearly thereafter, the Department will require EPA Method testing for NOx emissions in conjunction with the portable analyzer testing to verify consistency of the analyzer.

8. Portable flue gas analyzer testing shall be performed on a monthly basis. Individual flue gas analyzer test results shall consist of the average result obtained during three 20-minute test runs.

9. If the rate of NOx emissions exceeds 0.6175 lb/mmBtu (95% of the 0.65 lb/mmBtu limit) for the average of any 4-consecutive monthly tests, or exceeds 0.65 lb/mmBtu in any individual monthly test, then the testing will become weekly.

10. If the rate of NOx emissions has been demonstrated to be less than or equal to 0.6175 lb/mmBtu for the 5 most recent weekly tests, then the testing interval will return to monthly.

11. If at any time the rate of NOx emissions exceeds 0.65 lb/mmBtu for the average of any 5-consecutive weeks, then the testing interval will become daily (5 days/week: Monday, Tuesday, Wednesday, Thursday, Friday, excluding holidays).

12. If the rate of NOx emissions for the average of the 5 most recent daily tests has been demonstrated to be less than or equal to 0.65 lb/mmBtu, then the testing interval will become weekly, if the average is less than 0.6175 lb/mmBtu, the testing interval will return to monthly.

13. This RACT approval applies to the emission of NOx from the No. 5 Boiler only. Emission of other pollutants shall be governed by the existing Plan Approvals, Operating Permits and applicable Rules and Regulations of the

Department. The approval, permits and requirements are incorporated herein by reference and made part of this permit.

14. Any information required to be submitted as part of the conditions in this Operating Permit shall be submitted to Environmental Engineering Manager, Air Quality Control, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335.

For the facility, a public hearing will be held for the purpose of receiving comments on the proposed Operating Permit and the proposed SIP revisions. The public hearing is scheduled as follows:

Department of Environmental Protection
Meadville Regional Office
Air Quality Conference Room
230 Chestnut Street, Meadville, PA 16335
Tuesday, July 31, 2007
1 p.m. to 3 p.m.

Persons wishing to present testimony at the hearing should contact Carolyn Cooper, Engineering Section, Air Quality Program, DEP, 230 Chestnut Street, Meadville, PA 16335-3494 (814) 332-6638 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of ten minutes and two written copies of the oral testimony are required. Each organization is requested to designate one witness to present testimony in its own behalf.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact Carolyn Cooper (814)-332-6638, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Those unable to attend the hearing but wish to comment should provide written comments to Carolyn Cooper, Engineering Section, Air Quality Program, Department of Environmental Protection, 230 Chestnut Street, Meadville, PA 16335-3494. Comments should be submitted within 30 days of the date of this publication notice.

All the pertinent documents (applications, review memos, and draft approvals) are also available for review from 8 a.m. to 4 p.m. at the Meadville Regional Department of Environmental Protection office (Air Quality). Appointments for scheduling a review must be made by calling the Department contact person noted previously.

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

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.

46-00054: Abington Memorial Hospital (1200 Old York Road, Abington, PA 19001-3720) for operation of a hospital in Abington Township, **Montgomery County**. The permit is for a non-Title V (State-only) facility. The hospital has the potential to emit 24.99 tpy of NOx. There have been no changes since the permit was last issued on March 13, 2007. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

15-00082: Downingtown Area School District (445 Manor Avenue, Downingtown, PA 19335), for operation of seven boilers which provide heat to the campus buildings in Downingtown Borough, **Chester County**. This action

is a renewal of the State-only Operating Permit (Synthetic Minor). The original State-only Operating Permit was issued on November 18, 2002. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Neal Elko, New Source Review Chief, (570) 826-2531.

40-00038: Lion, Inc. (700 North Pennsylvania Avenue, Wilkes-Barre, PA 18705-2451) for manufacturing of Malt Products, Wilkes-Barre City, **Luzerne County**. The State-only operating permit will include emissions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a renewal of the State-only operating permit issued in 2002.

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

06-03080: F. M. Brown's Sons, Inc. (118 West Main Street, P. O. Box 153, Fleetwood, PA 19522) for operation of flour milling and grain drying facility in the Fleetwood Borough, **Berks County**. Actual PM10 and NOx emissions are expected to be less than five tpy and one tpy respectively. 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.

38-03007: Evans Eagle Burial Vaults, Inc. (15 Graybill Road, Leola, PA 17540) for operation of two cremation units in Heidelberg Township, **Lebanon County**. This action is a renewal of the State-only operating permit issued in 2002.

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

10-00342: Mine Safety Appliances Co. (1420 Mars Evans City Road, Evans City, PA 16033) to issue a renewal of the State-only Operating Permit in Forward Township, **Butler County**. The primary sources at the facility include miscellaneous natural gas combustion sources, paint booth, rubber bonding room, rubber processing and a small parts washer for degreasing. The paint booth is equipped with filters to minimize particulate emissions. The rubber processing is controlled by a baghouse. The rubber bonding is controlled by a catalytic oxidizer.

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

N07-005: Verizon-Pennsylvania, Inc.—Locust Central Office (1631 Arch Street, Philadelphia, PA 19103) for operation of a telecommunications facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two 1,500-kilowatt emergency generators firing diesel fuel oil.

The operating permit will be issued under the Pennsylvania Code Title 25, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. 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 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). Mining activity permits issued in response to 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 an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments, objections or requests for informal conferences on applications may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department

at the district mining office indicated before an 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.

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

Effluent Limits—The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0;	less than 9.0
Alkalinity greater than acidity*			

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) 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 (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

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

26070106 and NPDES Permit No. PA0251305.
Amerikohl Mining, Inc. (1384 SR 711, Stahlstown, PA 15687). Application for commencement, operation and

reclamation of a bituminous surface mine, located in Dunbar Township, **Fayette County**, affecting 588.5 acres. Receiving streams: UNTs to Youghioghenny River, classified for the following use: HQ-CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received December 20, 2007.

3473SM8 and NPDES Permit No. PA0200590. M. B. Energy, Inc. (175 McKnight Road, Blairsville, PA 15717). Application received for transfer of permit currently issued to North Cambria Fuel Company for continued reclamation only of a bituminous surface mining site located in Derry Township, **Westmoreland County**, affecting 15.5 acres. Receiving streams: UNT to Loyalhanna

Creek, classified for the following use: CWF. There are no downstream potable water supply intakes within ten miles from the point of discharge. Transfer application received January 7, 2008.

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

49080101. John P. Shingara (R.D. 1, Box 396, Shamokin, PA 17872), commencement, operation and restoration of an anthracite surface mine operation in Zerbe Township, **Northumberland County** affecting

108.5 acres, receiving stream: Zerbe Run, classified for the following use: CWF. Application received January 8, 2008.

Noncoal Applications Received

Effluent Limits

The following noncoal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
suspended solids	35mg/l	70mg/l	90mg/l
Alkalinity exceeding acidity ¹			
pH ¹		greater than 6.0; less than 9.0	

¹ The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

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

Permit No. 56910801. William V. Miller, Jr., 748 National Highway, LaVale, MD 21502, bond release on a small noncoal (industrial minerals) operation in Southampton Township, **Somerset County**, affecting 9.0 acres. Receiving stream: Laurel Run. Application received January 3, 2008.

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

65070601 and NPDES Permit No. PA0251241. Delmont Quality Limestone, LLC (111 Freeport Road, Pittsburgh, PA 15215). Application has been resubmitted for a large noncoal surface mine, located in Washington Township, **Westmoreland County**, affecting 307.8 acres. Receiving streams: Beaver Run and UNTs to Beaver Run, classified for the following use: TSE. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received December 21, 2007.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

20080301 and NPDES Permit No. PA0258521. Andrew M. Kosturick (8565 State Highway 285, Conneaut Lake, PA 16316). Commencement, operation and restoration of a sandstone operation in East Fallowfield Township, **Crawford County** affecting 50.0 acres. Receiving streams: Crooked Creek, unclassified. There are no potable surface water supply intakes within 10 miles downstream. Application received January 2, 2008.

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

38020301C and NPDES Permit No. PA0224227. Greater Lebanon Refuse Authority, (1610 Russell Road, Lebanon, PA 17046), renewal of NPDES Permit for discharge of treated mine drainage from a quarry opera-

tion in North Annville Township, **Lebanon County**, receiving stream: UNT to Swatara Creek, classified for the following use: WWF. Application received January 8, 2008.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301–303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311–1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

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

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

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

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E45-516. Jeff Warmke, Ph.D., 20 Lombardi Street, Edison, NJ 08820, in Tobyhanna Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To fill 0.08 acre of EV, PFO wetlands for the purpose of building a residential house on Lot 8, Unit 5, Section 4 of the Lake Naomi Subdivision (Pocono Pines, PA Quadrangle N: 21.4 inches; W: 10.3 inches).

E48-396. Blue Mountain Industrial Center, Inc., P. O. Box 592, Nazareth, PA 18064, in Lehigh Township, **Northampton County**, United States Army Corps of Engineers, Philadelphia District.

To fill 0.11 acre of PSS wetland for the purpose of constructing a self storage facility. The site is located at 1139 Riverview Drive, 1.5 miles south of the Lehigh River Bridge (Palmerton, PA Quadrangle N: 4.1 inches; W: 14.0 inches).

E45-520. Apiem, Inc., One Empire Plaza, Route 611, Stroudsburg, PA 18360, in Smithfield Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain an 8-inch outfall pipe in the floodway of a tributary to Brodhead Creek (HQ-CWF) and to modify and maintain an existing 220-foot long stream enclosure in a tributary to Brodhead Creek by increasing the length 125 feet of 38" by 24" elliptical reinforced concrete pipe. The site is located on the south side of Independence Road (SR 0447), 0.7 mile west of the intersection with SR 0447 and US Route 209 (East Stroudsburg, PA Quadrangle N: 1.6 inches; W: 5.4 inches).

E40-679. City of Pittston, City Hall, 35 Broad Street, Pittston, PA 18640, in City of Pittston, **Luzerne County**, United States Army Corps of Engineers, Baltimore District.

To modify and maintain an existing stone arch enclosure in a tributary to the Susquehanna River (CWF) with work consisting of replacing a 300-foot long deteriorated portion with 72-inch diameter reinforced concrete pipe. The project is located approximately 200 feet south of the intersection of Broad and Gazette Streets (Pittston, PA Quadrangle N: 12.9 inches; W: 5.3 inches).

E64-274. Wayne County Commissioners, 925 Court Street, Honesdale, PA 18431, in Berlin Township, **Wayne County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a dry hydrant in a pond located along SR 2011, Bethel School Road, approximately 1.25 miles south of the intersection of SR 652 and SR 2011 (White Mills, PA Quadrangle N: 9.0 inches; W: 12.25 inches).

E40-681. RLR Investment, Inc., 600 Gillam Road, Wilmington, OH 45177, in Pittston Township, **Luzerne County**, United States Army Corps of Engineers, Baltimore District.

To fill 0.45 acre of PFO wetland for the purpose of constructing an 82-bay truck terminal on a 20-acre lot on the south side of Sathers Drive approximately 1 mile east of the intersection with Commerce Drive (Avoca, PA Quadrangle N: 14.0 inches; W: 8.0 inches).

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

E67-835. PPL Brunner Island, LLC, P. O. Box 221, York Haven, PA 17370, East Manchester Township, **York County**, ACOE Baltimore District.

(1) To construct and maintain five 8.0-foot by 8.0-foot by 12.0-foot concrete stream flow diversion blocks and R-5 rip-rap bank stabilization at the existing unit 3 condenser discharge outlet; (2) to construct and maintain one 8.0-foot by 8.0-foot by 12.0-foot stream flow diversion block with R-5 rip-rap bank stabilization; (3) to construct and maintain an intake and outfall structure with R-5 rip-rap bank stabilization; and (4) to construct and maintain two temporary sandbag dikes during the construction of the proposed intake and outfall structures, for the purpose of constructing 34 cooling towers at the Brunner Island Power Generation Plant. All impacts are in a discharge channel to the Susquehanna River (WWF) (York Haven, PA Quadrangle N: 15.74 inches; W: 8.86 inches, Latitude 40° 5' 12"; Longitude 76° 41' 18"), in East Manchester Township, York County.

E01-279. TimBar Packaging and Display Corporation, 148 North Penn Street, Hanover, PA 17331, New Oxford Borough, **Adams County**, ACOE Baltimore District.

To place and maintain fill in 0.11 acre of Palustrine Forested (PFO) wetland within the watershed of an UNT to the South Branch Conewago Creek (WWF) (McSherrystown, PA Quadrangle N: 20.3 inches; W: 8.5 inches; Latitude: 39° 51' 42", Longitude: 77° 03' 38"), for the purpose of constructing a parking lot and associated loading dock for the expansion of Timbar Corporation, east of the South College Street and Stone Road intersection in New Oxford Borough, Adams County. The applicant will provide 0.22 acre of replacement wetland onsite.

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

E14-504. Jonas S. Miller, 6771 Brush Valley Road, Rebersburg, PA 16872. Miller Pond, in Miles Township, **Centre County**, ACOE Baltimore District (Woodward, PA Quadrangle N: 17.99 inches; W: 12.02 inches).

To maintain: 1) an earthen rock check dam; 2) 350-foot long 4-inch diameter PVC pipe with the associated perforated screened inlet covers; 3) 30-foot long 6-inch diameter PVC pipe with the associated perforated screened inlet covers, attached to; 4) 320-foot long 4-inch diameter PVC pipe, all of which are in or under a UNT of Elk Creek located 150 yards north of the driveway at 6771 Brush Valley Road (Woodward, Pa Quadrangle). This project proposes to: 1) temporarily impact 350 feet of stream and/or stream bank; 2) permanently impact 20 feet of stream bed in a UNT of Elk Creek, which is classified as a HQ-CWF.

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

E56-345. Roger B. Harmon, 1358 Lambertsville Road, Stoystown, PA 15563. To maintain two stream crossings in Stonycreek Township, **Somerset County**, Pittsburgh ACOE District. (Stoystown, PA Quadrangle N: 85 inches; W: 5 inches and Latitude: 40° 2' 47" Longitude: 78° 54' 36"). The applicant proposes to operate and maintain two existing stream crossings, one consisting of two 15" culverts and two 24" culverts, and the other consisting of two 60" culverts, both on Grove Run (CWF), to maintain fill in approximately 0.3 acre of wetland associated with these crossings, and to place and maintain fill in approxi-

mately 0.7 acre to construct a fence for the purpose of creating a game preserve. The crossings are located approximately 1,500' and 10' east of Lambertsville Road, approximately 1 mile north of Buckstown Road.

E63-603. Briwood, Inc. (Woodrow Welsch), 122 Cedar Lane, McMurray, PA 15317. To construct and maintain a pedestrian bridge in Peters Township, **Washington County**, Pittsburgh ACOE District (Bridgeville, PA Quadrangle N: 5.8 inches; W: 12.8 inches Latitude: 40° 16' 55"; Longitude: 80° 5' 30"). The applicant proposes to construct and maintain a pedestrian bridge having a clear span of 42 feet and an underclearance of 6 feet across Brush Run (WWF) to connect the Brookview Villas Plan to Arrowhead Trail.

ACTIONS

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

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

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

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

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

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

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

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0012742	Copperhead Chemical Company, Inc. Two River Road Tamaqua, PA 18252	Schuylkill County Walker Township	Little Schuylkill River CWF Brushy CWF 3A	Y
PAS802203	Mack Trucks, Inc. Macungie Facility 7000 Alburdis Road Macungie, PA 18062	Lower Macungie Township Lehigh County	Swabia Creek HQ-CWF Watershed 2C	Y
PA0064289	Johnson's Home for the Aged R. R. 2, Box 72 Wapwallopen, PA 18660	Hollenback Township Luzerne County	UNT to Wapwallopen Creek 5B CWF	Y
PA0062367	Lakeview Estates Homeowners Association 1425 South Collegeville Road Collegeville, PA 19426	Lehigh Township Wayne County	UNT to Lehigh River HQ-CWF 2A	Y
PA0051691	Pharmachem Corp. 719 Steffko Boulevard P. O. Box 1035 Bethlehem, PA 18018	Bethlehem City Northampton County	Unnamed Intermittent Tributary to Lehigh River Canal 2C WWF	Y
PA0034746	Lil Wolf Mobile Home Park 3411 Lil Wolf Drive Orefield, PA 18069	North Whitehall Township Lehigh County	UNT to Coplay Creek CWF 2C	Y
PA0060461	Silver Lake Township Municipal Authority P. O. Box 1975 Brackney, PA 18812	Silver Lake Township Susquehanna County	Laurel Lake Creek 4E CWF	Y
PA0041009 (Minor Industrial Wastewater)	Global Companies, LLC (Chelsea Sandwich, LLC) P. O. Box 459 Shippers Lane Macungie, PA 18062	Lower Macungie Township Lehigh County	UNT to Little Lehigh Creek 2C	Y
PA0032131	Department of Conservation and Natural Resources Bureau of State Parks Locust Lake State Park P. O. Box 1467 Harrisburg, PA 17120	Schuylkill County Ryan Township	Locust Creek 3A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0246921 (SEW)	Borough of Lenhartsville P. O. Box 238 Lenhartsville, PA 19534	Berks County Lenhartsville Borough	Furnace Creek 3-B	Y
PA0083470 (SEW)	Paradise Township Sewer Authority Two Township Drive P. O. Box 40 Paradise, PA 17562	Lancaster County Paradise Township	Pequea Creek 7-K	Y
PA0248584 (CAFO)	Kreider Farms 1461 Lancaster Road Manheim, PA 17545	Lancaster County East Donegal Township	Donegal Springs and Donegal Creek 7-G	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>
PA0096016 Sewage	Rostraver Estates, Inc. 116 East Pittsburgh Street Greensburg, PA 15601	Westmoreland County Rostraver Township	UNT of Speers Run	Y
PA0097098 Sewage	South Fayette Township School District 1300 Lt. Will Way McDonald, PA 15057-2580	Allegheny County South Fayette Township	UNT to Miller's Run	Y
PA0205711 Sewage	Ernest Buck 1601 North Road McDonald, PA 15057	Allegheny County North Fayette Township	UNT of North Branch Robinson Run	Y

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

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

NPDES Permit No. PA0065145, Sewage, **Dunn Lake, LLC**, 103 Indian Springs Road, Kennett Square, PA 19348. This proposed facility is located in Ararat Township, **Susquehanna County**.

Description of Proposed Action/Activity: Issuance of NPDES Permit.

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

NPDES Permit No. PA0260762, Sewage, **New Buffalo Borough**, P. O. Box 245, New Buffalo, PA 17069. This proposed facility is located in New Buffalo Borough and Watts Township, **Perry County**.

Description of Proposed Action/Activity: Authorization to discharge to Buffalo Creek in Watershed 6-C.

NPDES Permit No. PA0119121, Industrial Waste, **Glen-Gery Corporation**, Route 61, P. O. Box 340, Shoemakersville, PA 19555. This proposed facility is located in Perry Township, **Berks County**.

Description of Proposed Action/Activity: Cancellation of Permit.

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

PA0021687, Sewage, SIC 4952, **Wellsboro Municipal Authority**, 28 Crafton Street, Wellsboro, PA 16901. This existing facility is located in Wellsboro Borough, **Tioga County**.

Description of Proposed Activity: The applicant seeks to renew the major NPDES permit for the Authority wastewater treatment plant.

The receiving stream, March Creek, is in the State Water Plan Watershed 9A and is classified for: WWF. The nearest downstream public water supply intake for the Pennsylvania-American Water Company (at Milton, PA) is located on the West Branch Susquehanna River and is 114 river miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 2.0 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Monthly Average</i>	<i>Weekly Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
CBOD ₅	20	30		40
Total Suspended Solids	30	45		60
Total Chlorine Residual	0.17		0.29	0.56
Total Copper	Monitor*			
Ammonia-N (6-1 to 10-31)	1.5		3.0	
(11-1 to 5-31)	4.5		9.0	
Dissolved Oxygen		5.0 mg/l as a Minimum		
Fecal Coliforms (5-1 to 9-30)		200 col/100 ml		
(10-1 to 4-30)		2,000 col/100 ml as a Geometric Mean		
pH		Within the range of 6.0 to 9.0		

* The WQBEL for Total Copper shall become effective 3 years following the permit effective date unless the testing and TRE identify and abate the source of the Total Copper.

Chesapeake Bay Tributary Strategy Nutrient Requirements

<i>Parameter</i>	<i>Concentration (mg/l)</i>		<i>Mass (lbs)</i>
	<i>Monthly Average</i>	<i>Monthly Load</i>	<i>Annual Load</i>
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	46,029*
Net Total Phosphorus		Report	4,871*

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

* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2010. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2010.

** Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011.

Outfall 002, 003—Combined Sewer Overflow—Best Management Practices.

Outfall 004, 005—Stormwater—Best Management Practices.

In addition to the effluent limits and best management practices, the permit contains the following major permit conditions:

1. Development, Operation and Implementation of a Pretreatment Program.
2. Management and Control of Combined Sewer Overflows.
3. Requirements Applicable to Stormwater Outfalls.
4. Toxics Reduction Evaluation.

PA0025933, Sewerage, 4952, **City of Lock Haven**, 20 East Church Street, Lock Haven, PA 17745. The existing facility is located in the City of Lock Haven, **Clinton County**.

Description of Proposed Activity: The applicant wishes to renew their NPDES permit for the Lock Haven Sewage Treatment Plant.

The receiving stream, Bald Eagle Creek, is in the State Water Plan Watershed 9C and is classified for: CWF. The nearest downstream public water supply intake is approximately 1.6 miles.

The proposed effluent limits for Outfall 001 are based on a design flow of 3.75 mgd and are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	Monitor and Report		
Fecal Coliforms (5-1 to 9-1)	200/100 ml		
(10-1 to 4-30)	2,000/100 ml		
C-BOD ₅	25	40	50
Total Suspended Solids	30	45	60
Total Chlorine Residual	0.5		1.6
Ammonia (NH ₃ -N)	20	30	40
pH	Within the Range of 6.0 to 9.0		

Chesapeake Bay Tributary Strategy Nutrient Requirements

<i>Parameter</i>	<i>Concentration (mg/l)</i>		<i>Mass (lbs)</i>
	<i>Monthly Average</i>	<i>Monthly Load</i>	<i>Annual Load</i>
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	90,192*
Net Total Phosphorus		Report	9,132*

* 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 September 1, 2011. 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, 2012. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2010.

** Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011.

In addition to the effluent limits the permit contains a major permit conditions regarding the operation and implementation of a Pretreatment Program.

PA0023248, Sewerage, SIC 4952, **Berwick Area Joint Sewer Authority**, 1108 Freas Avenue, Berwick, PA 18603. This existing facility is located in Berwick Borough, **Columbia County**.

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

The receiving stream, Susquehanna River, is in the State Water Plan Watershed 5D and classified for: WWF. The nearest downstream public water supply intake for Danville Municipal Water Authority is located on the Susquehanna River is 21 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 2.2 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			<i>Mass (lbs)</i>		
	<i>Monthly Average</i>	<i>Weekly Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>	<i>Monthly Load</i>	<i>Annual Load</i>
CBOD ₅	25	40		50		
TSS	30	45		60		
Total Residual Chlorine	0.5			1.6		
Fecal Coliforms (5-1 to 9-30)			200 col/100 ml			
(10-1 to 4-30)			2,000 col/100 ml as a Geometric Mean			
pH			Within the range of 6.0 to 9.0			

Chesapeake Bay Tributary Strategy Nutrient Requirements

<i>Parameter</i>	<i>Concentration (mg/l)</i>		<i>Mass (lbs)</i>	
	<i>Monthly Average</i>	<i>Monthly Load</i>	<i>Monthly Load</i>	<i>Annual Load</i>
Ammonia-N	Report	Report	Report	Report**
Kjeldahl-N	Report	Report	Report	Report
Nitrate-Nitrate as N	Report	Report	Report	Report
Total Nitrogen	Report	Report	Report	Report
Total Phosphorus	Report	Report	Report	Report
Net Total Nitrogen			Report	92,198*
Net Total Phosphorus			Report	8,913*

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

* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2010. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2010.

** Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011.

Outfalls 002—005—Combined Sewer Overflows—85% Capture and Treatment.

In addition to the effluent limits and best management practices, the permit contains the following major permit conditions:

1. Management and Control of Combined Sewer Overflow.
2. Permit Condition for Operation and Implementation of a Pretreatment Program.
3. Requirements Applicable To Stormwater Outfalls.

PA0026310, Sewerage, SIC 4952, **Clearfield Municipal Authority**, 107 East Market Street, Clearfield, PA 16830. This existing facility is located in Lawrence, **Clearfield County**.

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

The receiving stream, West Branch Susquehanna River, is in the State Water Plan Watershed 8B and classified for: WWF. The nearest downstream potable water supply intake is located at the Shawville Generation Station approximately 12 miles below the discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 4.5 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			<i>Mass (lbs)</i>		
	<i>Monthly Average</i>	<i>Weekly Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>	<i>Monthly Load</i>	<i>Annual Load</i>
CBOD ₅	25	40		50		
TSS	30	45		60		
Total Residual Chlorine	0.5			1.6		
Fecal Coliforms (5-1 to 9-30) (10-1 to 4-30)			200 col/100 ml			
pH			2,000 col/100 ml as a Geometric Mean Within the range of 6.0 to 9.0			

Chesapeake Bay Tributary Strategy Nutrient Requirements

<i>Parameter</i>	<i>Concentration (mg/l)</i>		<i>Mass (lbs)</i>	
	<i>Monthly Average</i>	<i>Monthly Load</i>	<i>Monthly Load</i>	<i>Annual Load</i>
Ammonia-N	Report	Report	Report	Report**
Kjeldahl-N	Report	Report	Report	Report
Nitrate-Nitrate as N	Report	Report	Report	Report
Total Nitrogen	Report	Report	Report	Report
Total Phosphorus	Report	Report	Report	Report
Net Total Nitrogen			Report	82,191*
Net Total Phosphorus			Report	10,959*

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

* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on October 1, 2010. Since these reporting requirements are annual loads, the reporting on compliance with the annual limitations will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until September 30, 2010.

** Total Annual Ammonia Load will be required to be reported on the Supplemental DMR—Annual Nutrient Summary by November 28, 2011.

Combined Sewer Overflow Outfalls: 002, 014, 020, 036 and 038—040.

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

Chesapeake Bay Nutrient Requirements.

Management and Control of Combined Sewer Overflows.

The EPA waiver is not in effect.

PA0023531, Sewage, SIC 4952, **Borough of Danville**, 239 Mill Street, Danville, PA 17821. This existing facility is located in the Borough of Danville, **Montour County**.

Description of Proposed Activity: Permit renewal of the major NPDES permit for the wastewater treatment facility consisting of primary settling, contact stabilization, final settling and chlorine disinfection.

The receiving stream for Outfall 001, the Susquehanna River, is in the State Water Plan Watershed 5E and is classified for: WWF. The nearest public water supply surface water intake, owned by Merck and Company Inc., is located on the Susquehanna River, 0.95 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 3.62 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			<i>Mass (lbs)</i>		
	<i>Monthly Average</i>	<i>Weekly Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>	<i>Monthly Load</i>	<i>Annual Load</i>
CBOD ₅	25	40		50		
Total Suspended Solids	30	45		60		
Total Chlorine Residual	0.5			1.6		
Fecal Coliforms (5-1 to 9-30)			200 col/100 ml			
(10-1 to 4-30)			2,000 col/100 ml as a Geometric Mean			
pH			Within the range of 6.0 to 9.0			

Chesapeake Bay Tributary Strategy Nutrient Requirements

<i>Parameter</i>	<i>Concentration (mg/l)</i>		<i>Mass (lbs)</i>	
	<i>Monthly Average</i>	<i>Monthly Load</i>	<i>Monthly Load</i>	<i>Annual Load</i>
Ammonia-N	Report	Report	Report	Report**
Kjeldahl-N	Report	Report	Report	
Nitrate-Nitrate as N	Report	Report	Report	
Total Nitrogen	Report	Report	Report	Report
Total Phosphorus	Report	Report	Report	Report
Net Total Nitrogen			Report	66,118*
Net Total Phosphorus			Report	8,816*

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

* The compliance date for Net Total Nitrogen and Net Total Phosphorus will begin on September 30, 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, 2012. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until May 20, 2011.

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

Outfall S01—Stormwater—Best Management Practices.

In addition to the effluent limits and best management practices, the permit contains the following major permit conditions:

1. Chesapeake Bay Nutrient Requirements.
2. Requirements Applicable to Stormwater Outfalls.

PA0110582, Sewage, SIC 4952, **Eastern Snyder County Regional Authority**, P. O. Box 330, Selinsgrove, PA 17870. This existing facility is located in Penn Township, **Snyder County**.

Description of Proposed Activity: Permit renewal of the major NPDES permit for the wastewater treatment facility consisting of preliminary screening, grinding (comminutors), primary clarification, a vertical loop reactor, secondary clarification, flow-paced disinfection and post aeration.

The receiving stream, Susquehanna River, is in the State Water Plan Watershed 6B and is classified for: WWF. The nearest downstream public water supply intake for United Water Pennsylvania at Dauphin, PA, located 39 river miles downstream from the discharge.

The proposed effluent limits for Outfall 001, based on a discharge flow of 2.0 mgd:

<i>Parameter</i>	<i>Concentration (mg/l)</i>			<i>Mass (lbs)</i>		
	<i>Monthly Average</i>	<i>Weekly Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>	<i>Monthly Load</i>	<i>Annual Load</i>
CBOD ₅	25	40		50		
Total Suspended Solids	30	45		60		
Total Chlorine Residual	0.5			1.6		
Fecal Coliforms (5-1 to 9-30)			200 col/100 ml			
(10-1 to 4-30)			2,000 col/100 ml as a Geometric Mean			
pH			Within the range of 6.0 to 9.0			

Chesapeake Bay Tributary Strategy Nutrient Requirements

<i>Parameter</i>	<i>Concentration (mg/l)</i>		<i>Mass (lbs)</i>
	<i>Monthly Average</i>	<i>Monthly Load</i>	<i>Annual Load</i>
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	51,141*
Net Total Phosphorus		Report	6,819*

* 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 September 30, 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, 2012. This facility is required to monitor and report for Net Total Nitrogen and Net Total Phosphorus from the effective date of the permit until May 20, 2011.

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

Outfall SW-03—Stormwater—Best Management Practices.

In addition to the effluent limits and best management practices, the permit contains the following major permit conditions:

3. Chesapeake Bay Nutrient Requirements.
4. Requirements Applicable to Stormwater Outfalls.

PA0229156, CAFO, SIC 0241, **Rick VanEtten**, 400 VanEtten Road, Ulysses, PA 16948. This existing facility is located in Harrison Township, **Potter County**.

Description of Proposed Activity: Four Winds Farm is an existing dairy farm that will be expanding operations to include 1,602 cows (adult, heifers, calves and bulls), totaling 1,553 Animal Equivalent Units.

The water body nearest to this facility is a UNT to the Cowanesque River in the Cowanesque River Watershed (SWP-04A) and has a designated use of CWF.

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

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

1. Compliance with the farm's Nutrient Management Plan.
2. Compliance with the farm's Preparedness, Prevention and Contingency Plan.
3. Compliance with the Farm's Erosion and Sedimentation Control Plan for plowing and tilling.
4. Erosion and Sedimentation Control Plan requirements for stormwater during construction activities.
5. Animal mortality handling and disposing requirements.
6. Certification requirements for manure storage facilities.
7. Requirements for storage of feed and other raw materials.
8. Best Management Practices requirements.

The EPA waiver will not be in effect.

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

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

WQM Permit No. 5007401, Sewage, **New Buffalo Borough**, P. O. Box 245, New Buffalo, PA 17069. This proposed facility is located in New Buffalo Borough/Watts Township, **Perry County**.

Description of Proposed Action/Activity: Construction/Operation of a 0.020 mgd extended aeration municipal sewage treatment plant.

WQM Permit No. 2903401, Amendment 07-1, Sewage, **Dublin Township, Fulton County**, 1366 Cole Road, Hustontown, PA 17229. This proposed facility is located in Dublin Township, **Fulton County**.

Description of Proposed Action/Activity: Construction/Operation of a change to the proposed collection system from a gravity system with pump station to a low-pressure system with individual grinder pumps at Burnt Cabins STP.

WQM Permit No. 2207404, Sewerage, **Susquehanna Township Authority**, 1900 Linglestown Road, Harrisburg, PA 17110. This proposed facility is located in Susquehanna Township, **Dauphin County**.

Description of Proposed Action/Activity: Construction/Operation of sewerage facilities consisting of an 8-inch diameter sanitary sewer from existing MH 58.4 to MH 105.1, serving Maplewood Development.

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

WQM Permit No. WQ1800402-A1, Sewerage, 4952. **Pine Creek Township Municipal Authority, Clinton County**, P. O. Box 608, Avis, PA 17721-0608. This proposed facility is located in Pine Creek Township, Clinton County.

Description of Proposed Action/Activity: Applicant is granted a Water Quality Management permit for the installation of a replacement wastewater pumping station to serve Avis Borough.

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

WQM Permit No. 5607201, Industrial Waste, **Somerset County General Authority, c/o Barbera, Clapper, Beener, Rullo and Melvin**, 146 West Main Street, Somerset, PA 15501. This proposed facility is located in Jenner Township, **Somerset County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a backwash treatment system that will consist of two settling ponds.

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

WQM Permit No. WQG018528, Sewerage, Amendment A1, **Thomas L. Roberts**, 41 Ball Hill Road, Greenville, PA 16125. This proposed facility is located in Sugar Grove Township, **Mercer County**.

Description of Proposed Action/Activity: A single Residence Sewage Treatment Plant.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

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

WQM Permit No. WQG02-460733, Lower Salford Township Authority, 57 Main Street, P. O. Box 243, Harleysville, PA 19438-2510. This proposed facility is located in Lower Salford Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a sewer extension.

WQM Permit No. 4698414, Sewerage, Renewal, **Cradle of Liberty Council, Boy Scouts of America**, 1485 Valley Forge Road, Wayne, PA 19087-1346. This proposed facility is located in Marlborough Township, **Montgomery County**.

Description of Action/Activity: Renewal of permit to allow the continued operation of a sewage treatment plant and spray irrigation.

WQM Permit No. 1506404, Sewerage, **Pennsylvania American Water**, 800 West Hersheypark Drive, Hershey, PA 17033. This proposed facility is located in South Coatesville Borough, **Chester County**.

Description of Action/Activity: Upgrade and expansion of existing wastewater treatment plant.

WQM Permit No. WQG02-460729, Sewerage, **Upper Pottsgrove Township**, 1409 Farmington Avenue, Pottstown, PA 19464. This proposed facility is located in Upper Pottsgrove Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a pump station and sewer extension.

WQM Permit No. 4607402, Sewerage, **Upper Gwynedd Township**, P. O. Box 1, Parkside Place, North Wales, PA 19454. This proposed facility is located in Upper Gwynedd Township, **Montgomery County**.

Description of Action/Activity: Construction of chemical feed facilities for the addition of ferric chloride and/or aluminum sulfate to reduce effluent phosphorus concentrations.

V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

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>
PAS10U184R	Nic Zawarski & Sons Developers, Inc. 1441 Linden Street Bethlehem, PA 18018	Northampton	Forks Township	Bushkill Creek HQ-CWF

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

Washington County Conservation District, 602 Courthouse Square, Washington, PA 15301, (724) 228-6774.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056307002	JND Properties, LLC 3625 Washington Pike Bridgeville, PA 15017	Washington	North Strabane Township	Little Chartiers Creek HQ-WWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI062007001	Lake Properties Holdings, LLC 22487 Hobbs Road Meadville, PA 16335	Crawford	Summit Township	Inlet Run HQ-WWF

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

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

List of NPDES and/or Other General Permit Types

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

General Permit Type—PAG-02

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>
Wilkes-Barre City Luzerne County	PAG2004007015	Wilkes-Barre City Butch Frati 40 East Market Street Wilkes-Barre, PA 18711	Susquehanna River WWF	Luzerne County Conservation District (570) 674-7991
Lower Paxton Township Dauphin County	PAG2002207048	Allan B. Grossman 3714 Leyland Drive Mechanicsburg, PA 17050	Paxton Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018
Camp Hill Borough Cumberland County	PAG2002107025	William R. Grace Spangler Road Site P. O. Box 31 New Cumberland, PA 17070	Cedar Run CWF	Cumberland County Conservation District 310 Allen Road Carlisle, PA 17013 (717) 240-7812
Mechanicsburg Borough Upper Allen Township Cumberland County	PAG2002107033	The Hollinger Group Michael Beaver 4550 Lena Drive Mechanicsburg, PA 17055	Cedar Run CWF	Cumberland County Conservation District 310 Allen Road Carlisle, PA 17013 (717) 240-7812
Clearfield County Decatur Township	PAG2001707019	Clearfield Creek Watershed Association 216 Beldin Hollow Road Ashville, PA 16613	Morgan Run CWF	Clearfield County Conservation District 650 Leonard Street Clearfield, PA 16830 (814) 765-2629

*Facility Location:
Municipality &
County*Montour County
Anthony Township*Permit No.*
PAG2004707006*Applicant Name &
Address*
PPL Generation, LLC
2 North Ninth Street
Allentown, PA 18101*Receiving
Water/Use*
Chillisquaque Creek
WWF*Contact Office &
Phone No.*
Montour County
Conservation District
112 Woodbine Lane
Suite 2
Danville, PA 17821
(570) 271-1140*General Permit Type—PAG-3**Facility Location &
Municipality*Cumberland County
Middlesex Township*Permit No.*
PAR803617*Applicant Name &
Address*
Schneider National
Carriers—045
P. O. Box 2545
Green Bay, WI
54306-2545*Receiving
Water/Use*
Conodoguinet Creek
WWF
7-B*Contact Office &
Phone No.*
DEP—SCRO
909 Elmerton Avenue
Harrisburg, PA 17110
(717) 705-4707*General Permit Type—PAG-4**Facility Location:
Municipality &
County*South Shenango
Township
Crawford County*Permit No.*
PAG049392*Applicant Name &
Address*
University of Pittsburgh
Public Safety Building
4th Floor
3412 Forbes Avenue
Pittsburgh, PA 15260*Receiving
Water/Use*
UNT to the
Pymatuning Reservoir
20-A*Contact Office &
Phone No.*
DEP—NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6942Hayfield Township
Crawford County*Permit No.*
PAG048864*Applicant Name &
Address*
David W. Acker
19967 Grange
Center Road
Saegertown, PA 16433*Receiving
Water/Use*
UNT to Wolf Run
16-A*Contact Office &
Phone No.*
DEP—NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6942*General Permit Type—PAG-8 (SSN)**Facility Location &
County/Municipality*Derry Township
Westmoreland
County*Applicant Name &
Address*
Mon Valley Sewage Authority
20 Washington Street
Donora, PA 15033*Site Name*
Laughlin Farm*Contact Office &
Phone No.*Southwest Regional Office
Water Management
Program Manager
400 Waterfront Drive
Pittsburgh, PA 15222-4745
(412) 442-4000Derry Township
Westmoreland
County*Applicant Name &
Address*
Mon Valley Sewage Authority
20 Washington Street
Donora, PA 15033*Site Name*
Wuchina Farm*Contact Office &
Phone No.*
Southwest Regional Office
Water Management
Program Manager
400 Waterfront Drive
Pittsburgh, PA 15222-4745
(412) 442-4000*General Permit Type—PAG-12**Facility Location &
Municipality*Dauphin County
Washington
Township*Permit No.*
PAG123650*Applicant Name &
Address*
Hilario J. Gonzales
920 West
Matterstown Road
Millersburg, PA 17061*Receiving
Water/Use*
Wiconisco Creek
WWF*Contact Office &
Phone No.*
DEP—SCRO
Watershed Management
909 Elmerton Avenue
Harrisburg, PA 17110
(717) 705-4802Perry County
Tyrone Township*Permit No.*
PAG123653*Applicant Name &
Address*
Bill and Sharon Bartho
K N S Farms, Inc.
201 Bartho Drive
Landisburg, PA 17040*Receiving
Water/Use*
Green Valley Run
WWF*Contact Office &
Phone No.*
DEP—SCRO
Watershed Management
909 Elmerton Avenue
Harrisburg, PA 17110
(717) 705-4802

PUBLIC WATER SUPPLY (PWS) PERMITS

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

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

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

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

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Permit No. 0107510, Public Water Supply.

Applicant	Gettysburg Municipal Authority
Municipality	Cumberland Township
County	Adams
Type of Facility	Construction of a new well with treatment at the Crossing Development.
Consulting Engineer	Janet R. McNally, P. E. William F. Hill & Assoc., Inc. 207 Baltimore Street Gettysburg, PA 17325
Permit to Construct Issued	January 9, 2008

Operations Permit issued to **PA American Water Co.**, 7220017, South Hanover Township, **Dauphin County** on January 10, 2008, for the operation of facilities approved under Construction Permit No. 2207514 MA.

Operations Permit issued to **Cornwall Borough, Lebanon County Municipal Authority**, 7380007,

Cornwall Borough, Lebanon County on January 11, 2008, for the operation of facilities approved under Construction Permit No. 3805504.

Operations Permit issued to **Penn Township Municipal Authority**, 7500015, Penn Township, **Perry County** on January 9, 2008, for the operation of facilities approved under Construction Permit No. 5006504 MA.

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

Operations Permit issued to **Lake Shore Water Association**, PWSID No. 6250056, Fairview Township, **Erie County**, on January 9, 2008, for the operation of a consecutive water supply system to Fairview Township Water Authority, Erie County, according to specifications approved by Construction Permit No. 2507505, issued November 27, 2007.

Operations Permit issued to **Saint Boniface School**, PWSID No. 6250340, Greene Township, **Erie County**, on January 14, 2008, for the operation of an Arsenic removal system for Well "A" and Well "B," along with Chlorination for disinfection and oxidation and finished water storage, according to specifications approved by Construction Permit No. 2507503, issued November 14, 2007.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)

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

Plan Location:

Borough or Township	Borough or Township Address	County
Mill Village Borough	14350 North Main Street Mill Village, PA 16427	Erie

Plan Description: The approved plan provides for the construction of a 1,600 gpd Small Flow Treatment Facility to serve a four unit apartment complex on an existing lot located on the SE corner of South Main Street and Route 6. Discharge to UNT of French Creek, WWF. Reference No. M6-07-075.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation

performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Riverview Property Area D-1, West Norriton Township, **Montgomery County**. Jeffery Walsh, Penn E & R, 2755 Bergery Road, Hatfield, PA 19440 on behalf of Kevin Kyle, Riverview Residential Partners, II, LP, 2701 Renaissance Boulevard, Fourth Floor, 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.

Heintz Corporation Facility Parcel B (Groundwater), City of Philadelphia, **Philadelphia County**. Steve Coe, Brown Environmental Services Corporation, 301 South State Street, Suite S201, Newtown, PA 18940 on behalf of has submitted a Final Report concerning remediation of site groundwater contaminated with lead and inorganics. The report is intended to document remediation of the site to meet the Site-Specific Standards.

Monroe Office Building—LAD Presidential III, City of Philadelphia, **Philadelphia County**. Gerald Kirkpatrick, Environmental Standards, Inc., 1140 Valley Forge Road, P. O. Box 810, Valley Forge, PA 19482 on behalf of George David, Jr., L.A.D. Presidential II, LLP, One Winding Drive, Suite 202, Philadelphia, PA 19131 has submitted a Remedial Investigation/Final Report and Cleanup Plan concerning remediation of site soil and groundwater contaminated with No. 2 fuel oil and unleaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Pearl Pressman Property, City of Philadelphia, **Philadelphia County**. Robert Byer, Penn E & R, Inc., 2755 Bergery Road, Hatfield, PA 19440 on behalf of James Lerner, Pearl Pressman Liberty Communications Group, 5th and Poplar Streets, Philadelphia, PA 19123 has submitted a Final Report/Remedial Investigation Report concerning remediation of site soil contaminated with Pah's. The report is intended to document remediation of the site to meet the Site-Specific Standards.

Suburban West Chester Facility, West Chester Borough, **Chester County**. Marco Droese, Mulry and Cresswell Environmental, Inc., 1691 Horseshoe Pike, Glenmoore, PA 19343, Michael Welsh, Applied Environmental Management, Inc., 16 Chester Count Commons, Malvern, PA 19355 on behalf of Jack Loew, 55 Country Club Drive, Downingtown, PA 19335 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Site-Specific Standards.

Sico Gilbertsville, Douglass Township, **Montgomery County**. Megan M. Dunsmore, Onesky Engineering, Inc., 444 Creamery Way, Suite 300, Exton, PA 19341 on behalf of Dillon Real Estate Company, Inc., 2800 East Fourth Street, Hutchinson, KS 67501 has submitted a Cleanup Plan concerning remediation of site soil and groundwater contaminated with BTEX. The report is intended to document remediation of the site to meet the Site-Specific Standards

Septa Wayne Junction Rail Yard, City of Philadelphia, **Philadelphia County**. Alexander DeNadai, Weston Solution, Inc., 1400 Weston Way, West Chester, PA 19380, on behalf of James Fox, Septa, 1234 Market Street, Philadelphia, PA 19107 has submitted a Final Report concerning remediation of site [media] contaminated with soil. The report is intended to document remediation of the site to meet the Statewide Health Standards.

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

Columbia Gas of Pennsylvania Service Center, Gettysburg Borough, **Adams County**. ENSR, 2 Technology Park Drive, Westford, MA 01866-3140, on behalf of Columbia Gas of Pennsylvania, 1020 North Hartley Street, York, PA 17404 and NiSource Corporate Services Company, 300 Frieberg Parkway, Westborough, MA 01581-3900, submitted a Cleanup Plan concerning remediation of site soils and groundwater contaminated with coal tar and Pahs. The applicant seeks to remediate the site to the Site-Specific Standard.

Bible Baptist Church Shiremanstown, Borough of Shiremanstown, **Cumberland County**. Marshall Miller & Associates, Inc., 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011, on behalf of Bible Baptist Church, 201 West Main Street, Shiremanstown, PA 17011 and Keystone Oil, 1600 Hummel Avenue, P. O. Box 157, Camp Hill, PA 17011, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil spilled during a fuel delivery. The report is intended to document remediation of the site to the Statewide Health Standard and was submitted to the Department of Environmental Protection within 90 days of the release which occurred on November 15, 2007.

Deanne Downey Residence, Elizabethtown Borough, **Lancaster County**. GemChem, Inc., 53 North Cedar Street, Lititz, PA 17543, on behalf of Deanne Downey, 15 Church Road, Elizabethtown, PA 17022-2129, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil from a faulty above ground storage tank. The report is intended to document remediation of the site to the Statewide Health Standard and was submitted to the Department within 90 days of the release which occurred on October 19, 2007.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Commercial Property, Whitmarsh Township, **Montgomery County**. Karl M. Pfizenmayer, Strob Environmental, Inc., 410 North Eaton Road, Willow Grove, PA

19090 on behalf of Meryle and Robert Solomon, 716 North Third Street, Philadelphia, PA 19123 has submitted a Final Report concerning the remediation of site soil contaminated with organic. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 8, 2008.

Dryject Service, LLC, Hatboro Borough, **Montgomery County**. Jim Galasso, GJA Construction Inc., P. O. Box 1118, Glenside, PA 19038 on behalf of has 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 January 14, 2008.

US Steel Fairless Work Facility, Falls Township, **Bucks County**. Francis Adams, Golder Associates, Inc., 200 Century Parkway, Suite C, Mount Laurel NJ 08054 on behalf of Kathy Mayher, United States Steel Corporation, 600 Gant Street, Pittsburgh, PA 15219 has submitted a Remedial Investigation Report concerning the remediation of site soil contaminated with chlorinated solvents. The Remedial Investigation report was approved by the Department of Environmental Protection on January 9, 2008.

Gallo Residence, Newtown Township, **Delaware County**. James Mulry, Mulry and Cresswell Environmental Inc., 1691 Horseshoe Pike, Suite 3, Glenmoore, PA on behalf of Martin Liebhardt, Sunoco, Inc. (R & M) 350 Eagleview Boulevard, Suite 300, Exton, PA 19341 has submitted a 90-day Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The 90-day Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 8, 2008.

2471 Paxon Park Residence, West Chester Borough, **Chester County**. Chris Reitman, Advanced Geoservices, 1055 Andrew Drive, Suite A, West Chester, PA 19380, Bernard Beegle, Advanced Geoservices, 1055 Andrew Drive, Suite A, West Chester, PA 19380 on behalf of Tom Alloy, SBCM, Inc., 121 West Miner Street, West Chester, PA 19381, Richard Meadows, SBCM, Inc. 121 West Miner Street, West Chester, PA 19381 has submitted a Final Report concerning the remediation of site soil contaminated with arsenic, benzo[a]pyrene and lead. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on January 8, 2008.

USPS Eastwick VMF, City of Philadelphia, **Philadelphia County**. Raymond Scheinfeld, Weston Solutions, Inc., 1400 Weston Way, West Chester, PA 19380 on behalf of Paul Purcell, US Postal Services, 4301 Wilson Boulevard, Suite 300, Arlington, VA 22203 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with inorganics. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on December 24, 2007.

Blue Grass Plaza, City of Philadelphia, **Philadelphia County**. Sammeul Kucia, Environmental Consulting, Inc., 500 East Washington Street, Suite 375, Norristown, PA 19401 on behalf of Lennard Katz, Blue Grass Mall Associates, 45-17 Marathon Parkway, Little Neck, NY 11362 has submitted a Final Report concerning the remediation of site soil contaminated with chlorinated solvents. The Final report demonstrated attainment of

the Statewide Health Standard and was approved by the Department of Environmental Protection on January 9, 2008.

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

Holzman Residence, Jefferson Township, **Lackawanna County**. Sherry Carlo, P. G., United Environmental Services, Inc., 86 Hillside Drive, Drums, PA 18222 submitted a Final Report (on behalf of her client, Leonard Holzman, R. R. 4, Box 4270, Lake Ariel, PA 18436), concerning the remediation of soils found to have been impacted by No. 2 fuel oil as the result of a ruptured heating oil tank. The report demonstrated attainment of the Residential Statewide Health Standard for soils and was approved on January 10, 2008.

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

FR & S No. 3 Industrial Waste Site, Exeter Township, **Berks County**. Synergy Environmental, Inc., 155 Railroad Plaza, 1st Floor, Royersford, PA 19508, on behalf of Wood Nursery Corp., Exeter Associates, Inc. and Buddies Nursery, Inc., P. O. Box 264, Birdsboro, PA 19508-0264, submitted a Remedial Investigation Report concerning the remediation of site soils and groundwater contaminated with VOCs and SVOCs. The report was approved by the Department of Environmental Protection on January 10, 2008.

Kunkel Tract, Hampden Township, **Cumberland County**. CMX, 910 Centuray Drive, Mechanicsburg, PA 17055-4351, on behalf of K Rail, Inc., P. O. Box 3088, Camp Hill, PA 17011-3088, submitted a Final Report concerning the remediation of site soils and groundwater contaminated with petroleum hydrocarbons from three adjacent bulk fueling facilities. The final report demonstrated attainment of the background standard and was approved by the Department of Environmental Protection on January 11, 2008.

HAZARDOUS WASTE TRANSPORTER LICENSE

Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101–6018.1003) and regulations to transport hazardous waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Hazardous Waste Transporter License Renewed

S-J Transportation Co., Inc., P. O. Box 169, Woodstown, NJ 08098. License No. PA-AH 0015. Effective November 7, 2007.

IMS Environmental Services, Inc., P. O. Box 1779, Norfolk, VA 23501. License No. PA-AH 0724. Effective November 28, 2007.

J & D Trucking, Inc., 3526 NW Boulevard, Vineland, NJ 08360. License No. PA-AH 0652. Effective November 28, 2007.

Veolia ES Industrial Services, Inc., 6151 Executive Boulevard, Huber Heights, OH 45424. License No. PA-AH 0583. Effective November 28, 2007.

Environmental Industrial Services Corp., 288 Oak Grove Road, Swedesboro, NJ 08085. License No. PA-AH 0457. Effective December 4, 2007.

Emerald Environmental Services, Inc., 1621 St. Clair Avenue, Kent, OH 44240. License No. PA-AH 0641. Effective December 6, 2007.

Chemical Analytix, Inc., 29959 Beverly Road, Romulus, MI 48174. License No. PA-AH 0584. Effective December 11, 2007.

Coal City Cob Co., Inc., P. O. Box 516, Avalon, TX 76623. License No. PA-AH 0589. Effective December 19, 2007.

Casie Ecology Oil Salvage, Inc., P. O. Box 92, Franklinville, NJ 08322. License No. PA-AH 0307. Effective December 20, 2007.

Mccutcheon Enterprises, Inc., 250 Park Road, Apollo, PA 15613-8730. License No. PA-AH 0130. Effective December 19, 2007.

Interstate Chemical Co., Inc., 2797 Freeland Road, Hermitage, PA 16148. License No. PA-AH 0689. Effective December 19, 2007.

F. T. Silfies, Inc., 250 Reese Road, Suite 200, State College, PA 16801. License No. PA-AH 0726. Effective December 21, 2007.

Price Trucking Corp., P. O. Box 70, 67 Beacon Street, Buffalo, NY 14220. License No. PA-AH 0371. Effective January 3, 2008.

Frank's Vacuum Truck Service, Inc., 4500 Royal Avenue, Niagara Falls, NY 14303. License No. PA-AH 0331. Effective January 7, 2008.

Environmental Services, Inc., 90 Brookfield Street, South Windsor, CT 06074-1262. License No. PA-AH 0725. Effective January 8, 2008.

Aghog, Inc., 773 Patterson Court, Inkster, MI 48141. License No. PA-AH S224. Effective January 10, 2008.

Hazardous Waste Transporter License Issued

Turn-Key Environmental Services, Inc., P. O. Box 519, Blirstown, NJ 07825. License No. PA-AH 0738. Effective December 20, 2007.

Hazardous Waste Transporter License, actions taken under the Solid Waste Management Act (35 P.S. §§ 6018.101–6018.1003) and regulations to transport hazardous waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Hazardous Waste Transporter License Expired

Transport TFI 4, S.E.C., 6600 Chemin ST-Francois, ST-Laurent PQ H4S 1B7 Canada. License No. PA-AH 0720. Effective November 30, 2007.

Hazardous Waste Transporter License Voluntarily Terminated

D & R Transportation, P. O. Box 231, Bellwood, PA 16617. License No. PA-AH 0727. Effective December 21, 2007.

Perma-Fix of Maryland, Inc., d/b/a A & A Environmental Services, 5200 Raynor Avenue, Linthicum Heights, MD 21090. License No. PA-AH 0715. Effective January 2, 2008.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSE

Actions on applications for Infectious and Chemotherapeutic Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and Act 93 (P. L. 525, No. 93) and regulations to transport infectious and chemotherapeutic waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Infectious and Chemotherapeutic Waste Transporter License Renewed

Ephrata Community Hospital, P. O. Box 1002, 169 Martin Avenue, Ephrata, PA 17522. License No. PA-HC 0204. Effective January 4, 2008.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

New Morgan Landfill Co., Inc., New Morgan Borough, **Berks County Permit Number 101509**. This is for a major permit modification to Solid Waste Permit No. 101509 for the Disposal Area 1 Expansion of the Conestoga landfill, issued in accordance with Article V of the Solid Waste Management Act, 35 P. S. Sections 6018.101, et seq.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Neal Elko, New Source Review Chief, (570) 826-2531.

45-310-048GP3: Haines & Kibblehouse (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on January 10, 2008, to construct and operate a Portable Crushing Operation with watersprays at their site in Tobyhanna Township, **Monroe County**.

45-329-006GP9: Haines & Kibblehouse (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on January 10, 2008, to install and operate a Diesel I/C Engine at their site in Tobyhanna Township, **Monroe County**.

39-329-009GP9: St. Lukes Hospital and Health Network (1736 Hamilton Street, Allentown, PA 18104) on January 9, 2008, to install and operate two I/C Engines at the site in Allentown, **Lehigh County**.

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

GP1-01-05033: Knouse Foods Cooperative, Inc. (P. O. Box 807, Biglerville, PA 17307) on January 8, 2008, for Small Gas and No. 2 Oil Fired Combustion Units under GP1 in Tyrone Township, **Adams County**.

GP2-21-05027A: Gulf Oil, LP (275 Washington Street, Suite 300, Newton, MA 02458-1646) on January 8, 2008, for Storage Tanks for Volatile Organic Liquids under GP2 in Hampden Township, **Cumberland County**.

GP3-44-03019: Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823) on January 9, 2008, for Portable Nonmetallic Mineral Processing Plants under GP3 in Armagh Township, **Mifflin County**.

GP11-44-03019: Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823) on January 9, 2008, for Nonroad Engines under GP11 in Armagh Township, **Mifflin County**.

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

GP-27-037A: Seneca Resources Corp.—Muzette B Compressor Station (SR 2007, Vonwinckel, PA 16260) on January 8, 2008, for a natural gas fired compressor engine BAQ/GPA/GP-5 in Kingsley Township, **Forest County**. This was previously permitted under GP-27-037 in Green Township, **Forest 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, Neal Elko, New Source Review Chief, (570) 826-2531.

39-313-047: ICO Polymers North America, Inc. (P. O. Box 397, Bloomsbury, NJ 08804) on January 8, 2008, to construct a plastics processing plant and associated air cleaning devices (fabric collectors) in Upper Macungie Township, **Lehigh County**.

39-309-069: Lafarge North America, Inc. (5160 Main Street, Whitehall, PA 18052) on January 8, 2008, to construct a “dust curtain” (splitter gate with ductwork) on cement kiln No. 3 in Whitehall Township, **Lehigh County**.

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

24-131K: SGL Carbon, LLC (900 Theresia Street, St. Marys, PA 15857) on January 7, 2008, to modify plan approval 24-131J conditions for Reactors 6 and 7 and for the modification of conditions for Reactor 5 in City of St. Marys, **Elk County**. This is a Title V facility.

61-211A: Schake Industries, Inc. (673 Colbert Avenue, Oil City, PA 16301) on January 7, 2008, to construct a paint spray booth with filters in the Oil City, **Venango County**. This is a Title V facility.

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, Ronald Davis, New Source Review Chief, (717) 705-4702.

05-03002: Tussey Mountain School District (199 Front Street, Saxton, PA 16678-8610) on January 7, 2008, for operation of a boiler at the high school in Liberty Township, **Bedford County**. This is a renewal of the State-only operating permit.

38-03036: Cargill, Inc. (320 North 16th Street, Lebanon, PA 17046-4511) on January 7, 2008, for the animal feed mills in the City of Lebanon, **Lebanon County**. This is a renewal of the State-only operating permit.

38-03045: Valspar Corporation (3050 Hanford Drive, North Lebanon Industrial Park, Lebanon, PA 17046) on January 8, 2008, for operation of a latex paint manufacturing plant in North Lebanon Township, **Lebanon County**.

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

33-00137: Village Farms, LP—Ringgold Plant (Highway LR 33001, P. O. Box 192, Ringgold, PA 15770) on January 7, 2008, to re-issue Natural Minor Operating Permit Number NM-33-00137, for the facility's major sources of emissions are three Auxiliary Boilers used to produce heat for a greenhouse in Ringgold Township, **Jefferson County**.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

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

36-05096: Pennsy Supply, Inc. (P. O. Box 4688, Lancaster, PA 17604-4688) on January 8, 2008, for operation of an asphalt plant in Paradise Township, **Lancaster County**. This State-only operating permit was administratively amended due to a change of ownership. This is Revision No. 1.

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

10-00284: Seneca Landfill, Inc. (421 Hartmann Road, Evans City, PA 16033) on January 8, 2008, for an Administrative Amendment of the Title V Permit, to change the name of permit contact. The facility is located in Jackson Township, **Butler County**.

16-00002: RFI Energy, Inc. (1513 Shannon Tipple Road, Box 162, Sligo, PA 16255) on January 7, 2008, for an Administrative Amendment of the Natural Minor Permit, to change the mailing address, name of responsible official and permit contact. The facility is located in Toby Township, **Clarion County**.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

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

32970112 and NPDES No. PA0234605. AMFIRE Mining Company, LLC, One Energy Place, Latrobe, PA 15650, revision of an existing bituminous surface auger mine to change land use from forestland to pastureland or land occasionally cut for hay in Green Township, **Indiana County**, affecting 103.3 acres. Receiving streams: Buck Run, Dixon Run classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is PA American Water Company Two Lick Creek SWI. Application received August 1, 2007. Permit issued January 8, 2008.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

24970103 and NPDES Permit No. PA0227510. Energy Resources, Inc. (P. O. Box 259, Brockway, PA 15824) Renewal of an existing bituminous strip and auger operation in Fox and Horton Townships, **Elk County** affecting 312.0 acres. Receiving streams: UNT to Benninger Creek and Benninger Creek, UNT to Boderocco Run and Boderocco Run. This renewal is issued for reclamation only. Application received August 31, 2007. Permit issued January 7, 2008.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17970106 and NPDES No. PA0220612. Forcey Coal, Inc. (P. O. Box 225, Madera, PA 16661), permit renewal for the continued operation and restoration of a bituminous surface mine in Decatur Township, **Clearfield County**, affecting 119.9 acres. Receiving stream: Big Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 9, 2007. Permit issued December 28, 2007.

Noncoal Permits Actions

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

28010302 and NPDES Permit No. PA0224162, David H. Martin Excavating, Inc., 4961 Cumberland Highway, Chambersburg, PA 17202-9655, renewal of NPDES Permit, Antrim Township, **Franklin County**.

Receiving streams: UNT to Muddy Run classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received October 12, 2007. Permit issued January 8, 2008.

07020301 and NPDES Permit No. PA0249289, Grannas Brothers Stone & Asphalt Company, Inc., P. O. Box 488, Hollidaysburg, PA 16648, renewal of NPDES Permit, Catharine Township, **Blair County**. Receiving streams: UNT to Frankstown Branch Juniata River classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received October 12, 2007. Permit issued January 8, 2008.

Permit No. 5074SM4 and NPDES Permit No. PA0595888, New Enterprise Stone & Lime Company, Inc., P. O. Box 77, New Enterprise, PA 16664, renewal of NPDES Permit, Fannett Township, **Franklin County**. Receiving streams: tributary to Dry Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 1, 2007. Permit issued January 7, 2008.

Permit No. 31020302 and NPDES Permit No. PA0249319, Glenn O. Hawbaker, Inc., 1952 Waddle Road, State College, PA 16803-1649, renewal of NPDES Permit, Morris Township, **Huntingdon County**. Receiving streams: UNTs to Frankstown Branch Juniata River classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received November 13, 2007. Permit issued January 10, 2008.

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

3573SM8 and NPDES Permit No. PA0126438, Parker Sand & Gravel Company (P. O. Box 0, Parker, PA 16049). Transfer of permit formerly issued to Parker Sand & Gravel Company for continued operation and reclamation of a large noncoal (sand and gravel) surface mining operation located in Hovey Township, **Armstrong County** and Allegheny Township, **Butler County**, affecting 113.0 acres. Receiving streams: two UNTs to Allegheny River. Application received May 25, 2007. Transfer issued January 10, 2008.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

37960304. ESSROC Cement Corp. (P. O. Box 779, Bessemer, PA 16112) Renewal of NPDES Permit No. PA0227307 in North Beaver Township and Bessemer Borough, **Lawrence County**. Receiving streams: Hickory Run Creek. Application received September 19, 2007. Permit issued January 4, 2008.

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

58070850. Walter Konsur, (R. R. 1, Box 481, Jackson, PA 18825), commencement, operation and restoration of a quarry operation in Gibson Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received August 21, 2007. Permit issued January 8, 2008.

58072805. Paul R. Gustin, (P. O. Box 105, Preston Park, PA 18455), commencement, operation and restoration of a quarry operation in Thompson Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received September 21, 2007. Permit issued January 8, 2008.

49072801. Black Diamond Mining, Inc., (P. O. Box 139, Elysburg, PA 17824), commencement, operation and restoration of a quarry operation in Mount Carmel Township, **Northumberland County** affecting 5.0 acres, receiving stream: none. Application received October 17, 2007. Permit issued January 8, 2008.

64072810. Paul R. Gustin, (P. O. Box 105, Preston Park, PA 18455), commencement, operation and restoration of a quarry operation in Scott Township, **Wayne County** affecting 5.0 acres, receiving stream: none. Application received October 19, 2007. Permit issued January 8, 2008.

58072808. Johnson Quarries, Inc., (P. O. Box 136, LeRaysville, PA 18829), commencement, operation and restoration of a quarry operation in Rush Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received November 7, 2007. Permit issued January 8, 2008.

22880302C5 and NPDES Permit No. PA0594211. Haines & Kibblehouse, Inc., (P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Lower Swatara Township, **Dauphin County**, receiving stream: Swatara Creek. Application received November 9, 2007. Renewal issued January 10, 2008.

7975SM2A1C7 and NPDES Permit No. PA0613151. Haines & Kibblehouse, Inc., (P. O. Box 196, Skippack, PA 19474), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Plumstead Township, **Bucks County**, receiving stream: Geddes Run. Application received November 14, 2007. Renewal issued January 10, 2008.

58060872. Gregory D. Rockefeller, (R. R. 2, Box 2165, Friendsville, PA 18818), commencement, operation and restoration of a quarry operation in Middletown Township, **Susquehanna County** affecting 3.0 acres, receiving stream: none. Application received November 1, 2006. Permit issued January 10, 2008.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151–161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Blasting Permits Actions

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

28074160. Newville Construction Services, Inc., 408 Mohawk Road, Newville, PA 17241-9424, blasting activity permit issued for residential development in Antrim Township, **Franklin County**. Blasting activity permit end date is December 31, 2008. Permit issued December 31, 2007.

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

65074001. Coal Loaders, Inc. (210 East Main Street, Ligonier, PA 15658). Blasting activity permit for reclamation of an abandon highwall to the existing government financed construction contract Patel Project, located in Hempfield Township, **Westmoreland County**, with an

expected duration of 1 year. Blasting activity permit received January 19, 2007. Permit issued January 9, 2008.

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

36084102. Keystone Blasting Service, (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for a single dwelling in the City of Lancaster, **Lancaster County** with an expiration date of February 28, 2008. Permit issued January 7, 2008.

36084103. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Willow Bend Farms in West Lampeter Township, **Lancaster County** with an expiration date of January 1, 2009. Permit issued January 7, 2008.

36084104. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Arbor Rose Development in Mt. Joy Borough, **Lancaster County** with an expiration date of January 1, 2009. Permit issued January 7, 2008.

36084105. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Cheltenham Court in Manheim Township, **Lancaster County** with an expiration date of January 1, 2009. Permit issued January 7, 2008.

36084106. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Westwood Green in Manor Township, **Lancaster County** with an expiration date of January 1, 2009. Permit issued January 7, 2008.

35074101. Geological Technologies, Inc., (P. O. Box 70, Falling Waters, WV 25419), construction blasting for Old Grove Estates in Jefferson Township, **Lackawanna County** with an expiration date of January 4, 2009. Permit issued January 8, 2008.

36084107. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for The Villas at Elm Tree in Rapho Township, **Lancaster County** with an expiration date of January 1, 2009. Permit issued January 9, 2008.

36084108. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Wetherburn Commons in Manheim Township, **Lancaster County** with an expiration date of January 1, 2009. Permit issued January 9, 2008.

36084109. Gerlach's Drilling & Blasting, (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for The Villas at Elm Tree in Rapho Township, **Lancaster County** with an expiration date of January 15, 2009. Permit issued January 9, 2008.

38084101. Brubacher Excavating, Inc., (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Lebanon Valley Cold Storage in South Lebanon Township, **Lebanon County** with an expiration date of December 31, 2008. Permit issued January 9, 2008.

46084101. Warren's Excavating & Drilling, Inc., (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Meadow Glen West Phase in Skippack Township, **Montgomery County** with an expiration date of January 1, 2009. Permit issued January 9, 2008.

15084001. Explo-Craft, Inc., (P. O. Box 1332, West Chester, PA 19380), construction blasting at the Cowan Estates in Sadsbury Township, **Chester County** with an expiration date of December 31, 2008. Permit issued January 10, 2008.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

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

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

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

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E02-1517. Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106-7676. To construct a culvert in Richland Township, **Allegheny County**, Pittsburgh ACOE District. (Valencia, PA Quadrangle N: 0.9 inch; W: 15.3 inches, Latitude: 40° 37' 48"; Longitude: 79° 59' 09"). To construct and maintain a 500 LF of floodway fill in Montour Run (TSF) with a drainage area of 3.16 square miles; construct and maintain in drainage areas

less than 100 acres in a UNT to Montour Run (TSF) 110 LF stream relocation and a 92 LF 18-inch diameter culvert; fill and maintain 0.34 acre of PEM/PSS/PFO wetland; and construct and maintain associated stormwater outfalls for the purpose of installing access roads to the Turnpike (I-79). To compensate for the stream impacts the applicant will provide a minimum of 92' of stream mitigation and for the wetland impacts, a minimum of .40 acre of replacement wetlands. This project is located approximately 800 feet northwest of the Gibsonia Road (SR 910) overpass of the Turnpike.

E26-339. Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106. To construct Section 51G of the Mon/Fayette Expressway in Luzerne Township, **Fayette County**, Pittsburgh ACOE District. To construct Section 51G, a 2 mile long section of the Monfayette Expressway, SR 43, located south of Brownsville and between Dunlap Creek to the east and the Monongahela River to the west. To construct and maintain the following:

1. A 9-span bridge on SR 0043 across Rush Run and having spans 260 feet, 260 feet, 273 feet, 441.5 feet, 518 feet, 423 feet, 260 feet, 317.5 feet and 260 feet SR 0043, Station 784+00 (Carmichaels, PA Quadrangle N: 0.30 inch; W: 7.65 inches, Latitude: 40° 0' 6.07"; Longitude: 79° 55' 47.09"). This structure includes a temporary stream relocation and temporary stream crossing of said stream. This stream includes 578 feet of permanent stream relocation of said stream. This same structure spans the Monongahela River (permitted in Section 51H).

2. A 300-foot long, 30-inch RC pipe stream enclosure in UNT to Rush Run (WWF) located at SR 0043 Station 784+00, (California, PA Quadrangle N: 0.40 inch; W: 7.55 inches, Latitude: 40° 0' 3.18"; Longitude: 79° 55' 44.13"). This structure includes a temporary stream crossing and relocation of 50 feet of said stream.

3. A 150-foot long, 30-inch RC pipe stream enclosure in UNT to Rush Run (WWF) located at SR 0043 Station 783+00, (California, PA Quadrangle N: 0.35 inch; W: 7.50 inches, Latitude: 40° 0' 6.98"; Longitude: 79° 55' 43.1"). This structure includes a temporary stream crossing.

4. A 850-foot long placement of fill in a UNT to Rush Run (WWF) located at SR 0043, Station 777+00, (California, PA Quadrangle N: 0.15 inch; W: 7.30 inches, Latitude: 40° 0' 6.98"; Longitude: 79° 55' 37.22").

5. A 144-foot long placement of fill in a UNT to Rush Run (WWF) located at SR 0043, Station 777+00, (California, PA Quadrangle N: 0.15 inch; W: 7.25 inches, Latitude: 40° 0' 3.28"; Longitude: 79° 55' 37.39").

6. A 143-foot long placement of fill in a UNT to Cox Run (WWF) located at SR 0043, Station 756+00, (Carmichaels, PA Quadrangle N: 22.30 inches; W: 6.45 inches, Latitude: 39° 59' 51.36"; Longitude: 79° 55' 15.54").

7. A 175-foot long, 84-inch RC pipe stream enclosure in UNT to Cox Run (WWF) located at Telegraph Road North Station 130+00, (Carmichaels, PA Quadrangle N: 22.25 inches; W: 5.65 inches, Latitude: 39° 59' 52.00"; Longitude 79° 54' 55.38"). This structure includes a 37-foot long stream channel relocation of said stream.

8. A 612-foot long, 42-inch RC pipe stream enclosure in a UNT to Cox Run (WWF) located at SR 0043 inches, Station 725+00, (Carmichaels, PA Quadrangle N: 21.40 inches; W: 5.10 inches, Latitude: 39° 59' 35.28"; Longitude: 79° 54' 41.55"). This structure includes a temporary stream crossing of said stream.

9. A 4-span bridge on SR 0043 Northbound across Cox Run and having spans of 145 feet, 185 feet, 185 feet and 145 feet SR 0043, Station 716+50, (Carmichaels, PA Quadrangle N: 21.25 inches; W: 4.70 inches, Latitude: 39° 59' 33.02"; Longitude: 79° 54' 31.72"). This structure includes a temporary stream crossing of said stream.

10. A 4-span bridge on SR 0043 Southbound across Cox Run and having spans of 140 feet, 180 feet, 180 feet and 140 feet SR 0043, Station 716+50, (Carmichaels, PA Quadrangle N: 21.25 inches; W: 4.70 inches, Latitude: 39° 59' 33.02"; Longitude: 79° 54' 31.72"). This structure includes a temporary stream crossing of said stream.

11. A 720-foot long, 36-inch RC stream enclosure in a UNT to Cox Run (WWF) located at Bull Run Road, Station 135+00, (Carmichaels, PA Quadrangle N: 21.20 inches; W: 4.60 inches, Latitude: 39° 59' 32.65"; Longitude: 79° 54' 29.19").

12. A 2-span bridge on Bull Run Road Connector across Cox Run and having spans of 130 feet and 130 feet Bull Run Road Connector, Station 83+00, (Carmichaels, PA Quadrangle N: 20.85 inches; W: 4.80 inches, Latitude: 39° 59' 24.59"; Longitude: 79° 54' 32.93"). This structure includes a temporary stream crossing of said stream.

13. The project will impact 1.422 acres of wetlands.

The drainage areas for items 2, 3, 8 and 11 are less than 100 acres.

E26-340. Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106. To construct a bridge and impact wetlands in Redstone and Luzerne Townships, **Fayette County**, Pittsburgh ACOE District (Carmichaels and New Salem, PA Quadrangles N: 21.8 inches; W: 16.8 inches, Latitude: 39° 59' 46"; Longitude: 79° 52' 06"). To construct and maintain the following encroachments associated with Section 51F of the Mon/Fayette Expressway:

1. A 147-foot long placement of fill in a UNT to Dunlap Creek (WWF) located at SR 43, Station 596+79 to 597+93, (New Salem, PA Quadrangle N: 21.8-inches; W: 16.8-inches, Latitude: 39° 59' 46"; Longitude: 79° 52' 06").

2. A 127-foot long placement of fill in a UNT to Dunlap Creek (WWF) located at SR 43, Station 597+01 to 598+20, (New Salem, PA Quadrangle N: 21.85-inches; W: 16.8-inches, Latitude: 39° 59' 45"; Longitude: 79° 52' 07").

3. A 428-foot long, 48-inch RC pipe stream enclosure in a UNT to Dunlap Creek (WWF) located at SR 43 Station 614+67 to 617+65, (New Salem, PA Quadrangle N: 21.7-inches; W: 17.35-inches, Latitude: 39° 59' 48"; Longitude: 79° 52' 29"). This structure includes a temporary stream crossing and a temporary stream relocation of said stream.

4. A 64-foot long, 60-inch RC pipe stream enclosure which is depressed 6 inches in a UNT to Dunlap Creek (WWF) located at relocated Simpson Road Station 10+85, (New Salem, PA Quadrangle N: 21.85-inches; W: 16.8-inches, Latitude: 39° 59' 37"; Longitude: 79° 52' 07"). This structure includes a temporary stream crossing and a temporary stream relocation of said stream.

5. A 310-foot long, 54-inch RC pipe stream enclosure in a UNT to Dunlap Creek (WWF) located at SR 43 Station 613+78 to 614+59, (New Salem, PA Quadrangle N: 21.9-inches; W: 17.3-inches, Latitude: 39° 59' 49"; Longitude: 79° 52' 32"). This structure includes a temporary stream crossing and a temporary stream relocation of said stream.

6. A 6-span bridge on the south bound of SR 43 across Dunlap Creek (WWF) and having spans of 230 feet, 285

feet, 285 feet, 285 feet, 285 feet and 240 feet Station SR 43 690+00 (Carmichaels, PA Quadrangle N: 21.4-inches; W: 3.6-inches, Latitude: 39° 59' 37"; Longitude: 79° 53' 58"). This structure includes a temporary stream crossing and a temporary stream relocation of said stream.

7. A 6-span bridge on the north bound of SR 43 across Dunlap Creek (WWF) and having spans of 200 feet, 245 feet, 245 feet, 285 feet and 255 feet, Station, SR 43 690+00 (Carmichaels, PA Quadrangle N: 21.4-inches; W: 3.6-inches, Latitude: 39° 59' 37"; Longitude: 79° 53' 58"). This structure includes a temporary stream crossing and a temporary stream relocation of said stream.

8. Stormwater outfalls, to Dunlap Creek and tributaries to Dunlap Creek.

9. Fill in 0.064 acre of wetlands.

10. Mitigation for the wetland impacts will be compensated under Permit No. E26-326; compensation for the stream impacts will be provided per the "Stream Funding Mitigation Agreement between Pennsylvania Turnpike Commission (PTC) and Fayette County Conservation District (FCCD)."

Except for items 6 and 7, all drainage areas are less than 100 acres.

E26-342. Turnpike Commission, P. O. Box 67576, Harrisburg, PA 17106. To construct Section 51E2 of the Mon/Fayette Expressway in Redstone Township, **Fayette County**, Pittsburgh ACOE District.

1. (New Salem, PA Quadrangle N: 21.7-inches; W: 15.0-inches, Latitude: 39° 59' 42"; Longitude: 79° 51' 40"). A 597-foot long, 36-inch RC pipe stream enclosure in a UNT to Dunlap Creek (WWF) located at SR 43, Station 566+64. This structure includes a 140-foot long stream relocation of said stream. This structure includes a temporary stream crossing.

2. (New Salem, PA Quadrangle N: 21.6-inches; W: 15.0-inches, Latitude: 39° 59' 40"; Longitude: 79° 51' 31"). A 101-foot long channel relocation of a UNT to Dunlap Creek (WWF) located at Station SR 43 567+00.

3. (New Salem, PA Quadrangle N: 22.0-inches; W: 15.4-inches, Latitude: 39° 59' 42"; Longitude: 79° 51' 39"). A 620-foot long, 48-inch RC pipe stream enclosure in a UNT to Dunlap Creek (WWF) located at Davidson Siding Road 45+85.

4. (New Salem, PA Quadrangle N: 22.0-inches; W: 16.6-inches, Latitude: 39° 59' 46"; Longitude: 79° 52' 05"). A 120-foot long placement of fill in a UNT to Dunlap Creek (WWF) located at SR 43 595+10.

5. (New Salem, PA Quadrangle N: 22.0-inches; W: 16.6-inches, Latitude: 39° 59' 46"; Longitude: 79° 52' 05"). A 3-span bridge on the north bound lanes of SR 43 across a UNT to Dunlap Creek (WWF) and having spans of 104-feet, 145-feet and 104-feet located at Station SR 595+09. This structure includes a temporary stream crossing.

6. (New Salem, PA Quadrangle N: 22.0-inches; W: 16.6-inches, Latitude: 39° 59' 46"; Longitude: 79° 52' 05"). A 3-span bridge on the south bound lanes of SR 43 across a UNT to Dunlap Creek (WWF) and having spans of 104-feet, 145-feet and 104-feet located at Station SR 595+09.

7. The project will impact 0.052 acre of wetlands.

With the exception of items 5 and 6, all drainage areas are less than 100 acres.

This project is associated with the construction of Section 51E2 (a 1.3 mile lone section of the Mon/Fayette Expressway centered approximately 1.5 miles southeast of Brownsville. Wetland impact mitigation is provided by E26-326 issued September, 2005; compensation for the stream impacts will be provided per the "Stream Funding Mitigation Agreement between Pennsylvania Turnpike Commission (PTC) and Fayette County Conservation District (CCED)."

E65-895. Westmoreland County Commissioners, 601 Courthouse Square, Greensburg, PA 15601. To construct a culvert in Monastery Run and impact wetlands in Unity Township, **Westmoreland County**, Pittsburgh ACOE District (Latrobe, PA Quadrangle N: 8.3 inches; W: 3.1 inches, Latitude: 40° 17' 44"; Longitude: 79° 23' 51"). To construct and maintain a 75 LF long, 30.0 ft span, 11 ft. vertical clearance arch culvert in Monastery Run (WWF) with a drainage area of 2.97 square miles; and fill and maintain a total of 0.71 acre of adjacent PEM wetlands. Construction and maintenance of a total of 2.89 acres of PEM and PFO replacement wetlands will be a part of the permit associated with the nearby road improvement and SR 1045, St. Vincent Drive relocation projects. The project includes demolition of the adjoining and existing county owned Beatty Road metal plate arch culvert that has a span of 28 ft., rise of 8 ft. and length of 36 ft. and construction and maintenance of stormwater outfalls. This project is located adjacent to St. Vincent College. Total impacts are approximately 75 ft. of stream channel and 0.71 acre of wetland.

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

E10-413A. Park Place Associates, LP, 215 Executive Drive, Suite 300, Cranberry Township, PA, 16066. Park Place TND Plan of Lots Residential Development. ACOE Pittsburgh District (Baden, PA Quadrangle N: 40° 42' 13.6"; W: 80° 08' 8.95") in Cranberry Township, **Butler County**.

To conduct the following activities associated with development of Park Place residential development located north of Rochester Road approximately 1.6 miles west of SR 19:

1. To permanently impact 0.143-acre of wetland (PEM/PSS) for the construction of a stormwater retention pond and roadway grading.

2. To temporarily impact 0.245-acre of wetland (PFO, PEM, PSS) for installation of a sewer line.

3. To impact a total of 1,295 linear feet of various tributaries to Brush Creek including roadway crossings, culverts, enclosure and fill for lot development.

This project includes the following measures and/or activities as onsite mitigation for the project impacts:

1. Relocation of 190 LF of tributary 5.

2. Construction of a 0.21-acre replacement wetland.

3. Restoration of 1,385 LF of an offsite portion of tributary 6.

4. Establish Conservation Easements for 5,210 LF of tributaries to Brush Creek, 750 LF of Brush Creek and 23.05 acres of wetlands in the project area.

E10-432, Wain Farms, LLC, 1629 North Main Street, Butler, PA 16001. Orchard Park Planned Residential Development, in Cranberry Township, **Butler County**, ACOE Pittsburgh District (Baden, PA Quadrangle N: 40° 41' 25"; W: 80° 08' 32").

To construct and maintain the following impacts to a tributary to Brush Creek (WWF) and adjacent wetlands associated with construction of Strawberry Circle, a roadway within Phases 2 and 3 of Orchard Park Residential Development located on an approximately 61 acre parcel along the west side of Powell Road approximately 0.5 mile south of Rochester Road:

1. Extend the existing 4-foot diameter corrugated steel pipe culvert under Powell Road to a length of 66.33 feet.
2. Crossing 1 impacting a total of approximately 140 feet of the tributary including 103 feet of 60-inch diameter HDPE pipe stream enclosure and 37 feet of rock riprap scour protection approximately 350 feet upstream of Powell Road in Phase 2 of the development.
3. Crossing 2 impacting a total of approximately 130 feet of the tributary having a drainage area less than 100 acres including 110 feet of 30-inch diameter HDPE pipe stream enclosure and 20 feet of rock riprap scour protection.
4. Crossing 3 impacting a total of approximately 140 feet of the south branch of the tributary having a drainage area less than 100 acres including 113 feet of 30-inch diameter HDPE pipe stream enclosure and 27 feet of rock riprap scour protection.
5. Crossing 4 impacting a total of approximately 125 feet of the west branch of the tributary having a drainage area less than 100 acres including 75 feet of 42-inch diameter HDPE pipe culvert, 40 feet of rock riprap scour protection and fill within 0.2 acre of adjoining wetland (PEM).

Project includes construction of 0.3 acre of replacement wetland within the development along the east side of the tributary to Brush Creek and existing wetland upstream of Crossing 1 and stream enhancement activities along at total of approximately 845 linear feet of the tributaries to Brush Creek including bank stabilization, riparian buffers and a j-hook rock vane.

E20-558, Lake Property Holdings, LLC, 22487 Hobbs Road, Meadville, PA 16335. Snow Waters, in Summit Township, **Crawford County**, ACOE Pittsburgh District (Harmonburg, PA Quadrangle N: 3.5 inches; W: 9 inches).

The applicant proposes to construct and maintain a 192 acre development (Harmonburg, PA Quadrangle N: 3.5 inches; W: 9 inches) in Summit Township, Crawford County consisting of 183 condominium residences, golf course and club house, restaurant, 189 slip boat harbor and associated infrastructure and utilities on the site of the existing Park Golf Course and former Jo-Winn Mobile Home Park adjacent to SR 618 centered approximately

0.6 mile NW of the intersection of SR 618 and SR 18 and involving: 1) to dredge wetlands, uplands and an existing body of water adjacent to Inlet Run utilizing a track mounted excavator and hydraulic dredge or pump dredge in a 3.8 acre area to a depth of 6 feet below mean water elevation to construct a proposed boat harbor area and to construct and maintain (within the 3.8 acre area) by dredging a 0.5 acre turning pool/sediment settling area with a depth of 8 feet below mean water elevation; 2) to dredge Inlet Run from the proposed turning pool to the mouth for a length of approximately 1,200 feet downstream utilizing a hydraulic dredge in a 1.5 acre area to a depth of 8 feet below mean water elevation; 3) to construct a channel realignment having a length of 200 feet at the southwest corner of the SR 618 bridge; 4) to dredge Conneaut Lake and the Fish and Boat Commission launch for a length of approximately 600 feet utilizing a hydraulic dredge in a 1.1 acre area to a depth of 6 to 8 feet below mean water to improve navigation; 5) to construct and maintain boat harbor consisting of 1,256 linear feet of steel sheet piling bulkhead and 14,000 square foot of floating gangways and docks consisting of 189 slips and equipped with water circulation pumps; 6) to construct and maintain approximately 1,115 linear feet of steel sheet piling adjacent to Inlet Run; 7) to remove 15 existing golf cart/pedestrian bridges and to construct and maintain 11 open truss, golf cart bridges having spans of 25 to 50 feet on Inlet Run and a tributary to Inlet Run; 8) to construct and maintain a walkway, golf course grading, course modifications, irrigation system, ponds and miscellaneous course structures within the FEMA floodway of Inlet Run; 9) to construct and maintain 12 stormwater outfalls to Inlet Run, 4 stormwater outfalls to a tributary to Inlet Run and 5 stormwater outfalls to the proposed harbor; 10) to construct and maintain a 315-foot long stream enclosure having two 3-foot HDPE diameter pipes; 11) to construct and maintain approximately 9 utility line and irrigation line crossings of Inlet Run and tributaries to Inlet Run for water, sanitary sewer, gas, electric and telecommunication as described in the application; 12) to impact 1.19 acres of wetlands (0.65 acre of PSS wetland, 0.09 acre of PFO and 0.45 acre of PEM wetlands) for the construction of the buildings, infrastructure and a boat marina; 13) to construct three wetland mitigation areas having areas of 0.54 acre, 0.63 acre and 0.53 acre respectively; 14) to construct and maintain stream restoration/stabilization of 1,100 linear feet of Inlet Run and 15) to construct and maintain a temporary construction crossings of Inlet Run and tributaries of Inlet Run. Conneaut Lake, Inlet Run and the tributaries to Inlet Run are perennial bodies of water and streams classified as HQ-WWF.

STORAGE TANKS**SITE-SPECIFIC INSTALLATION PERMITS**

The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101 and 6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.

<i>SSIP Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
08-21-007	Arnold Fuel Oil, Inc. P. O. Box 2621 Harrisburg, PA 17105-2621 Attn: Stephen Carten	Cumberland	Silver Spring Township	4 ASTs storing Petroleum Products	9,038,749 gallons total

SPECIAL NOTICES**RECYCLING GRANT AWARDS UNDER THE MUNICIPAL WASTE PLANNING, RECYCLING AND WASTE REDUCTION ACT OF 1988, ACT 101**

The Department of Environmental Protection (Department) announces the following grants to municipalities for recycling programs under section 902 of the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act (act) (53 P. S. §§ 4000.101—4000.1904).

Grant funds are used to develop and implement recycling programs. Municipalities and counties are eligible for up to 90% funding of approved recycling program costs. Municipalities considered financially distressed under the Financial Distressed Communities Act, P. L. 246, No. 47 of 1987, are eligible to receive funding for an additional 10% of approved costs. All grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of act (53 P. S. §§ 4000.701 and 4000.702) and the availability of monies in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Todd Pejack, Recycling Grants Coordinator, Department of Environmental Protection, Bureau of Waste Management, Division of Waste Minimization and Planning, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472.

1	Lower Makefield Township Bucks County	Yard Waste Collection and Processing	\$57,357
2	Caln Township Chester County	Yard Waste Program	\$163,458
3	Chester County SWA Chester County	Drop-off Recycling and Yard Waste Program	\$89,021
4	West Brandywine Township Chester County	Yard Waste Program	\$207,063
5	West Grove Borough Chester County	Yard Waste Program	\$61,471
6	Glenolden Borough Delaware County	Yard Waste Collection	\$35,174
7	Haverford Township Delaware County	Yard Waste Collection	\$103,590
8	Lansdowne Borough Delaware County	Curbside Recycling	\$93,900
9	Marple Township Delaware County	Curbside Recycling	\$119,190
10	Newtown Township Delaware County	Yard Waste Collection and Curbside Recycling	\$286,470
11	Ridley Township Delaware County	Curbside Recycling and Yard Waste Collection	\$140,506
12	Upper Chichester Township Delaware County	Curbside Recycling	\$181,180
13	Abington Township Montgomery Township	Curbside Recycling	\$499,500
14	Cheltenham Township Montgomery County	Curbside Recycling and Yard Waste Program	\$284,050
15	Douglass Township Montgomery County	Yard Waste Processing and Curbside Recycling	\$131,203

16	Lower Pottsgrove Township Montgomery County	Yard Waste Facility and Drop-off Recycling	\$394,969
17	Springfield Township Montgomery County	Yard Waste Processing	\$368,100
18	Upper Dublin Township Montgomery County	Curbside Recycling and Yard Waste Collection	\$300,380
19	City of Philadelphia Philadelphia County	Curbside Recycling	\$500,000
20	Archbald Borough Lackawanna County	Curbside Recycling and Recycling Program Study	\$19,210
21	Clarks Summit Borough Lackawanna County	Curbside Recycling	\$10,710
22	Moosic Borough Lackawanna County	Curbside Recycling	\$33,075
23	Moscow Borough Lackawanna County	Recycling Program Study	\$9,000
24	Old Forge Borough Lackawanna County	Curbside Recycling	\$223,800
25	City of Scranton Lackawanna County	Curbside Recycling	\$69,250
26	Throop Borough Lackawanna County	Curbside Recycling	\$166,275
27	City of Allentown Lehigh County	Recycling Center and Curbside Recycling	\$128,810
28	Lehigh County Lehigh County	Yard Waste Composting	\$450,000
29	Lower Macungie Township Lehigh County	Curbside Recycling and Yard Waste Processing	\$149,526
30	South Whitehall Township Lehigh County	Curbside Recycling	\$4,158
31	Whitehall Township Lehigh County	Recycling Center	\$4,050
32	Upper Macungie Township Lehigh County	Curbside Recycling and Yard Waste Collection	\$31,741
33	Dallas Borough Luzerne County	Yard Waste Collection and Curbside Recycling	\$25,195
34	Dorrance Township Luzerne County	Recycling Center and Drop-off Recycling	\$88,515
35	City of Pittston Luzerne County	Curbside Recycling	\$6,894
36	Plains Township Luzerne County	Curbside Recycling	\$152,217
37	Plymouth Borough Luzerne County	Curbside Recycling	\$85,368
38	City of Wilkes-Barre Luzerne County	Curbside Recycling	\$167,200
39	Coolbaugh Township Monroe County	Yard Waste Composting and Collection	\$299,156
40	East Stroudsburg Borough Monroe County	Yard Waste and Recycling Center	\$36,110
41	Monroe County Monroe County	Drop-off Recycling	\$206,858
42	Stroud Township Monroe County	Yard Waste Program and Recycling Program Study	\$249,430
43	Allen Township Northampton County	Yard Waste Facility	\$441,000

NOTICES

545

44	City of Bethlehem Northampton County	Yard Waste Recycling	\$424,000
45	City of Easton Northampton County	Yard Waste Composting and Municipal Recycling	\$41,435
46	Hanover Township Northampton County	Yard Waste Collection and Curbside Recycling	\$214,835
47	Williams Township Northampton County	Recycling Drop-off Facility	\$19,872
48	Aubrun Borough Schuylkill County	Yard Waste Program	\$99,705
49	Frackville Borough Schuylkill County	Drop-off Recycling	\$7,870
50	Minersville Borough Schuylkill County	Yard Waste Program	\$121,173
51	Schuylkill County Schuylkill County	Recycling Drop-off Program	\$234,072
52	Adams County Adams County	Recycling Center and Drop-off Recycling	\$135,578
53	Berks County SWA Berks County	Drop-off Recycling	\$12,555
54	Bern Township Berks County	Recycling Study and Yard Waste	\$175,278
55	Exeter Township Berks County	Yard Waste Program and Curbside Recycling	\$65,669
56	City of Reading Berks County	Yard Waste Processing and Curbside Recycling	\$250,852
57	West Reading Borough Berks County	Yard Waste Collection	\$25,622
58	City of Altoona Blair County	Yard Waste Colleciton and Curbside Recycling	\$500,000
59	Camp Hill Borough Cumberland County	Yard Waste Composting	\$120,600
60	Lower Allen Township Cumberland County	Yard Waste Collection	\$135,476
61	South Middleton Township Cumberland County	Curbside Recycling	\$6,920
62	City of Harrisburg Dauphin County	Yard Waste Program	\$220,500
63	Susquehanna Township Dauphin County	Curbside Recycling	\$156,600
64	Lurgan Township Franklin County	Drop-off Recycling	\$86,010
65	Huntingdon County Huntingdon County	Drop-off Recycling	\$58,982
66	Columbia Borough Lancaster County	Yard and Food Waste Recycling Programs	\$206,171
67	City of Lancaster Lancaster County	Yard Waste Collection and Curbside Recycling	\$179,050
68	Lancaster County SWMA Lancaster County	Drop-off and Curbside Recycling	\$18,488
69	Lebanon County Lebanon County	School Recycling Program	\$12,536
70	City of Lebanon Lebanon County	School Recycling Program and Curbside Recycling	\$12,910
71	North Cornwall Township Lebanon County	Drop-off Recycling	\$234,635

72	North Lebanon Township Lebanon County	Recycling Processing and Yard Waste Drop-off	\$15,599
73	North Londonderry Township Lebanon County	Yard Waste Facility and Drop-off Recycling	\$366,086
74	South Lebanon Township Lebanon County	School Recycling and Yard Waste Collection	\$69,526
75	Union Township Lebanon County	Drop-off Recycling Centers	\$95,497
76	West Lebanon Township Lebanon County	Yard Waste Program	\$74,629
77	Mifflin County Mifflin County	Recycling Center and Drop-off Recycling	\$248,744
78	Perry County Perry County	Drop-off Recycling	\$224,869
79	Fairview Township York County	Yard Waste Composting	\$101,710
80	Hallam Borough York County	Curbside Recycling	\$2,475
81	Wrightsville Borough York County	Curbside Recycling	\$213,723
82	City of York York County	Yard Waste Processing	\$37,860
83	York County SWRA York County	Curbside Recycling	\$154,102
84	York Township York County	Yard Waste Collection	\$195,210
85	Northern Tier Bradford County	Curbside Recycling and Recycling Center	\$180,900
86	Sayre Borough Bradford County	Yard Waste Composting and Recycling Programs	\$499,590
87	Centre County SWA Centre County	Recycling Center and Community Events	\$211,914
88	College Township Centre County	Yard Waste Collection and Processing	\$52,795
89	Harris Township Centre County	Yard Waste Collection	\$119,838
90	Howard Borough Centre County	Yard Waste Facility	\$28,800
91	Ferguson Township Centre County	Yard Waste Collection	\$113,384
92	Phillipsburg Borough Centre County	Yard Waste Processing	\$49,141
93	State College Borough Centre County	Yard Waste Facility and Collection	\$226,251
94	Clearfield County SWA Clearfield County	Community Events and Recycling Study	\$27,510
95	Clinton County Clinton County	Recycling Center and Drop-off/Curbside	\$440,397
96	Berwick Borough Columbia County	Yard Waste Composting	\$253,238
97	Bloomsburg Borough Columbia County	Recycling Center and Yard Waste Composting	\$206,707
98	Loyalsock Township Lycoming County	Public Place Recycling and Yard Waste Collection	\$15,739
99	Lycoming County Lycoming County	Curbside and Drop-off Recycling Programs	\$494,550

NOTICES

547

100	Pine Township Lycoming County	Yard Waste Processing	\$26,165
101	Danville Borough Montour County	Yard Waste Collection	\$19,350
102	Lewis Township Northumberland County	Drop-off Recycling	\$23,066
103	Northumberland Borough Northumberland County	Recycling Facility	\$7,200
104	Union County Union County	Yard Waste and Recycling Programs	\$492,044
105	Bridgeville Borough Allegheny County	Yard Waste Program and Curbside Recycling	\$78,636
106	Harrison Township Allegheny County	Curbside Recycling and Yard Waste Recycling	\$73,849
107	Jefferson Hills Borough Allegheny County	Curbside Recycling and Community Events	\$6,245
108	City of McKeesport Allegheny County	Yard Waste Collection and Curbside Recycling	\$78,870
109	Moon Township Allegheny County	Yard Waste Recycling Program	\$63,785
110	North Versailles Township Allegheny County	Curbside Recycling and Yard Waste Composting	\$282,383
111	Municipality of Penn Hills Allegheny County	Yard Waste Collection	\$9,000
112	Pine Township Allegheny County	Curbside Recycling and Drop-off Program	\$18,778
113	City of Pittsburgh Allegheny County	Curbside and Drop-off Recycling	\$499,695
114	South Fayette Township Allegheny County	Yard Waste Composting	\$52,458
115	Swissvale Borough Allegheny County	Yard Waste Composting	\$86,040
116	Twin Rivers COG Allegheny County	Curbside Recycling	\$92,943
117	Upper St. Clair Township Allegheny County	Drop-off Recycling	\$5,778
118	West Deer Township Allegheny County	Recycling Program Study and Yard Waste Collection	\$495,000
119	City of Aliquippa Beaver County	Yard Waste Program	\$70,400
120	Baden Borough Beaver County	Yard Waste Program	\$29,700
121	Beaver County Beaver County	Yard Waste Program and Community Events Recycling	\$181,154
122	City of Beaver Falls Beaver County	Curbside Recycling and Yard Waste Program	\$95,400
123	Hopewell Township Beaver County	Yard Waste Program	\$49,460
124	Rochester Township Beaver County	Yard Waste Program	\$79,361
125	Indiana Borough Indiana County	Yard Waste Program and Curbside Recycling	\$52,656
126	Indiana County SWA Indiana County	Recycling Center and Drop-off Recycling	\$322,083
127	Cranberry Township Butler County	Drop-off Recycling	\$33,337

128	Elk County Elk County	Yard Waste Processing and Curbside/Drop-off Recycling	\$24,584
129	City of Erie Erie County	Yard Waste Composting and Curbside Recycling	\$444,000
130	Greenfield Township Erie County	Curbside Recycling	\$151,987
131	Millcreek Township Erie County	Yard Waste Composting	\$297,260
132	Jefferson County Jefferson County	Drop-off Recycling	\$42,141
133	Lawrence County Lawrence County	Curbside and Community Events Recycling	\$22,500
134	City of Warren Warren County	Curbside Recycling	\$120,384

[Pa.B. Doc. No. 08-134. Filed for public inspection January 25, 2008, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) website at www.depweb.state.pa.us (DEP Keywords: Technical Guidance). The "Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2008.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Draft Technical Guidance—Substantive Revision

DEP ID: 383-3301-205 Title: Laboratory Reporting Instructions for Radiological Contaminants in Drinking Water Systems. Description: This guidance provides instructions to all community public water systems and certified laboratories for the reporting of drinking water radiological monitoring results for gross alpha, radium 226, radium 228, uranium, gross beta, tritium, strontium-90 and iodine-131, as required by the Federal Radionuclides Rule and as implemented in Chapter 109 (relating to water quality). This guidance has been revised to incorporate changes to reporting requirements under the revised regulations, which became effective on April 3, 2004, and to establish uniform instructions and protocol for implementing reporting requirements for the contaminants regulated under this rule. Written Com-

ments: The Department is seeking comments on the substantive revisions to draft technical guidance No. 383-3301-205. Interested persons may submit written comments on this draft technical guidance document by February 25, 2008. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Dawn Hissner, Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, Rachel Carson State Office Building, 11th Floor, P. O. Box 8467, Harrisburg, PA 17105-8467, dhissner@state.pa.us. Contact: Questions regarding the draft technical guidance document should be directed to Dawn Hissner at (717) 787-0130 or dhissner@state.pa.us. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 08-135. Filed for public inspection January 25, 2008, 9:00 a.m.]

Submission Date for Recycling Program Development and Implementation Grants under the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988

The Department of Environmental Protection (Department) announces the availability of applications to municipalities for recycling program grant assistance under section 902 of the Municipal Waste Planning, Recycling and Waste Reduction Act (act) (53 P. S. § 4000.902). Municipalities eligible for recycling grants include counties, cities, boroughs, incorporated towns, townships, home rule municipalities, councils of governments, consortiums, or similar entities established by two or more municipalities under 53 Pa.C.S. Ch. 23, Subchapter A (relating to intergovernmental cooperation).

Applicants must be in compliance with the act and the implementing regulations, the Department's Guidelines for Proper Management of Recyclable Materials, and any previous grant contract provisions to be eligible to receive grant funding. County applicants should be in compliance with planning and other county-related provisions of the act. Applicants who are not in compliance with the act's

annual reporting requirements will not be considered in this grant application round. Programs operating in municipalities covered by land use plans and ordinances (as outlined under Acts 67 and 68 of 2000) or projects that are in compliance with their municipality's land use plan will receive priority over similar programs and projects absent such conditions.

Municipalities are eligible for 90% funding of approved recycling program costs. Municipalities considered financially distressed by the Department of Community and Economic Development under the Municipalities Financial Recovery Act (53 P. S. §§ 11071.101—11701.501) are eligible for 100% of approved costs. An application requesting more than \$500,000 in grant funding will not be accepted. Because funding for educational efforts will be limited, applicants should, when practicable, allocate these costs toward their required match.

Applicants must submit a plan as part of their funding request that includes definitive actions and strategies for optimizing program self-sufficiency. The plan shall include, at a minimum, strategies for reducing costs and generating revenues, provisions for establishing incentives associated with waste reduction and recycling, mechanisms for public outreach and stakeholder input and tracking mechanisms to document progress toward sustainability milestones until optimum sustainability is realized. The Department's technical report on *Building Financially Sustainable Recycling Programs* can provide assistance in developing such methods and strategies. The technical report can be found on the Department's website at www.dep.state.pa.us/dep/deputate/airwaste/wm/recycle/recycle.htm. Applicants that fail to complete the Sustainability Plan portion of the application will not be considered for funding.

Applicants requesting support for the following (and demonstrating how the request will lead toward greater program self-sufficiency) will receive priority for funding:

1. Development and implementation of an incentive based pricing and collection program designed to increase the quantities and types of recyclable materials and reduce the quantity of waste collected.
2. Vehicles for the curbside collection of materials from residents that utilize an energy source other than, or in addition to, petroleum products. Pick-up trucks will not be considered eligible for funding.
3. Multimunicipal collection, processing and materials marketing programs where a formal intergovernmental agreement/program exists for cost sharing.
4. Equipment and education necessary to collect and/or process fiber (corrugated, junk mail, mixed paper, and the like) not currently included in the applicant's recycling program.

Projects eligible for grant funding are those which divert the following recyclable materials from municipal solid waste: clear glass, colored glass, aluminum, steel and bimetallic cans, high-grade office paper, newsprint, corrugated paper, other marketable grades of paper, plastics, source separated food scraps and leaf and yard wastes.

Projects involving municipalities lacking a mandatory trash collection program or projects seeking support for a residential recycling program where a corresponding commercial recycling program does not exist will not be considered for funding. Applicants seeking funds to replace curbside collection containers and/or collection ve-

hicles will need to demonstrate that the new equipment will increase collection efficiencies and tonnage of materials.

Eligible recycling program development costs include: recycling program design costs, recycling market investigations, development of recycling market commitments, development of recycling program ordinances, developing of recycling public education programs, and the costs of developing contracts for procuring equipment or services necessary for the operation of the recycling program.

Eligible recycling program implementation costs include: purchase or lease of vehicles used to collect recyclables (including automated and single-stream collection vehicles), transport of recyclables to processing facilities or markets, including vehicles used in the operation of a materials recovery facility; purchase of reusable containers for the collection or storage of recyclable materials; acquisition or renovation, or both, of buildings for the processing or storage of recovered materials; equipment used to process or manufacture recyclable materials into usable products; and improvements to land needed to operate a recycling facility or yard waste composting facility authorized under 25 Pa. Code § 271.103(h) (relating to permit-by-rule for municipal waste processing facilities other than for infectious or chemotherapeutic waste; qualifying facilities; general requirements); and the costs associated with educating the public on recycling program requirements. Under this grant solicitation, promotional items, glass crushing equipment (unless specific marketing arrangements have been identified), vehicles equipped with compaction units (except for the sole collection of yard waste, paper fiber and/or single-stream collection where a facility equipped to process such material has been identified), backyard composting units and public recycling containers for parks and streetscapes will not be considered eligible for funding. Other eligible and noneligible costs are listed in the grant application packet. Composting projects and programs will be considered to be recycling projects or programs accordingly.

A municipality must retain sole ownership of equipment or facilities funded by the grant. Funding for equipment or facilities purchased for the recycling program that is used for recycling and other purposes will be prorated according to its recycling use. Funding for certain leaf and yard waste collection equipment may be limited according to its seasonal use. Funding for wood chipping equipment will be approved only when the equipment is part of an approved yard waste composting facility operating under the Department's guidelines and where the material is collected curbside from residents. Funding of street sweepers for the purpose of leaf collection will not be considered.

Funding may be restricted in situations where equipment or services requested through a grant application may be available from the public or private sector within the county of the applicant. Public notices may be required before the grant application may be submitted depending upon the nature of the funding request. When the municipality submits the recycling grant application to the Department, it must include proof of compliance with the notification requirements, a description of any responses received to the notice, and an explanation of why the municipality has concluded the mechanical processing equipment is not available to the program from the private sector.

Potential applicants must contact the appropriate Department regional planning and recycling coordinator to

schedule a preapplication conference to discuss application requirements and program particulars. Applications will be returned to municipalities that fail to schedule a preapplication conference. Grant application forms are available from the Department's regional offices and the Department's website, www.depweb.state.pa.us (DEP Keywords: Recycling Grants).

Grant applications must be received or postmarked by June 20, 2008. Applications received by the Department after that date will not be considered during the current round of solicitation. Applications must be on forms provided by the Department, with two copies submitted to the Department's Central Office (Rachel Carson State Office Building, Harrisburg) and one copy submitted to the appropriate county recycling coordinator. Grant awards will be predicated on the receipt of recycling fees required by sections 701 and 702 of the act (53 P. S. §§ 4000.701 and 4000.702) and the availability of moneys in the Recycling Fund.

Inquiries concerning this notice should be directed to Mark Vottero, Recycling Grants Coordinator, Department of Environmental Protection, Rachel Carson State Office Building, Bureau of Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472, mvottero@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

Regional Planning and Recycling Coordinators

Southeast Region

Bucks, Chester, Delaware, Montgomery and Philadelphia Counties

Waste Management Program
2 East Main Street
Norristown, PA 19401
(484) 250-5900
Calvin Ligons, cligons@state.pa.us
Ann Ryan, aryan@state.pa.us
Mary Alice Reisse, mreisse@state.pa.us

Northeast Region

Carbon, Lackawanna, Lehigh, Luzerne, Monroe, Northampton, Pike, Schuylkill, Susquehanna, Wayne and Wyoming Counties

Waste Management Program
2 Public Square
Wilkes-Barre, PA 18711-0790
(570) 826-2516
Chris Fritz, cfritz@state.pa.us

Southcentral Region

Adams, Berks, Cumberland, Dauphin, Lancaster, Lebanon, Perry and York Counties

Waste Management Program
909 Elmerton Avenue
Harrisburg, PA 17110-8200
(717) 705-4927
Walt Dinda, wdinda@state.pa.us

Bedford, Blair, Franklin, Fulton, Huntingdon, Juniata, and Mifflin Counties

Waste Management Program
3001 Fairway Drive
Altoona, PA 16602
(814) 946-7290
Mike Union, munion@state.pa.us

Northcentral Region

Bradford, Cameron, Centre, Clearfield, Clinton, Columbia, Lycoming, Montour, Northumberland, Potter, Snyder, Sullivan, Tioga and Union Counties

Waste Management Program
208 W. 3rd Street, Suite 101
Williamsport, PA 17701
(570) 321-6533
Michelle Ferguson, miferguson@state.pa.us

Southwest Region

Allegheny, Armstrong, Beaver, Cambria, Fayette, Greene, Indiana, Somerset, Washington and Westmoreland Counties

Waste Management Program
400 Waterfront Drive
Pittsburgh, PA 15222-4745
(412) 442-4000
Sharon Svitek, ssvitek@state.pa.us
Stephen Sales, ssales@state.pa.us
Bradley Cunningham, bcunningham@state.pa.us

Northwest Region

Butler, Clarion, Crawford, Elk, Erie, Forest, Jefferson, Lawrence, McKean, Mercer, Venango and Warren Counties

Pollution Prevention and Compliance Assistance
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6848
Guy McUmber, gmcumber@state.pa.us

[Pa.B. Doc. No. 08-136. Filed for public inspection January 25, 2008, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of The Bux-Mont Endoscopy Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Bux-Mont Endoscopy Center has requested an exception to the requirements of 28 Pa. Code § 51.31 (relating to licensure).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously

listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-137. Filed for public inspection January 25, 2008, 9:00 a.m.]

Application of The Children's Institute for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Children's Institute 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 Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 2.1.1.2 (relating to hand-washing station), 2.1.1.3 (relating to documentation space), 2.1.7.5 (relating to soiled holding), 2.2 and 2.3 (relating to imaging and laboratory services), 4.1.4 (relating to public toilets) and 4.2.3 (relating to medical record storage).

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, ra-paexcept@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-138. Filed for public inspection January 25, 2008, 9:00 a.m.]

Application of Clearfield Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Clearfield Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standard contained in this publication: 2.1.3.1 (relating to minimum floor area).

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, ra-paexcept@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact Director, Division of Acute and Ambulatory Care at (717) 783-8980 for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-139. Filed for public inspection January 25, 2008, 9:00 a.m.]

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 Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standards contained in this publication: 3.1-2.1.3.1 (relating to minimum floor area), and 3.1-5.2.1.1 (relating to corridor width).

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, ra-paexcept@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-140. Filed for public inspection January 25, 2008, 9:00 a.m.]

Application of Lowry Surgicenter for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Lowry Surgicenter has requested an exception to the requirements of 28 Pa. Code §§ 553.31 and 559.2 (relating to administrative responsibilities; and director of nursing).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-141. Filed for public inspection January 25, 2008, 9:00 a.m.]

Application of PGC Endoscopy Center, Inc. for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that PGC Endoscopy Center, Inc. has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-143. Filed for public inspection January 25, 2008, 9:00 a.m.]

Application of Montgomery Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Montgomery Hospital has requested an exception to the requirements of 28 Pa. Code § 123.25(2) (relating to regulations for control of anesthetic explosion hazards).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-142. Filed for public inspection January 25, 2008, 9:00 a.m.]

Application of Penn Medicine at Radnor Endoscopy Facility for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Penn Medicine at Radnor Endoscopy Facility has requested an exception to the requirements of 28 Pa. Code § 553.31 (relating to administrative responsibilities).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously

listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-144. Filed for public inspection January 25, 2008, 9:00 a.m.]

Laboratories Approved to Perform Blood Lead and/or Erythrocyte Protoporphyrin Determinations

The following laboratories are licensed in accordance with the Clinical Laboratory Act (35 P. S. §§ 2151—2165) and/or the Federal Clinical Laboratory Improvement Act of 1967 (42 U.S.C. § 263a), and are currently approved under 28 Pa. Code § 5.50 (relating to approval to provide special analytical services) to perform analyses of blood for lead or erythrocyte protoporphyrin content. This approval is based on demonstrated proficiency in periodic evaluations conducted by the Bureau of Laboratories of the Department of Health.

Lead poisoning is a reportable noncommunicable disease. Approved laboratories which offer blood lead testing services are required to inform the Department of actual or possible incidents of this condition in accordance with 28 Pa. Code § 27.34 (relating to reporting cases of lead poisoning.) These regulations specify the following requirements for reporting by clinical laboratories.

(1) A clinical laboratory shall report all blood lead test results on both venous and capillary specimens for persons under 16 years of age to the Department's Childhood Lead Poisoning Prevention Program, Division of Maternal and Child Health, Bureau of Family Health.

(2) A clinical laboratory shall report an elevated blood lead level in a person 16 years of age or older to the Department's Division of Environmental Health Epidemiology, Bureau of Epidemiology or to other locations as designated by the Department. An elevated blood lead level is defined by the National Institute for Occupational Safety and Health (NIOSH). As of January 26, 2002, NIOSH defines an elevated blood lead level as a venous blood lead level of 25 micrograms per deciliter ($\mu\text{g}/\text{dL}$) or higher. The Department will publish in the *Pennsylvania Bulletin* any NIOSH update of the definition within 30 days of NIOSH's notification to the Department.

(3) A clinical laboratory which conducts blood lead tests on 100 or more specimens per month shall submit results electronically in a format specified by the Department.

(4) A clinical laboratory which conducts blood lead tests on less than 100 blood lead specimens per month shall submit results either electronically or by hard copy in the format specified by the Department.

(5) A laboratory which performs blood lead tests on blood specimens collected in this Commonwealth shall be licensed as a clinical laboratory and shall be specifically approved by the Department to conduct those tests.

(6) Blood lead analyses requested for occupational health purposes on blood specimens collected in this Commonwealth shall be performed only by laboratories

which are licensed and approved as specified in paragraph (5), and which are also approved by the Occupational Safety and Health Administration of the United States Department of Labor under 29 CFR 1910.1025(j)(2)(iii) (relating to lead).

(7) A clinical laboratory shall complete a blood lead test within 5 work days of the receipt of the blood specimen and shall submit the case report to the Department by the close of business of the next work day after the day on which the test was performed. The clinical laboratory shall submit a report of lead poisoning using either the hard-copy form or electronic transmission format specified by the Department.

(8) When a clinical laboratory receives a blood specimen without all of the information required for reporting purposes, the clinical laboratory shall test the specimen and shall submit the incomplete report to the Department.

Erythrocyte protoporphyrin determinations may be performed as an adjunct determination to substantiate blood lead levels of 25 micrograms per deciliter or higher. Since erythrocyte protoporphyrin concentrations may not increase as a result of low-level exposures to lead, direct blood lead analysis is the only reliable method for identifying individuals with blood lead concentrations below 25 micrograms per deciliter.

Persons seeking blood lead or erythrocyte protoporphyrin analyses should determine that the laboratory employs techniques and procedures acceptable for the purpose for which the analyses are sought. Laboratories offering blood lead analysis only are designated with the letter "L" following the name of the laboratory. Those offering erythrocyte protoporphyrin analysis only are designated with the letter "P." Laboratories offering both services are designated with the letters "LP."

The list of approved laboratories will be revised approximately semiannually and published in the *Pennsylvania Bulletin*. The name of a laboratory is sometimes changed but the location, personnel, and testing procedures of the facility remain unchanged. When changes of this type occur, the Clinical Laboratory Permit number does not change. If questions arise about the identity of a laboratory due to a name change, the Clinical Laboratory Permit number should be used as the primary identifier. To assist in identifying a laboratory that performed a test if the name of the facility changed, the Clinical Laboratory Permit numbers of the facilities are included in the lists of approved laboratories above the name of the laboratory at the time the list was prepared.

The Department's blood lead proficiency testing program is approved by the United States Department of Health and Human Services (HHS) in accordance with the requirements contained in the Clinical Laboratory Improvement Amendments of 1988 (42 CFR 493.901 and 493.937) which are administered by the Centers for Medicare and Medicaid Services (CMS). Participation in these programs may therefore be used to demonstrate acceptable performance for approval purposes under both Federal and Commonwealth statutes.

Questions regarding this list should be directed to Dr. M. Jeffery Shoemaker, Director, Division of Chemistry and Toxicology, Department of Health, Bureau of Laboratories, P. O. Box 500, Exton, PA 19341-0500, (610) 280-3464.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact Dr. Shoemaker at the previously referenced address or phone number. Persons who are speech or hearing impaired may use V/TT: (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

022912
ACL LABORATORIES—LP
8901 WEST LINCOLN AVE
WEST ALLIS, WI 53227
414-328-7945

000016
ANGELINE KIRBY MEM HEALTH CENTER—L
71 NORTH FRANKLIN STREET
WILKES-BARRE, PA 18701
570-823-5450

020506
CENTRAL PA ALLIANCE LABORATORY—LP
1803 MT ROSE AVENUE
SUITE C3-C4
YORK, PA 17403
717-851-1426

000228
CHILDRENS HOSP OF PHILADELPHIA—L
ONE CHILDRENS CENTER
34TH & CIVIC
PHILADELPHIA, PA 19104
215-590-1000

027845
CLINICAL REFERENCE LABORATORY—LP
8433 QUIVIRA ROAD
LENEXA, KS 66215
913-492-3652

000561
EAST PENN MFG CO INC—LP
DEKA RD KELLER TECH CENTER
PO BOX 147
LYONS STATION, PA 19536
610-682-6361

000332
ELLWOOD CITY HOSPITAL—LP
724 PERSHING ST
ELLWOOD CITY, PA 16117
724-752-0081

000173
GEISINGER MEDICAL CENTER—L
N ACADEMY ROAD
DANVILLE, PA 17822
570-271-6338

025914
GENOVA DIAGNOSTICS—L
63 ZILLICOA STREET
ASHEVILLE, NC 28801
828-253-0621

020802
HAGERSTOWN MEDICAL LABORATORY—L
11110 MEDICAL CAMPUS RD STE 230
HAGERSTOWN, MD 21742
301-790-8670

024655
HEALTH NETWORK LABORATORIES—LP
2024 LEHIGH STREET
ALLENTOWN, PA 18103-4798
610-402-8150

005618
LAB CORP OF AMERICA HOLDINGS—LP
6370 WILCOX ROAD
DUBLIN, OH 43016-1296
800-282-7300

021885 LAB CORP OF AMERICA HOLDINGS—LP
1447 YORK COURT
BURLINGTON, NC 27215
800-334-5161

001088
LABCORP OF AMERICA HOLDINGS—LP
69 FIRST AVE PO BOX 500
RARITAN, NJ 08869
908-526-2400

009523
LABORATORY CORP OF AMERICA—L
13900 PARK CENTER ROAD
HERNDON, VA 20171
703-742-3100

000242
MAIN LINE CLIN LABS LANKENAU CP—L
100 EAST LANCASTER AVENUE
WYNNEWOOD, PA 19096
610-645-2615

029685
MAYO CLINIC DEPARTMENT OF LAB MEDICINE &
PATHOLOGY—L
200 FIRST STREET SW
ROCHESTER, MN 55905
507-284-0453

009003
MAYO CLINIC DEPT LAB MED & PATH—P
200 FIRST STREET
SW HILTON 530
ROCHESTER, MN 55905
507-284-3018

029251
MAYO MEDICAL LABORATORIES NEW
ENGLAND—LP
265 BALLARDVALE STREET
WILMINGTON, MA 01887
978-658-3600

026302
MEDICAL ASSOCIATES PC—P
935 HIGHLAND BLVD SUITE 4400
BOZEMAN, MT 59715
406-587-5123

005574
MEDTOX LABORATORIES INC—LP
402 WEST COUNTY ROAD D
ST PAUL, MN 55112
651-636-7466

000203
MERCY FITZGERALD HOSPITAL—L
1500 LANSDOWNE AVENUE
DARBY, PA 19023
610-237-4262

000504
NATIONAL MED SVCS INC/DBA NMS LABS—LP
3701 WELSH ROAD
WILLOW GROVE, PA 19090
215-657-4900

023801
PACIFIC TOXICOLOGY LABORATORIES—LP
9348 DE SOTO AVENUE
CHATSWORTH, CA 91311
818-598-3110

022533
PENNSYLVANIA DEPT OF HEALTH—LP
110 PICKERING WAY
LIONVILLE, PA 19353
610-280-3464

000022
POCONO MEDICAL CENTER LAB—L
206 EAST BROWN STREET
EAST STROUDSBURG, PA 18301
570-476-3544

000324
PRIMARY CARE HLTH SERV INC LAB—L
7227 HAMILTON AVE
PITTSBURGH, PA 15208
412-244-4728

000516
PRINCETON BIOMEDICAL LABS INC—LP
2921 NEW RODGERS ROAD
BRISTOL, PA 19007
215-785-5200

000255
PUBLIC HEALTH LAB CITY OF PHILA—L
500 SOUTH BROAD STREET
ROOM 359
PHILADELPHIA, PA 19146
215-685-6812

022715
QUEST DIAGNOSTICS—LP
10101 RENNER BOULEVARD
LENEXA, KS 66219-9752
913-888-1770

000315
QUEST DIAGNOSTICS CLINICAL LABS INC—LP
900 BUSINESS CENTER DRIVE
HORSHAM, PA 19044
215-957-9300

000669
QUEST DIAGNOSTICS INCORPORATED—L
ONE MALCOLM AVENUE
TETERBORO, NJ 07608
201-393-5602

001136
QUEST DIAGNOSTICS NICHOLS INSTITUTE—LP
14225 NEWBROOK DRIVE
PO BOX 10841
CHANTILLY, VA 20153-0841
703-802-6900

000482
QUEST DIAGNOSTICS OF PA INC—LP
875 GREENTREE ROAD
4 PARKWAY CENTER
PITTSBURGH, PA 15220-3610
412-920-7600

025461
QUEST DIAGNOSTICS VENTURE LLC—LP
875 GREENTREE ROAD
4 PARKWAY CENTER
PITTSBURGH, PA 15220-3610
412-920-7631

000150
READING HOSPITAL & MED CTR—L
6TH AND SPRUCE STREETS
WEST READING, PA 19611
610-988-8080

022376
SPECIALTY LABORATORIES INC—L
27027 TOURNEY ROAD
VALENCIA, CA 91355
661-799-6543

000151
ST JOSEPH QUALITY MEDICAL LAB—L
2500 BERNVILLE ROAD
READING, PA 19605-9453
610-378-2200

000104
THE UNIONTOWN HOSPITAL LABORATORY—L
500 WEST BERKELEY STREET
UNIONTOWN, PA 15401
724-430-5143

000083
UPMC PRESBYTERIAN SHADYSIDE CP PUH—L
ROOM 5929 MAIN TOWER CHP
200 LOTHROP STREET
PITTSBURGH, PA 15213-2582
412-648-6000

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 08-145. Filed for public inspection January 25, 2008, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Current Prevailing Wage Act Debarments

The contractors referenced have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-11—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), these persons and firms, or any firms, corporations or partnerships in which these persons and firms have an interest, shall be awarded no contract for 3 years after the date listed.

STEPHEN M. SCHMERIN,
Secretary

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
William Crilley Construction—and— William Crilley and Cindy Zang, Individually	106 Greenhill Road Karns City, PA 16041	3/13/2007
M. Smith Concrete—and— Michael Smith, Individually	2250 Robert Fulton Highway Peachbottom, PA 17563	4/6/2007
Powers Welding and Fabrication—and— Charles Powers, Individually	805 South Milton Grove Road Elizabethtown, PA 17022	4/6/2007
Babich Plumbing Company—and— Ted Babich	625 Narrows Run Road Coraopolis, PA 15108	5/9/2007
Robert A. Passero, Individually—and— d/b/a Avoca Building Company	1008 Good Shepherd Road Montoursville, PA 17754	6/22/2007
Comfort Heating and Air Conditioning, Inc.—and— Mark Iutovich, Individually	7532 Pfeffer Avenue Fairview, PA 16415	7/10/2007
A. Gallo Contractors, Inc.—and— Gary S. Love, Individually	427 Glendale Avenue Maple Shade, NJ 08052	8/21/2007
21st Century Framing, LLC—and— Tiffany M. Lynn, Individually	5740 Wilkes Road Atwater, OH 44201	8/23/2007
PSP Contractors, Inc.	P. O. Box 34569 Philadelphia, PA 19101-4569	11/1/2007

[Pa.B. Doc. No. 08-146. Filed for public inspection January 25, 2008, 9:00 a.m.]

Liquefied Petroleum Gas Facility; Notice of Application

The Department of Labor and Industry (Department) publishes this notice of application under section 10 of the Propane and Liquefied Petroleum Gas Act (35 P. S. § 1329.10). The Department received an application for plan approval and permit from the following Liquefied Petroleum Gas (LPG) facility: UGI Energy Services, Inc., Fourth and Canal Streets, Reading, PA 19610

The application is for the expansion of an existing LPG facility that currently operates as a propane air peaking facility through the use of ten 30,000-gallon propane storage tanks and associated necessary equipment. The proposed expansion will include the construction and operation of five additional 90,000-gallon propane storage tanks to supplement the peak shaving project currently under operation, increasing the total storage capacity to 750,000-gallons of propane.

The due date for protests or comments concerning this application is 45 days after the date of this published notice. A party that fails to file a timely protest will be barred from any participation in the application process. However, a municipality or county may submit written comments on the application within 45 days after the date of publication of this notice. If a municipality or

county fails to file a protest or comments on a timely basis, the municipality or county will be deemed to have waived its status as a party in any subsequent administrative proceeding or appeal.

Written protests or written comments may be sent to Edward L. Leister, Director, Bureau of Occupational and Industrial Safety, Department of Labor and Industry, Room 1613, Labor and Industry Building, 7th and Forster Streets, Harrisburg, PA 17121.

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 08-147. Filed for public inspection January 25, 2008, 9:00 a.m.]

Maximum Pennsylvania Workers' Compensation Payable

Based upon the Statewide Average Weekly Wage, as determined by the Department of Labor and Industry for the fiscal year ending June 30, 2007, the maximum compensation payable under sections 105.1 and 105.2 of the Workers' Compensation Act (77 P. S. §§ 25.1 and 25.2), shall be \$807 per week for injuries occurring on and after January 1, 2008. For purposes of calculating the

update to payments for medical treatment rendered on and after January 1, 2008, the percentage increase in the Statewide Average Weekly Wage is 3.6%.

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 08-148. Filed for public inspection January 25, 2008, 9:00 a.m.]

Table Specified for Determination of Rate and Amount of Benefits

The purpose of this notice is to effect the automatic extension of Table Specified for Determination of Rate and Amount of Benefits. Each year the maximum weekly benefit rate is calculated at 66 2/3% of the average weekly wage in covered employment for the preceding fiscal year. The maximum weekly benefit rate for unemployment compensation purposes in this Commonwealth during calendar year 2008 will be \$539.

Under the authority contained in sections 201 and 404(e)(2) of the Unemployment Compensation Law (43 P. S. §§ 761 and 804(e)(2)) and 34 Pa. Code § 65.111 (relating to benefit table), the table for 2008 is being adopted by this notice and will be codified in 34 Pa. Code Chapter 65, Appendix A. See 14 Pa.B. 4688 (December 29, 1984).

Under section 404(e)(2) of the Unemployment Compensation Law, this table is effective for claimants whose benefit year begins on or after January 1, 2008.

Questions concerning this notice should be directed to Patrick T. Beaty, Deputy Secretary for Unemployment Compensation Programs, Labor and Industry Building, Harrisburg, PA 17120.

APPENDIX A

<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compen- sation</i>	<i>Part C Qualifying Wage</i>	<i>Part D Amount of</i>	<i>Part E Compen- sation</i>
\$800-812	35	\$1320	\$910	\$560
813-837	36	1360	936	576
838-862	37	1400	962	592
863-887	38	1440	988	608
888-912	39	1480	1014	624
913-937	40	1520	1040	640
938-962	41	1560	1066	656
963-987	42	1600	1092	672
988-1012	43	1640	1118	688
1013-1037	44	1680	1144	704
1038-1062	45	1720	1170	720
1063-1087	46	1760	1196	736
1088-1112	47	1800	1222	752
1113-1162	48	1840	1248	768
1163-1187	49	1880	1274	784
1188-1212	50	1920	1300	800
1213-1237	51	1960	1326	816
1238-1262	52	2000	1352	832
1263-1287	53	2040	1378	848
1288-1312	54	2080	1404	864
1313-1337	55	2120	1430	880
1338-1362	56	2160	1456	896
1363-1387	57	2200	1482	912
1388-1412	58	2240	1508	928
1413-1437	59	2280	1534	944
1438-1462	60	2320	1560	960

<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compen- sation</i>	<i>Part C Qualifying Wage</i>	<i>Part D Amount of</i>	<i>Part E Compen- sation</i>
1463-1487	61	2360	1586	976
1488-1512	62	2400	1612	992
1513-1537	63	2440	1638	1008
1538-1562	64	2480	1664	1024
1563-1587	65	2520	1690	1040
1588-1612	66	2560	1716	1056
1613-1637	67	2600	1742	1072
1638-1662	68	2640	1768	1088
1663-1687	69	2680	1794	1104
1688-1712	70	2720	1820	1120
1713-1737	71	2760	1846	1136
1738-1762	72	2800	1872	1152
1763-1787	73	2840	1898	1168
1788-1812	74	2880	1924	1184
1813-1837	75	2920	1950	1200
1838-1862	76	2960	1976	1216
1863-1887	77	3000	2002	1232
1888-1912	78	3040	2028	1248
1913-1937	79	3080	2054	1264
1938-1962	80	3120	2080	1280
1963-1987	81	3160	2106	1296
1988-2012	82	3200	2132	1312
2013-2037	83	3240	2158	1328
2038-2062	84	3280	2184	1344
2063-2087	85	3320	2210	1360
2088-2112	86	3360	2236	1376
2113-2137	87	3400	2262	1392
2138-2162	88	3440	2288	1408
2163-2187	89	3480	2314	1424
2188-2212	90	3520	2340	1440
2213-2237	91	3560	2366	1456
2238-2262	92	3600	2392	1472
2263-2287	93	3640	2418	1488
2288-2312	94	3680	2444	1504
2313-2337	95	3720	2470	1520
2338-2362	96	3760	2496	1536
2363-2387	97	3800	2522	1552
2388-2412	98	3840	2548	1568
2413-2437	99	3880	2574	1584
2438-2462	100	3920	2600	1600
2463-2487	101	3960	2626	1616
2488-2512	102	4000	2652	1632
2513-2537	103	4040	2678	1648
2538-2562	104	4080	2704	1664
2563-2587	105	4120	2730	1680
2588-2612	106	4160	2756	1696
2613-2637	107	4200	2782	1712
2638-2662	108	4240	2808	1728
2663-2687	109	4280	2834	1744
2688-2712	110	4320	2860	1760
2713-2737	111	4360	2886	1776
2738-2762	112	4400	2912	1792
2763-2787	113	4440	2938	1808
2788-2812	114	4480	2964	1824
2813-2837	115	4520	2990	1840
2838-2862	116	4560	3016	1856
2863-2887	117	4600	3042	1872
2888-2912	118	4640	3068	1888
2913-2937	119	4680	3094	1904
2938-2962	120	4720	3120	1920
2963-2987	121	4760	3146	1936
2988-3012	122	4800	3172	1952
3013-3037	123	4840	3198	1968
3038-3062	124	4880	3224	1984
3063-3087	125	4920	3250	2000

<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compen- sation</i>	<i>Part C Qualifying Wage</i>	<i>Part D Amount of</i>	<i>Part E Compen- sation</i>	<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compen- sation</i>	<i>Part C Qualifying Wage</i>	<i>Part D Amount of</i>	<i>Part E Compen- sation</i>
3088-3112	126	4960	3276	2016	4713-4737	191	7560	4966	3056
3113-3137	127	5000	3302	2032	4738-4762	192	7600	4992	3072
3138-3162	128	5040	3328	2048	4763-4787	193	7640	5018	3088
3163-3187	129	5080	3354	2064	4788-4812	194	7680	5044	3104
3188-3212	130	5120	3380	2080	4813-4837	195	7720	5070	3120
3213-3237	131	5160	3406	2096	4838-4862	196	7760	5096	3136
3238-3262	132	5200	3432	2112	4863-4887	197	7800	5122	3152
3263-3287	133	5240	3458	2128	4888-4912	198	7840	5148	3168
3288-3312	134	5280	3484	2144	4913-4937	199	7880	5174	3184
3313-3337	135	5320	3510	2160	4938-4962	200	7920	5200	3200
3338-3362	136	5360	3536	2176	4963-4987	201	7960	5226	3216
3363-3387	137	5400	3562	2192	4988-5012	202	8000	5252	3232
3388-3412	138	5440	3588	2208	5013-5037	203	8040	5278	3248
3413-3437	139	5480	3614	2224	5038-5062	204	8080	5304	3264
3438-3462	140	5520	3640	2240	5063-5087	205	8120	5330	3280
3463-3487	141	5560	3666	2256	5088-5112	206	8160	5356	3296
3488-3512	142	5600	3692	2272	5113-5137	207	8200	5382	3312
3513-3537	143	5640	3718	2288	5138-5162	208	8240	5408	3328
3538-3562	144	5680	3744	2304	5163-5187	209	8280	5434	3344
3563-3587	145	5720	3770	2320	5188-5212	210	8320	5460	3360
3588-3612	146	5760	3796	2336	5213-5237	211	8360	5486	3376
3613-3637	147	5800	3822	2352	5238-5262	212	8400	5512	3392
3638-3662	148	5840	3848	2368	5263-5287	213	8440	5538	3408
3663-3687	149	5880	3874	2384	5288-5312	214	8480	5564	3424
3688-3712	150	5920	3900	2400	5313-5337	215	8520	5590	3440
3713-3737	151	5960	3926	2416	5338-5362	216	8560	5616	3456
3738-3762	152	6000	3952	2432	5363-5387	217	8600	5642	3472
3763-3787	153	6040	3978	2448	5388-5412	218	8640	5668	3488
3788-3812	154	6080	4004	2464	5413-5437	219	8680	5694	3504
3813-3837	155	6120	4030	2480	5438-5462	220	8720	5720	3520
3838-3862	156	6160	4056	2496	5463-5487	221	8760	5746	3536
3863-3887	157	6200	4082	2512	5488-5512	222	8800	5772	3552
3888-3912	158	6240	4108	2528	5513-5537	223	8840	5798	3568
3913-3937	159	6280	4134	2544	5538-5562	224	8880	5824	3584
3938-3962	160	6320	4160	2560	5563-5587	225	8920	5850	3600
3963-3987	161	6360	4186	2576	5588-5612	226	8960	5876	3616
3988-4012	162	6400	4212	2592	5613-5637	227	9000	5902	3632
4013-4037	163	6440	4238	2608	5638-5662	228	9040	5928	3648
4038-4062	164	6480	4264	2624	5663-5687	229	9080	5954	3664
4063-4087	165	6520	4290	2640	5688-5712	230	9120	5980	3680
4088-4112	166	6560	4316	2656	5713-5737	231	9160	6006	3696
4113-4137	167	6600	4342	2672	5738-5762	232	9200	6032	3712
4138-4162	168	6640	4368	2688	5763-5787	233	9240	6058	3728
4163-4187	169	6680	4394	2704	5788-5812	234	9280	6084	3744
4188-4212	170	6720	4420	2720	5813-5837	235	9320	6110	3760
4213-4237	171	6760	4446	2736	5838-5862	236	9360	6136	3776
4238-4262	172	6800	4472	2752	5863-5887	237	9400	6162	3792
4263-4287	173	6840	4498	2768	5888-5912	238	9440	6188	3808
4288-4312	174	6880	4524	2784	5913-5937	239	9480	6214	3824
4313-4337	175	6920	4550	2800	5938-5962	240	9520	6240	3840
4338-4362	176	6960	4576	2816	5963-5987	241	9560	6266	3856
4363-4387	177	7000	4602	2832	5988-6012	242	9600	6292	3872
4388-4412	178	7040	4628	2848	6013-6037	243	9640	6318	3888
4413-4437	179	7080	4654	2864	6038-6062	244	9680	6344	3904
4438-4462	180	7120	4680	2880	6063-6087	245	9720	6370	3920
4463-4487	181	7160	4706	2896	6088-6112	246	9760	6396	3936
4488-4512	182	7200	4732	2912	6113-6137	247	9800	6422	3952
4513-4537	183	7240	4758	2928	6138-6162	248	9840	6448	3968
4538-4562	184	7280	4784	2944	6163-6187	249	9880	6474	3984
4563-4587	185	7320	4810	2960	6188-6212	250	9920	6500	4000
4588-4612	186	7360	4836	2976	6213-6237	251	9960	6526	4016
4613-4637	187	7400	4862	2992	6238-6262	252	10000	6552	4032
4638-4662	188	7440	4888	3008	6263-6287	253	10040	6578	4048
4663-4687	189	7480	4914	3024	6288-6312	254	10080	6604	4064
4688-4712	190	7520	4940	3040	6313-6337	255	10120	6630	4080

<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compen- sation</i>	<i>Part C Qualifying Wage</i>	<i>Part D Amount of</i>	<i>Part E Compen- sation</i>	<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compen- sation</i>	<i>Part C Qualifying Wage</i>	<i>Part D Amount of</i>	<i>Part E Compen- sation</i>
6338-6362	256	10160	6656	4096	7963-7987	321	12760	8346	5136
6363-6387	257	10200	6682	4112	7988-8012	322	12800	8372	5152
6388-6412	258	10240	6708	4128	8013-8037	323	12840	8398	5168
6413-6437	259	10280	6734	4144	8038-8062	324	12880	8424	5184
6438-6462	260	10320	6760	4160	8063-8087	325	12920	8450	5200
6463-6487	261	10360	6786	4176	8088-8112	326	12960	8476	5216
6488-6512	262	10400	6812	4192	8113-8137	327	13000	8502	5232
6513-6537	263	10440	6838	4208	8138-8162	328	13040	8528	5248
6538-6562	264	10480	6864	4224	8163-8187	329	13080	8554	5264
6563-6587	265	10520	6890	4240	8188-8212	330	13120	8580	5280
6588-6612	266	10560	6916	4256	8213-8237	331	13160	8606	5296
6613-6637	267	10600	6942	4272	8238-8262	332	13200	8632	5312
6638-6662	268	10640	6968	4288	8263-8287	333	13240	8658	5328
6663-6687	269	10680	6994	4304	8288-8312	334	13280	8684	5344
6688-6712	270	10720	7020	4320	8313-8337	335	13320	8710	5360
6713-6737	271	10760	7046	4336	8338-8362	336	13360	8736	5376
6738-6762	272	10800	7072	4352	8363-8387	337	13400	8762	5392
6763-6787	273	10840	7098	4368	8388-8412	338	13440	8788	5408
6788-6812	274	10880	7124	4384	8413-8437	339	13480	8814	5424
6813-6837	275	10920	7150	4400	8438-8462	340	13520	8840	5440
6838-6862	276	10960	7176	4416	8463-8487	341	13560	8866	5456
6863-6887	277	11000	7202	4432	8488-8512	342	13600	8892	5472
6888-6912	278	11040	7228	4448	8513-8537	343	13640	8918	5488
6913-6937	279	11080	7254	4464	8538-8562	344	13680	8944	5504
6938-6962	280	11120	7280	4480	8563-8587	345	13720	8970	5520
6963-6987	281	11160	7306	4496	8588-8612	346	13760	8996	5536
6988-7012	282	11200	7332	4512	8613-8637	347	13800	9022	5552
7013-7037	283	11240	7358	4528	8638-8662	348	13840	9048	5568
7038-7062	284	11280	7384	4544	8663-8687	349	13880	9074	5584
7063-7087	285	11320	7410	4560	8688-8712	350	13920	9100	5600
7088-7112	286	11360	7436	4576	8713-8737	351	13960	9126	5616
7113-7137	287	11400	7462	4592	8738-8762	352	14000	9152	5632
7138-7162	288	11440	7488	4608	8763-8787	353	14040	9178	5648
7163-7187	289	11480	7514	4624	8788-8812	354	14080	9204	5664
7188-7212	290	11520	7540	4640	8813-8837	355	14120	9230	5680
7213-7237	291	11560	7566	4656	8838-8862	356	14160	9256	5696
7238-7262	292	11600	7592	4672	8863-8887	357	14200	9282	5712
7263-7287	293	11640	7618	4688	8888-8912	358	14240	9308	5728
7288-7312	294	11680	7644	4704	8913-8937	359	14280	9334	5744
7313-7337	295	11720	7670	4720	8938-8962	360	14320	9360	5760
7338-7362	296	11760	7696	4736	8963-8987	361	14360	9386	5776
7363-7387	297	11800	7722	4752	8988-9012	362	14400	9412	5792
7388-7412	298	11840	7748	4768	9013-9037	363	14440	9438	5808
7413-7437	299	11880	7774	4784	9038-9062	364	14480	9464	5824
7438-7462	300	11920	7800	4800	9063-9087	365	14520	9490	5840
7463-7487	301	11960	7826	4816	9088-9112	366	14560	9516	5856
7488-7512	302	12000	7852	4832	9113-9137	367	14600	9542	5872
7513-7537	303	12040	7878	4848	9138-9162	368	14640	9568	5888
7538-7562	304	12080	7904	4864	9163-9187	369	14680	9594	5904
7563-7587	305	12120	7930	4880	9188-9212	370	14720	9620	5920
7588-7612	306	12160	7956	4896	9213-9237	371	14760	9646	5936
7613-7637	307	12200	7982	4912	9238-9262	372	14800	9672	5952
7638-7662	308	12240	8008	4928	9263-9287	373	14840	9698	5968
7663-7687	309	12280	8034	4944	9288-9312	374	14880	9724	5984
7688-7712	310	12320	8060	4960	9313-9337	375	14920	9750	6000
7713-7737	311	12360	8086	4976	9338-9362	376	14960	9776	6016
7738-7762	312	12400	8112	4992	9363-9387	377	15000	9802	6032
7763-7787	313	12440	8138	5008	9388-9412	378	15040	9828	6048
7788-7812	314	12480	8164	5024	9413-9437	379	15080	9854	6064
7813-7837	315	12520	8190	5040	9438-9462	380	15120	9880	6080
7838-7862	316	12560	8216	5056	9463-9487	381	15160	9906	6096
7863-7887	317	12600	8242	5072	9488-9512	382	15200	9932	6112
7888-7912	318	12640	8268	5088	9513-9537	383	15240	9958	6128
7913-7937	319	12680	8294	5104	9538-9562	384	15280	9984	6144
7938-7962	320	12720	8320	5120	9563-9587	385	15320	10010	6160

<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compen- sation</i>	<i>Part C Qualifying Wage</i>	<i>Part D Amount of</i>	<i>Part E Compen- sation</i>	<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compen- sation</i>	<i>Part C Qualifying Wage</i>	<i>Part D Amount of</i>	<i>Part E Compen- sation</i>
9588-9612	386	15360	10036	6176	11213-11237	451	17960	11726	7216
9613-9637	387	15400	10062	6192	11238-11262	452	18000	11752	7232
9638-9662	388	15440	10088	6208	11263-11287	453	18040	11778	7248
9663-9687	389	15480	10114	6224	11288-11312	454	18080	11804	7264
9688-9712	390	15520	10140	6240	11313-11337	455	18120	11830	7280
9713-9737	391	15560	10166	6256	11338-11362	456	18160	11856	7296
9738-9762	392	15600	10192	6272	11363-11387	457	18200	11882	7312
9763-9787	393	15640	10218	6288	11388-11412	458	18240	11908	7328
9788-9812	394	15680	10244	6304	11413-11437	459	18280	11934	7344
9813-9837	395	15720	10270	6320	11438-11462	460	18320	11960	7360
9838-9862	396	15760	10296	6336	11463-11487	461	18360	11986	7376
9863-9887	397	15800	10322	6352	11488-11512	462	18400	12012	7392
9888-9912	398	15840	10348	6368	11513-11537	463	18440	12038	7408
9913-9937	399	15880	10374	6384	11538-11562	464	18480	12064	7424
9938-9962	400	15920	10400	6400	11563-11587	465	18520	12090	7440
9963-9987	401	15960	10426	6416	11588-11612	466	18560	12116	7456
9988-10012	402	16000	10452	6432	11613-11637	467	18600	12142	7472
10013-10037	403	16040	10478	6448	11638-11662	468	18640	12168	7488
10038-10062	404	16080	10504	6464	11663-11687	469	18680	12194	7504
10063-10087	405	16120	10530	6480	11688-11712	470	18720	12220	7520
10088-10112	406	16160	10556	6496	11713-11737	471	18760	12246	7536
10113-10137	407	16200	10582	6512	11738-11762	472	18800	12272	7552
10138-10162	408	16240	10608	6528	11763-11787	473	18840	12298	7568
10163-10187	409	16280	10634	6544	11788-11812	474	18880	12324	7584
10188-10212	410	16320	10660	6560	11813-11837	475	18920	12350	7600
10213-10237	411	16360	10686	6576	11838-11862	476	18960	12376	7616
10238-10262	412	16400	10712	6592	11863-11887	477	19000	12402	7632
10263-10287	413	16440	10738	6608	11888-11912	478	19040	12428	7648
10288-10312	414	16480	10764	6624	11913-11937	479	19080	12454	7664
10313-10337	415	16520	10790	6640	11938-11962	480	19120	12480	7680
10338-10362	416	16560	10816	6656	11963-11987	481	19160	12506	7696
10363-10387	417	16600	10842	6672	11988-12012	482	19200	12532	7712
10388-10412	418	16640	10868	6688	12013-12037	483	19240	12558	7728
10413-10437	419	16680	10894	6704	12038-12062	484	19280	12584	7744
10438-10462	420	16720	10920	6720	12063-12087	485	19320	12610	7760
10463-10487	421	16760	10946	6736	12088-12112	486	19360	12636	7776
10488-10512	422	16800	10972	6752	12113-12137	487	19400	12662	7792
10513-10537	423	16840	10998	6768	12138-12162	488	19440	12688	7808
10538-10562	424	16880	11024	6784	12163-12187	489	19480	12714	7824
10563-10587	425	16920	11050	6800	12188-12212	490	19520	12740	7840
10588-10612	426	16960	11076	6816	12213-12237	491	19560	12766	7856
10613-10637	427	17000	11102	6832	12238-12262	492	19600	12792	7872
10638-10662	428	17040	11128	6848	12263-12287	493	19640	12818	7888
10663-10687	429	17080	11154	6864	12288-12312	494	19680	12844	7904
10688-10712	430	17120	11180	6880	12313-12337	495	19720	12870	7920
10713-10737	431	17160	11206	6896	12338-12362	496	19760	12896	7936
10738-10762	432	17200	11232	6912	12363-12387	497	19800	12922	7952
10763-10787	433	17240	11258	6928	12388-12412	498	19840	12948	7968
10788-10812	434	17280	11284	6944	12413-12437	499	19880	12974	7984
10813-10837	435	17320	11310	6960	12438-12462	500	19920	13000	8000
10838-10862	436	17360	11336	6976	12463-12487	501	19960	13026	8016
10863-10887	437	17400	11362	6992	12488-12512	502	20000	13052	8032
10888-10912	438	17440	11388	7008	12513-12537	503	20040	13078	8048
10913-10937	439	17480	11414	7024	12538-12562	504	20080	13104	8064
10938-10962	440	17520	11440	7040	12563-12587	505	20120	13130	8080
10963-10987	441	17560	11466	7056	12588-12612	506	20160	13156	8096
10988-11012	442	17600	11492	7072	12613-12637	507	20200	13182	8112
11013-11037	443	17640	11518	7088	12638-12662	508	20240	13208	8128
11038-11062	444	17680	11544	7104	12663-12687	509	20280	13234	8144
11063-11087	445	17720	11570	7120	12688-12712	510	20320	13260	8160
11088-11112	446	17760	11596	7136	12713-12737	511	20360	13286	8176
11113-11137	447	17800	11622	7152	12738-12762	512	20400	13312	8192
11138-11162	448	17840	11648	7168	12763-12787	513	20440	13338	8208
11163-11187	449	17880	11674	7184	12788-12812	514	20480	13364	8224
11188-11212	450	17920	11700	7200	12813-12837	515	20520	13390	8240

<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compen- sation</i>	<i>Part C Qualifying Wage</i>	<i>Part D Amount of</i>	<i>Part E Compen- sation</i>
12838-12862	516	20560	13416	8256
12863-12887	517	20600	13442	8272
12888-12912	518	20640	13468	8288
12913-12937	519	20680	13494	8304
12938-	520	[*]20720	13520	8320
[or more] 12962				
12963-12987	521	20760	13546	8336
12988-13012	522	20800	13572	8352
13013-13037	523	20840	13598	8368
13038-13062	524	20880	13624	8384
13063-13087	525	20920	13650	8400
13088-13112	526	20960	13676	8416
13113-13137	527	21000	13702	8432
13138-13162	528	21040	13728	8448
13163-13187	529	21080	13754	8464
13188-13212	530	21120	13780	8480
13213-13237	531	21160	13806	8496
13238-13262	532	21200	13832	8512
13263-13287	533	21240	13858	8528
13288-13312	534	21280	13884	8544
13313-13337	535	21320	13910	8560
13338-13362	536	21360	13936	8576
13363-13387	537	21400	13962	8592
13388-13412	538	21440	13988	8608
13413-or more	539	*21480	14014	8624

*The claimant will be ineligible for benefits unless 20% of the qualifying wage [\$20,720] \$21,480 was paid in a quarter or quarters of the base year other than the high quarter.

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 08-149. Filed for public inspection January 25, 2008, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Finding Lehigh County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 575(b)), the Acting Director, Bureau of Design, as designated by the Secretary of Transportation, makes the following written finding:

The Department of Transportation (Department) plans to replace Frantz Bridge, SR 4025, Section 01B, over Jordan Creek in Lowhill Township, Lehigh County. Frantz Bridge is a National Register of Historic Places Listed multiple-span stone arch. The project will also require right-of-way from the Greenawald Property which is eligible for listing in the National Register of Historic Places.

The effect of the project on the bridge will be mitigated through aesthetic treatment options that will be incorporated into the design of the new bridge. The existing bridge plaque will be salvaged and offered to Lowhill Township or their designee. In addition, Department will develop a report on Lehigh County's Masonry Arch Bridges.

The environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 have been considered. It has been concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize the effect.

No adverse environmental effect is likely to result from this project.

BRIAN G. THOMPSON, P. E.,
Acting Director, Bureau of Design

[Pa.B. Doc. No. 08-150. Filed for public inspection January 25, 2008, 9:00 a.m.]

Finding Montgomery County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 572(b)), the Acting Director for the Bureau of Design, makes the following written finding:

The Department of Transportation plans to reconstruct Markley Street, SR 0202, Section 500, and Johnson Highway in the Borough of Norristown, Montgomery County. The project will require right-of-way from the following National Register eligible sites: The Theodore Roosevelt School, the Markley Street Historic District, the A. D. Eisenhower High School and the Grand View Heights Historic District.

The improvements to the Markley Street corridor will be designed to minimize the visual impact on the historic character of the historic districts. The sidewalks will be replaced in-kind with the same size, material and color. The sign at the A. D. Eisenhower High School will be replaced and appropriate vegetative landscaping will be planted. A sign will be erected on Markley Street for the Central Norristown Historic District. Other mitigation measures, as stipulated in the executed Memorandum of Agreement, will be developed during final design in consultation with the State Historic Preservation Officer, property owners and section 106 consulting parties.

The environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code have been considered. It has been concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize the effect.

BRIAN G. THOMPSON, P. E.,
Acting Director, Bureau of Design

[Pa.B. Doc. No. 08-151. Filed for public inspection January 25, 2008, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Request for Proposal

The Pennsylvania Health Care Cost Containment Council (PHC4), an independent State agency that collects, analyzes and disseminates health care cost and quality-related information, is soliciting proposals from interested firms, research institutions or other organiza-

tions to provide a Panel of senior researchers to review and report to PHC4 on the documentation submitted in support and in opposition to a proposed Mandated Health Insurance Benefit for coverage and treatment of autism spectrum disorders under consideration by the Legislature. Panels should consist of one recognized expert in health research, one in biostatistics, one in economic research, one with experience in insurance or actuarial research and a physician with current knowledge of the treatment of autism. Copies of the proposal specifications are available by contacting the Health Care Cost Containment Council, Suite 400, 225 Market Street, Harrisburg, PA 17101 or by calling or e-mailing Cherie Elias at (717) 232-6787, celias@phc4.org. Final proposals are due to the Council Office no later than 5 p.m. on February 26, 2008. The Council will make the award at a public Council meeting on March 7, 2008.

MARC P. VOLAVKA,
Executive Director

[Pa.B. Doc. No. 08-152. Filed for public inspection January 25, 2008, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Action Taken by the Commission

The Independent Regulatory Review Commission (Commission) met publicly at 10:30 a.m., Thursday, January 10, 2008, and announced the following:

Regulation Approved:

State Board of Education #6-295: Academic Standards and Assessment (amends 22 Pa. Code Chapter 4)

Approval Order

Public Meeting Held
January 10, 2008

Commissioners Voting: Arthur Coccodrilli, Chairperson; Alvin C. Bush, Vice Chairperson; David J. DeVries, Esq.; Nancy Sabol Frantz, Esq.; John F. Mizner, Esq.

*State Board of Education
Academic Standards and Assessment
Regulation No. 6-295 (IRRC #2499)*

On September 26, 2005, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Education (Board). This rulemaking amends 22 Pa. Code Chapter 4. The proposed regulation was published in the November 5, 2005 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on December 4, 2007.

This regulation is a general update of existing Chapter 4 *Academic Standards and Assessment*. The amendments address: general provisions; academic standards and planning; curriculum and instruction; vocational-technical education; assessment; school profiles; and enforcement and implementation.

We have determined this regulation is consistent with the statutory authority of the Board (24 P. S. §§ 26-2603-

B(d)(4)(iv) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 08-153. Filed for public inspection January 25, 2008, 9:00 a.m.]

INSURANCE DEPARTMENT

Agency Contract Termination of Triad Insurance Management and Services Agency under Act 143; Great American Insurance Company; Doc. No. AT08-01-001

A prereview telephone conference initiated by this office is scheduled for February 5, 2008. Each party shall provide the Hearings Administrator a telephone number to be used for the telephone conference on or before February 1, 2008. A date for a review shall be determined, if necessary, at the prereview telephone conference.

Motion preliminary to those at the review, protests, petitions to intervene or notice of intervention, if any must be filed on or before February 5, 2008, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before February 19, 2008.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-154. Filed for public inspection January 25, 2008, 9:00 a.m.]

Geisinger Health Plan—Employer Group (with fewer than 51 subscribers); Prescription Drug Rider; Rate Filing

On January 11, 2008, Geisinger Health Plan submitted a Prescription Drug Rider Rate Filing for all groups with fewer than 51 average subscribers, requesting an average rate increase of 3.4%. In addition, the following benefit changes will be implemented:

- Xolair will not be covered under the Rx benefit;
- Nonoral contraceptives will be moved from the “base” Rx rider to “contraceptive” Rx rider;
- Subutex and Suboxone Drugs will be removed from the Rx formulary and excluded from the Rx rider;
- Lipitor will be moved from Tier 3 of Rx formulary to Tier 2.

The filing will affect approximately 20,321 members and generate additional revenue of approximately \$362,000 annually. An effective date of April 1, 2008, is requested.

Unless formal administrative action is taken prior to April 10, 2008, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) website at www.ins.state.pa.us. Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Department's Harrisburg Regional Office.

Interested parties are invited to submit written comments, suggestions or objections to Rashmi Mathur, Actuary, Bureau of Accident and Health Insurance, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-155. Filed for public inspection January 25, 2008, 9:00 a.m.]

Geisinger Health Plan—Employer Group (with 51 or more subscribers); Prescription Drug Rider; Rate Filing

On January 11, 2008, Geisinger Health Plan submitted a Prescription Drug Rider Rate Filing for all groups with 51 or more average subscribers, requesting an average rate increase of 1.3%. In addition, the following benefit changes will be implemented:

- Xolair will not be covered under the Rx benefit;
- Nonoral contraceptives will be moved from the "base" Rx rider to "contraceptive" Rx rider;
- Subutex and Suboxone Drugs will be removed from the Rx formulary and excluded from the Rx rider;
- Lipitor will be moved from Tier 3 of Rx formulary to Tier 2.

The filing will affect approximately 51,060 members and generate additional revenue of approximately \$349,000 annually. An effective date of April 1, 2008, is requested.

Unless formal administrative action is taken prior to April 10, 2008, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) website at www.ins.state.pa.us. Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Department's Harrisburg Regional Office.

Interested parties are invited to submit written comments, suggestions or objections to Rashmi Mathur, Actuary, Bureau of Accident and Health Insurance, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-156. Filed for public inspection January 25, 2008, 9:00 a.m.]

Geisinger Health Plan—Prescription Drug Large Group Experience Rate Formula Filing; Rate Filing

On January 11, 2008, Geisinger Health Plan submitted a Prescription Drug Large Group Experience Rated Formula Filing requesting to lower the minimum group size from 100 to 51. This change will impact the groups with 51 to 99 employees since caps to demographic factors would be removed. An effective date of April 1, 2008, is requested.

Unless formal administrative action is taken prior to April 10, 2008 the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) website at www.ins.state.pa.us. Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Department's Harrisburg Regional Office.

Interested parties are invited to submit written comments, suggestions or objections to Rashmi Mathur, Actuary, Bureau of Accident and Health Insurance, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-157. Filed for public inspection January 25, 2008, 9:00 a.m.]

Golden Living Center—Erie; Prehearing

Appeal of Golden Living Center—Erie under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM07-12-014

On or before February 8, 2008, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's November 28, 2007, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for March 6, 2008. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before March 3, 2008. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before February 21, 2008, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any shall be filed on or before March 6, 2008.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-158. Filed for public inspection January 25, 2008, 9:00 a.m.]

Mohammad Ali Jafar, M. D.; Prehearing**Appeal of Mohammad Ali Jafar, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM07-12-011**

On or before February 8, 2008, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's October 31, 2007, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for March 7, 2008. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before March 4, 2008. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before February 21, 2008, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any shall be filed on or before March 6, 2008.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-159. Filed for public inspection January 25, 2008, 9:00 a.m.]

Yelena Kipervas, D. O.; Prehearing**Appeal of Yelena Kipervas, D. O. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM07-12-010**

On or before February 8, 2008, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's November 13, 2007, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for March 6, 2008. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before March 3, 2008. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before February 21, 2008, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any shall be filed on or before March 6, 2008.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-160. Filed for public inspection January 25, 2008, 9:00 a.m.]

Long-Term Care Partnership Program Effective Date and Guidance Announcement; Notice 2008-03

On September 28, 2007, the Secretary of the Department of Public Welfare (DPW) submitted a State Plan Amendment (SPA) to the Centers for Medicare and Medicaid Services for approval of Pennsylvania's qualified long-term care insurance partnership (Qualified Partnership). The SPA was approved on December 19, 2007, with an effective date of the Qualified Partnership of July 1, 2007.

Qualified Partnership Policies (Qualified Partnership Policy) may provide valuable protections to purchasers of qualified State long-term care insurance policies. Qualified Partnership Policies permit individuals to protect certain resources if eligibility under the Medical Assistance Program is ever needed. The protection of resources when determining an individual's eligibility for Pennsylvania's Medical Assistance Long-Term Care Program permits the disregard of specific resources equal to the amount of insurance benefits that were paid from a Qualified Partnership Policy. If those specific resources are still in existence at the time of the individual's death and become part of the decedent's probate estate, they will not be recoverable under Pennsylvania's Medical Assistance Estate Recovery program. Pennsylvania's proposed Qualified Partnership is being adopted in accordance with the Deficit Reduction Act of 2005, Pub. L. No. 109-171 (the DRA).

To facilitate implementation of Pennsylvania's Qualified Partnership, the following provides guidance to insurers and insurance producers:

A. Producer training. The DRA requires DPW to provide information and technical assistance to the Insurance Department (Department) to assure that any individual who sells, solicits or negotiates Qualified Partnership Policies receives training and demonstrates evidence of an understanding of Qualified Partnership Policies and how such policies relate to other public and private coverage of long-term care services. Evidence of such training and understanding may be demonstrated by completion of a 1-hour training course prior to any sale, solicitation or negotiation of a Qualified Partnership Policy; by completion of an 8-hour training course (which may include the 1-hour course if prior to any sale, solicitation or negotiation of a Qualified Partnership Policy) by December 31, 2008; and by completion of a 4-hour training course every licensing cycle thereafter. Each of these training courses may be qualified as continuing education and, if so qualified, may be counted towards a producer's 24 hour continuing education requirement.

B. Policy Exchanges. The requirements for the exchange of non-Qualified Partnership Policies for Qualified Partnership Policies are set forth in Act 40 of 2007.

C. Inflation Protection. The DRA, at 42 U.S.C. § 1396p(b)(1)(A)(iii)(IV), requires that Qualified Partnership Policies provide certain levels of inflation protection based on the age of the individual as of the date of policy purchase. Pennsylvania will certify inflation protection options as meeting the DRA requirements subject to the following:

1) "Compound annual inflation protection" means compound coverage that automatically increases annually at a rate not less than the Consumer Price Index (CPI).

2) "Some level of inflation protection" means either compound or simple inflation protection at a rate not less than CPI.

3) A future or guaranteed purchase option for inflation protection does not meet the requirements of the DRA.

4) Inflation protection options with a limited term (that is, 10 years or 20 years) do not meet the requirements of the DRA.

5) Inflation protection options that reduce the level of inflation protection as the individual ages are permitted only insofar as they are consistent with the age-triggered inflation protection levels outlined in the DRA.

D. *Policy Certification.* Under the DRA, at 42 U.S.C. § 1396p(b)(5)(B)(iii), the Insurance Commissioner may certify that policies identified as Qualified Partnership Policies meet certain consumer protection requirements set forth in the DRA. To provide to the Insurance Commissioner the information necessary to provide such certification, issuers of long-term care insurance policies identified as Qualified Partnership Policies may provide the Department information and a certification as described in Attachment A which follows and is available on the Department's website.

E. *Policyholder Notification at Time of Purchase.* The Department requests that the issuer provide a notice to the insured at the time of issuance that a policy being purchased is intended to be a Qualified Partnership Policy as described in Attachment B which follows and is available on the Department's website.

F. *Policyholder Notification of Policy Status.* The Department requests that issuers provide a notice to the insured of the status of any Qualified Partnership Policy against which claims have been made, upon request of the policyholder, policyholder representative, or DPW, as described in Attachment C which follows and is available on the Department's website.

Questions regarding this notice may be directed to Shelley D. Bain, Director, Accident and Health Bureau, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120, (717) 787-0873 or sbain@state.pa.us.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

Attachment A

Issuer Qualified Long-Term Care Partnership (LTCP) Policy Certification Form

PENNSYLVANIA ISSUER CERTIFICATION FORM

(relating to Qualified State Long-Term Care Insurance Partnership)

Under 42 U.S.C. 1396p(b)(5)(B)(iii) of the Deficit Reduction Act of 2005, Pub.L. No. 109-171 (the DRA), the Insurance Commissioner may certify that long-term care insurance policies (including certificates issued under a group insurance contract) covered under the qualified State long-term care insurance partnership (Qualified Partnership) meet certain consumer protection requirements, and policies so certified are deemed to satisfy such requirements. These consumer protection requirements are set forth in 42 U.S.C. 1396p(b)(5)(A) and principally include certain specified provisions of the 2002 Pennsylvania Long-Term Care Insurance Regulation, the 1992 Pennsylvania Long-Term Care Act (referred to herein as the "Pennsylvania Regulation" and "Pennsylvania Act" respectively), Long-Term Care Insurance Model Regulation and Long-Term Care Insurance Model Act promulgated by the National Association of Insurance Commis-

sioners (as adopted as of October 2000) (referred to herein as the "2000 Model Regulation" and "2000 Model Act" respectively).

To provide the Insurance Commissioner with information necessary to provide a certification for policies, this Pennsylvania Issuer Qualified LTCP Policy Certification Form requests information and a certification from issuers of long-term care insurance policies with respect to policy forms that may be covered under the Pennsylvania Qualified Partnership.

An insurance company may request certification of policies from time to time and, accordingly, may supplement this issuer certification form, e.g., as it introduces new long-term care insurance policy forms for issuance.

I. GENERAL INFORMATION

A. Name, address and telephone number of issuer:

B. Name, address, telephone number, and email address (if available) of an employee of issuer who will be the contact person for information relating to this form:

C. Policy form number(s) (or other identifying information, such as certificate series) for policies covered by this Issuer Certification Form:

Specimen copies of each of the above policy forms, including any riders and endorsements, shall be provided upon request.

II. QUESTIONS REGARDING APPLICABLE PROVISIONS OF THE PENNSYLVANIA LONG-TERM CARE ACT AND REGULATION AND THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (NAIC) MODEL REGULATION AND ACT

Please answer each of the questions below with respect to the policy forms identified in section I.C above. For purposes of answering the questions below, any provision of the Pennsylvania Regulation, Pennsylvania Act, 2000 Model Regulation and 2000 Model Act listed below shall be treated as including any other provision of the Pennsylvania Regulation, Pennsylvania Act, 2000 Model Regulation and 2000 Model Act necessary to implement the provision.

Are the following requirements of the Pennsylvania Regulation, Pennsylvania Act, 2000 Model Regulation and 2000 Model Act met with respect to all policies (including certificates issued under a group insurance contract) intended to be covered under the Qualified Partnership that are issued on each of the policy forms identified in section I.C above?

Yes ___ No ___ N/A ___ A. 31 Pa. Code § 89a.105(a) (relating to guaranteed renewable or noncancellable).

Yes ___ No ___ N/A ___ B. 31 Pa. Code § 89a.105(b) (relating to limitations and exclusions).

Yes ___ No ___ N/A ___ C. 31 Pa. Code § 89a.105(c) (relating to extension of benefits).

Yes ___ No ___ N/A ___ D. 31 Pa. Code § 89a.105(d) (relating to continuation or conversion).

Yes ___ No ___ N/A ___ E. 31 Pa. Code § 89a.105(e) (relating to discontinuance and replacement).

Yes ___ No ___ N/A ___ F. 31 Pa. Code § 89a.106 (relating to unintentional lapse).

Yes ___ No ___ N/A ___ G. 31 Pa. Code § 89a.107 (relating to required disclosure provisions).

Yes ___ No ___ N/A ___ H. 31 Pa. Code § 89a.108 (relating to required disclosure of rating practices to consumers).

Yes ___ No ___ N/A ___ I. 31 Pa. Code § 89a.110 (relating to prohibition against postclaims underwriting).

Yes ___ No ___ N/A ___ J. 31 Pa. Code § 89a.111 (relating to minimum standards for home health and community care benefits in long-term care insurance policies).

Yes ___ No ___ N/A ___ K. 31 Pa. Code § 89a.113 (relating to requirements for application forms and replacement coverage); 2000 Model Regulation Section 14F (relating to accelerated long-term care benefits).

Yes ___ No ___ N/A ___ L. 31 Pa. Code § 89a.114 (relating to reporting requirements).

Yes ___ No ___ N/A ___ M. 31 Pa. Code § 51.4(d) (relating to advertising file).

Yes ___ No ___ N/A ___ N. 31 Pa. Code § 89a.120 (relating to standards for marketing).

Yes ___ No ___ N/A ___ O. 31 Pa. Code § 89a.121 (relating to suitability).

Yes ___ No ___ N/A ___ P. 31 Pa. Code § 89a.122 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

Yes ___ No ___ N/A ___ Q. 31 Pa. Code § 89a.123 (relating to nonforfeiture benefit requirement).

Yes ___ No ___ N/A ___ R. 31 Pa. Code § 89a.126 (relating to standard format outline of coverage).

Yes ___ No ___ N/A ___ S. 31 Pa. Code § 89a.127 (relating to requirement to deliver shopper's guide); 2000 Model Regulation Section 30 (relating to life policies with accelerated LTC benefits).

Yes ___ No ___ N/A ___ T. 40 P. S. § 991.1105(c) (relating to preexisting conditions).

Yes ___ No ___ N/A ___ U. 40 P. S. § 991.1108 (relating to prior institutionalization).

Yes ___ No ___ N/A ___ V. 31 Pa. Code § 89a.123 (relating to nonforfeiture requirement).

Yes ___ No ___ N/A ___ W. 40 P. S. § 991.1110 and Section 6F (relating to right to return).

Yes ___ No ___ N/A ___ X. 40 P. S. § 991.1111 (relating to outline of coverage provisions).

Yes ___ No ___ N/A ___ Y. 2000 Model Act Section 6H (relating to requirements for certificates under group plans).

Yes ___ No ___ N/A ___ Z. 2000 Model Act Section 6J (relating to policy summary).

Yes ___ No ___ N/A ___ AA. 2000 Model Act Section 6K (relating to monthly reports on accelerated death benefits).

Yes ___ No ___ N/A ___ BB. 2000 Model Act Section 7 (relating to incontestability period).

For a policy to be covered under the Pennsylvania Qualified Partnership, the answers to all questions above

should be "yes" (or "N/A" where all requirements with respect to a provision above are not applicable). If answers differ between policy forms (such, a requirement would be answered "Yes" for one form and "N/A" for another), you should use separate Pennsylvania Issuer Certification Forms for such policies.

Yes ___ No ___ N/A ___ Certification by company officer that the submitted Qualified LTCP policy will only be sold by producers who have received training and demonstrated evidence of an understanding of Qualified LTCP policies and how they relate to other public and private coverage of long-term care.

Yes ___ No ___ N/A ___ Certification by company officer that the appropriate inflation protections will be offered.

III. CERTIFICATION

I hereby certify that the answers, accompanying documents, and other information set forth herein are, to the best of my knowledge and belief, true, correct, and complete.

Date Name and title of officer of the Issuer

Signature of officer of the Issuer

Attachment B

Policyholder Long-Term Care Partnership (LTCP) Program Notification Form

[Issuer Letterhead]

Important Notice Regarding Your Policy's LTCP Status

(Please keep this Notice with Your Policy or Certificate)

The Pennsylvania Qualified Partnership. The Pennsylvania Qualified Partnership is an innovative partnership between Pennsylvania's Department of Public Welfare (DPW), the Pennsylvania Insurance Department and private insurers of long-term care insurance policies. The Pennsylvania Qualified Partnership program is offered in accordance with the Deficit Reduction Act of 2005 (P. L. 109-171).

Notice of Qualified Partnership Policy Status. This Notice identifies the long-term care insurance policy or certificate that you've purchased as a Qualified Partnership Policy. This Notice explains the valuable Medical Assistance asset protection that you may receive from purchasing a Qualified Partnership Policy.

Medical Assistance Resource Protection Provided. Long-term care insurance helps individuals prepare for future long-term care needs. Qualified Partnership Policies provide an additional level of protection. In particular, such policies permit individuals to protect resources under Pennsylvania's Medical Assistance Long-Term Care Program if assistance is ever needed under that program and the individual would be otherwise eligible for Medical Assistance Long-Term Care. In addition, if these specific protected resources are still in existence when the individual dies and they are part of the decedent's probate estate, they will not be recoverable under Pennsylvania's Medical Assistance Estate Recovery Program. The Medical Assistance Estate Recovery Program is a federally mandated program that requires Pennsylvania's DPW to recover the cost of long-term care and related services provided under the Medical Assistance Program from the estates of certain individuals who have died.

Specifically, the resource, eligibility and estate recovery provisions of the Pennsylvania Medical Assistance pro-

gram permit the disregard of an amount of assets which is equal to the amount of insurance benefits you have received from your Qualified Partnership Policy. For example, if you receive \$200,000 of insurance benefits from your Qualified Partnership Policy, you would be able to retain \$200,000 of resources and still be eligible for long-term care services provided under the Medical Assistance Program. This disregard is above and beyond the resources normally permitted to be retained by an individual and still qualify for Medical Assistance. This protection of assets applies to individuals in need of long-term care services both in the community or residing in a long-term care facility.

All Medical Assistance eligibility requirements besides the resources protected through the ownership of a Qualified Partnership Policy must be met to qualify for long-term services under Pennsylvania's Medical Assistance Program. You must meet the Medical Assistance Program's income requirements and you will be required to pay some of your income to the costs of your care in a long-term care facility. You should be aware that Medical Assistance eligibility requirements may change over time.

Additional Consumer Protections. In addition to providing Medical Assistance asset protection, your Qualified Partnership Policy has other important features. Under the rules governing Pennsylvania's Qualified Partnership, your Qualified Partnership Policy must be a qualified long-term care insurance contract under Federal tax law. As such the insurance benefits you receive from the policy generally will be subject to beneficial income tax treatment. (Please note that a policy can be a tax qualified long-term care insurance contract under Federal tax law, with the same beneficial income tax treatment, even if it is not a Qualified Partnership Policy.) In addition, if you were under age 76 when you purchased your Qualified Partnership Policy, it must provide inflation protection to help protect against potential future increases in the cost of long-term care. (For older purchasers, an offer of inflation protection is required.)

What Could Disqualify Your Policy as a Partnership Policy? If you make any changes to your policy or certificate, such changes could affect whether your policy or certificate continues to qualify as a Qualified Partnership Policy. Before you make any changes, you should consult with the issuer of your policy to determine the effect of a proposed change. In addition, if you move to a State that does not maintain a Qualified Partnership or does not recognize your policy as a Qualified Partnership Policy, you would not be eligible to receive Medical Assistance asset protection in that State. Also, changes in Federal or State law could affect the Medical Assistance asset protection available with respect to your Qualified Partnership Policy.

Additional information. If you would like further information about the Medical Assistance asset protection provided by your Qualified Partnership Policy or the Pennsylvania Qualified Partnership, please call [insert number] or visit [insert website].

Provided to Policyholder on

_____ Date

Copy: Policyholder
Issuer Records

Attachment C

Policyholder Long-Term Care Partnership (LTCP) Program Status Form

[Issuer Letterhead]

LONG-TERM CARE PARTNERSHIP PROGRAM POLICY SUMMARY

1. Name of insured _____
2. Policy/certificate number _____
3. Effective date of coverage _____
4. The policy/certificate was issued in the state of _____
5. Issue age of the insured at the time the coverage was issued _____
6. The policy/certificate was issued With Without inflation coverage
7. The inflation coverage is Simple Inflation Compound Inflation None
8. The inflation coverage is currently in effect on the coverage Yes No
If no, the date inflation coverage ceased _____
9. The policy meets the standards of a tax qualified long-term care policy Yes No
10. The cumulative dollar amount of insurance benefits paid \$ _____
(Note: The indicated amount does not include any payments for cash surrender, return of premium death benefits, or waiver of premium, and if joint coverage, the amount is for the indicated insured only)
11. The total dollar amount of insurance benefits remaining available under the policy \$ _____
12. Date this form was completed _____
13. The name, phone number and email address of the person completing this form

Name and Title

Phone Number

Email Address

I hereby certify that the above information is true and accurate and that the coverage meets partnership status in Pennsylvania at the time of this certification.

Signature

Date:

[Pa.B. Doc. No. 08-161. Filed for public inspection January 25, 2008, 9:00 a.m.]

Review Procedure Hearing; Cancellation or Refusal of Insurance

The following insured has requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68) (Act 68) in connection with the termination of the insureds' automobile policy. The hearing will be held in accordance with the requirements of Act 68, 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearing will be held in the Insurance Department's regional office in Harrisburg, PA. Failure by an appellant to appear at the 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 Kevin C. Barron; file no. 07-188-45419; Erie Insurance Exchange; doc. no. P07-12-017; February 26, 2008, 9:30 a.m.

Parties may appear with or without counsel and offer relevant testimony 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 Kathryn Culbertson, Agency Coordinator at (717) 705-4194.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-162. Filed for public inspection January 25, 2008, 9:00 a.m.]

RiverSource Life Insurance Company; Rate Increase Filing for LTC Form 30240-PA; Rate Filing

RiverSource Life Insurance Company (previously called IDS Life Insurance Company) is requesting approval to increase the premium 15% on Long-Term Care policy form 30240-PA. A total of 1,671 Pennsylvania policyholders will be affected by this rate adjustment.

Unless formal administrative action is taken prior to April 9, 2008, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) website 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.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg office.

Interested parties are invited to submit written comments, suggestions or objections to James Lavery, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlavery@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-163. Filed for public inspection January 25, 2008, 9:00 a.m.]

RiverSource Life Insurance Company; Rate Increase Filing for LTC Forms 30225-PA, 30225-PA1 and 30225A-PA1; Rate Filing

RiverSource Life Insurance Company (previously called IDS Life Insurance Company) is requesting approval to increase the premium 15% on Long-Term Care policy forms 30225-PA, 30225-PA1 and 30225A-PA1. A total of 4,308 Pennsylvania policyholders will be affected by this rate adjustment.

Unless formal administrative action is taken prior to April 9, 2008, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) website 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.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg office.

Interested parties are invited to submit written comments, suggestions or objections to James Lavery, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlavery@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-164. Filed for public inspection January 25, 2008, 9:00 a.m.]

United Services Automobile Association, USAA Casualty Insurance Company and USAA General Indemnity Company; Private Passenger Automobile Rate and Rule Revisions; Rate Filing

On December 7, 2007, the Insurance Department (Department) received from United Services Automobile Association, USAA Casualty Insurance Company and USAA General Indemnity Company a filing for rate level changes for private passenger automobile insurance.

The company requests an overall 2.6% decrease (when including the impact of the proposed rate capping rule per Exhibit XXVII) amounting to -\$4.2 million annually, to be effective February 18, 2008, for new business and May 5, 2008, for renewals.

Unless formal administrative action is taken prior to February 5, 2008, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website 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 comments, suggestions or objections to Mike McKenney, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, mmckenney@state.pa.us within 15 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-165. Filed for public inspection January 25, 2008, 9:00 a.m.]

Phillip S. Yussen, M. D.; Prehearing

Appeal of Phillip S. Yussen, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM07-12-018

On or before February 8, 2008, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's November 13, 2007, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for March 7, 2008. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before March 4, 2008. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before February 21, 2008, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any shall be filed on or before March 6, 2008.

JOEL SCOTT ARIO,
Acting Insurance Commissioner

[Pa.B. Doc. No. 08-166. Filed for public inspection January 25, 2008, 9:00 a.m.]

MILK MARKETING BOARD

Hearing and Presubmission Schedule; Milk Marketing Area No. 2; General Price Hearing

Under the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), the Milk Marketing Board will conduct a public hearing for Milk Marketing Area No. 2 on March 12, 2008, commencing at 9:30 a.m. in the Pennsylvania Room, Pennsylvania Farm Show Complex and Expo Center, 2300 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive evidence to establish minimum wholesale and minimum retail prices in Milk Marketing Area No. 2.

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 February 12, 2008, 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 February 12, 2008, notification of their desire to be included as a party. Parties should indicate in their notices of appearance if alternate means of service, that is, e-mail or fax, are acceptable.

The parties shall observe the following requirements for advance filing of witness information and exhibits:

1. By 4 p.m. on February 15, 2008, the petitioner shall file with the Board, in person or by mail, one original and eight 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 4 p.m. on February 29, 2008, each responding party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

3. By 4 p.m. on March 7, 2008, parties 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 4 p.m. on March 3, 2008.

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. 08-167. Filed for public inspection January 25, 2008, 9:00 a.m.]

PATIENT SAFETY AUTHORITY

Public Meeting

The Patient Safety Authority (Authority), established by section 303 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. § 1303.303), enacted on March 20, 2002, will hold a meeting of the Authority's Board of Directors on Tuesday, February 12, 2008, at 10:30 a.m. in the Wildwood Conference Center, Harrisburg Area Community College, One HAAC Drive, Harrisburg, PA.

Individuals having questions regarding this meeting, which is open to the public, should contact the Authority at (717) 346-0469.

MICHAEL C. DOERING,
Executive Director

[Pa.B. Doc. No. 08-168. Filed for public inspection January 25, 2008, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

Revised Filing and Copying Fees

The Pennsylvania Gaming Control Board, under 4 Pa.C.S. § 1208 (relating to collection of fees and fines) is authorized to levy and collect fees to fund the operations of the Board.

To cover the majority of the costs associated with filing various documents and making copies, the Board adopted a schedule of fees at its December 20, 2006 public meeting. Based on its experience since the adoption of that fee schedule, the Board is revising the fee schedule as listed.

The revised fee schedule will be effective upon publication in the *Pennsylvania Bulletin*.

Fee Schedule

First filings (Complaints and Petitions generally)	\$225.00
First filings (Petitions to withdraw Gaming and Nongaming Applications)	None
Response to initial pleading	None
Additional Parties	None
Second and subsequent filings	None
Motions (except for a first request for an extension of time)	\$100.00
Exceptions	None
Appeals	None
Copies (per page)	\$1.00
Certified copies (per page)	\$5.00

MARY DIGIACOMO COLLINS,
Chairperson

[Pa.B. Doc. No. 08-169. Filed for public inspection January 25, 2008, 9:00 a.m.]

RULES AND REGULATIONS

Title 28—HEALTH AND SAFETY

DEPARTMENT OF HEALTH

[28 PA. CODE CHS. 101 AND 117]

Sexual Assault Victim Emergency Services

The Department of Health (Department), following consultation with the Health Policy Board, amends Chapters 101 and 117 (relating to general information; and emergency services). The amended regulations are set forth in Annex A.

A. *Scope and Purpose of the Rulemaking*

This final-form rulemaking amends Chapter 117 to add minimum requirements for the physical and psychological treatment of sexual assault victims by hospitals of this Commonwealth. Although most hospitals currently provide medical services to sexual assault victims, there are no standard requirements for what services must be provided. This final-form rulemaking provides minimum requirements to be observed by all hospitals for "sexual assault emergency services," which include services related to assessment and prophylactic treatment of sexually transmitted diseases, counseling regarding the assault either onsite or at a rape crisis center, and information and services related to emergency contraception. Further, this final-form rulemaking takes into consideration the needs of law enforcement in protecting the community by making evidence gathering easier and more consistent, and helping in the prosecution of sex crimes.

This final-form rulemaking includes an exemption from requirements relating to the provision of emergency contraception services for hospitals that believe provision of that particular service would be contrary to the stated religious and moral beliefs of the hospital. This final-form rulemaking also provides that hospitals currently offering the most limited range of services and electing to refer all emergency patients after institution of essential life-saving measures may also elect not to provide any sexual assault emergency services. These hospitals will be required to comply with certain notice and transport provisions.

The Department published notice of the proposed rulemaking at 36 Pa.B. 6403 (October 21, 2006) and provided a 30-day public comment period.

The Department received comments from a variety of commentators including insurers, advocacy groups, professionals and religious organizations. The Department also received comments from the Independent Regulatory Review Commission (IRRC). The comments and the Department's responses to them appear in the summary of this final-form rulemaking.

B. *Summary*

General Comments and Revisions

In addition to comments on specific sections of the regulations discussed, the Department received some general comments as follows.

IRRC suggested the Department provide additional information regarding the need for these regulations, including quantifying the number of victims who did not

receive the appropriate and necessary care and services. Unfortunately, for a variety of reasons, many sexual assaults go unreported and victims are less likely to seek treatment for injuries related to a sexual assault than for injuries related to other crimes. A 2001 report from The Center for Sex Offender Management (a collaborative effort of the Office of Justice Programs, the National Institute of Corrections, and the State Justice Institute administered by the Center for Effective Public Policy and the American Probation and Parole Association), included statistics from the National Crime Victimization Surveys (Bureau of Justice Statistics) conducted in 1994, 1995 and 1998. These studies indicated that only 32% of sexual assaults against persons 12 or older are reported to law enforcement. A separate 3-year longitudinal study of 4,008 adult women found that 84% of respondents who identified themselves as sexual assault victims did not report the crime to authorities. Because of this underreporting, it is not possible for the Department to accurately quantify some of the information requested by IRRC.

However, research conducted by the ACLU and the Clara Bell Duvall Reproductive Freedom Project indicate that approximately 48% of hospitals in this Commonwealth provide emergency contraception to female sexual assault victims on a regular basis. Almost 35% of the hospitals surveyed had some emergency contraception policy, but it varied and was unclear. This final-form rulemaking seeks to ensure increased access to appropriate medical and psychological treatment for sexual assault victims by standardizing the policies and procedures which hospitals develop for treatment of sexual assault victims. Proper implementation of this final-form rulemaking will significantly increase the number of hospitals that provide emergency contraception on a regular basis, and eliminate any uncertainty as to established procedures which may currently exist.

One commentator noted the regulations do not address issues regarding parental consent for minors. Currently, the laws of the Commonwealth recognize that minors may individually consent to certain medical treatment or services that pertain to reproductive health and rights. See, *Parents united for Better Schools, Inc. v. School District of Philadelphia Board of Education*, 978 F.Supp. 197 (E.D. Pa. 1997); *Carey v. Population Services International*, 431 U.S. 678 (1977); *Planned Parenthood v. Danforth*, 428 U.S. 52 (1976); 42 U.S.C. § 300 et seq.; 42 U.S.C. § 1396(a)(10)(A); and section 3 of the act of February 13, 1970 (P. L. 19, No. 10) (35 P. S. § 10103). This includes the right to obtain emergency contraception without parental consent, and over the objections of a parent or guardian. A minor may also refuse to take emergency contraception notwithstanding a parent or guardian's insistence that the medication be provided. A reference card which includes information regarding a minor's right to obtain emergency contraception and many of the other services required by these regulations has been developed by several groups, including the Children's Hospital of Philadelphia, Children's Hospital of Pittsburgh, Penn State Children's Hospital, St. Christopher's Hospital for Children, the ACLU of Pennsylvania and *Physicians for Reproductive Choice and Health*. This card can be located online at www.aclupa.org/downloads/PAMinorscard2005.pdf, or www.prch.org/med_ed/minors_rights/Penn.pdf. As information regarding the rights of minors to obtain the necessary treatment for a sexual

assault is readily available, the Department has decided not to include additional information in the final-form rulemaking.

Another commentator noted that Plan B, an emergency contraception drug, is now available over-the-counter for individuals 18 or older. The commentator questioned the need for this rulemaking in light of these developments. The Department is aware that even prior to the Food and Drug Administration's (FDA) approval of Plan B as an over-the-counter drug, sexual assault victims could obtain emergency contraception by prescription at many local pharmacies, clinics, physicians offices and at some hospitals which had developed procedures for treating sexual assault victims. However, the goal of these regulations is to ensure a victim receives full and adequate care at one location. Therefore the Department has made no revisions to the regulations.

One commentator suggested the Department seek to have funds made available for increased Sexual Assault Nurse Examiner, Sexual Assault Forensic Examiner and Sexual Assault Response Team training. Although the Department hopes these regulations will encourage practitioners to seek this training and for hospitals and local government and law enforcement authorities to encourage this training, the Department is not able at this time to provide funding. However, the information available to the Department about this training shows it is not cost prohibitive for hospitals or practitioners to seek the training as a means to increase their awareness of the appropriate treatment of sexual assault victims and provide the highest level of services possible for their communities.

The Department has also made other minor and nonsubstantive revisions to the regulations. These revisions correct grammatical or spelling errors or make more appropriate reference to provisions which were not properly identified in the proposed regulations.

Section 101.4. Definitions.

One commentator suggested the Department amend the definition of "emergency contraception" to mirror that in Senate Bill 990 of the 2005-2006 Pennsylvania Legislative Session (PN 2109), the Compassionate Assistance for Rape Emergencies Act (SB 990). The commentator argued that the definition proposed by the Department might prohibit some hospitals from providing emergency contraception, because interfering with the implantation of a fertilized ovum within the uterus may be contrary to the religious or moral beliefs of these hospitals. The definition in SB 990 had been revised to exclude the phrase "implantation of a fertilized ovum within the uterus." Although the Department did not adopt the suggested definition, it has revised the definition in a manner it believes addresses the concerns of the commentators.

Although none of the comments received indicated that the commentators were confused about the difference between emergency contraception and mifepristone, it is important to distinguish the two here for clarification. The most recognized brand name for emergency contraception, Plan B, contains levonorgestrel, a synthetic version of the hormone progesterin. By taking two pills within the time period specific by the manufacturer, levonorgestrel can prevent pregnancy. Levonorgestrel primarily acts by stopping ovulation, that is, the release of an egg from the ovary. It may also inhibit or prevent fertilization if an egg has already been released, or inhibit or prevent the implantation of a fertilized egg within the uterus. If a fertilized egg is implanted before taking levonorgestrel, the drug will not be effective.

Mifepristone, often referred to as RU-486, is a synthetic steroid compound which is used as an abortifacient in the first 2 months of pregnancy. Unlike emergency contraception which is only effective before pregnancy, mifepristone has the effect of a medical abortion. To be clear, the Department is not sanctioning the use of mifepristone by this final-form rulemaking and, due to the fact that it would have the effect of causing the termination of an existing pregnancy, the use of mifepristone is governed by separate provisions of law. Furthermore, although some studies have indicated that a 10 mg dose of mifepristone may have contraceptive effects of preventing ovulation, the smallest dose approved by the FDA at this time is 200 mg. As a result, under current approvals, mifepristone could not be used as emergency contraception under this final-form rulemaking.

Some commentators suggested revisions to the definitions of "rape crisis center" and "sexual assault counselor." IRRC also suggested a revision to the definition of "sexual assault counselor," and inquired as to the training requirement in the definition. The Department has not changed the proposed rulemaking in response to these comments. For both of these terms, the Department utilized the definitions currently existing in 42 Pa.C.S. § 5945.1 (relating to confidential communications to sexual assault counselors). This section of the *Pennsylvania Consolidated Statutes* creates the confidentiality of communications between victims and sexual assault counselors. The Department will keep the definitions as proposed to ensure hospitals refer victims to the appropriate individuals and locations, and that the statutory confidentiality is preserved.

One commentator also suggested the term "sexual assault" and its definition, as presented in the proposed regulations, may be considered limited to just those crimes included under the term "sexual assault" as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault). Because the term "sexual assault" is generally understood to include various sex crimes, as is evidenced by the term "sexual assault counselor" in 42 Pa.C.S. § 5945.1, the Department decided to retain this term. The term "sexual assault" was also used in SB 990, and is found in legislation recently enacted in the Commonwealth, the Sexual Assault Testing and Evidence Collection Act (35 P.S. §§ 10172.1—10172.4). Although the Department has retained the term "sexual assault" in this final-form rulemaking, the definition has been revised to more clearly indicate that all crimes defined in 18 Pa.C.S. Chapter 31, Subchapter B (relating to definition of offenses) except indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure) and sexual intercourse with an animal as defined in 18 Pa.C.S. § 3129 (relating to sexual intercourse with animal), are included in the regulation's definition of "sexual assault."

In a comment related to the issue of the use of the term "sexual assault," some commentators, including IRRC, recommended the Department consider changing to the term "sexual assault victim" and definition of that term. This comment was based on the possibility that the Department would revise the term "sexual assault" under the previous comments. Because of the revisions to the definition of "sexual assault" and the other reasons previously listed, no revisions to this term or its definition are necessary.

§ 117.15. Community-based plan.

§ 117.41. Emergency patient care.

Although these sections of the existing Department regulations relating to emergency services in hospitals

were not included in the proposed rulemaking, IRRC suggested that the Department revise the proposed rulemaking or existing provisions in Chapter 117 to resolve inconsistencies between the use of the terms "rape" currently existing in § 117.15(b)(4)(iii) and (9) and the term "sexual assault" as included in the proposed rulemaking. In response to these suggestions, the Department has revised § 117.15(b)(4)(iii) and (9) to replace the term "rape" with "sexual assault." This change does not alter the intent or reading of these existing provisions and in fact assists in providing a clearer understanding as to their applicability.

Sexual Assault Victim Emergency Services

Section 117.51. Scope.

As a result of the following changes, the Department has renamed this section from "Principle" to "Scope" to more accurately describe its purpose in this final-form rulemaking.

IRRC questioned the need for this section of the regulations, stating that the section appeared to serve as a "table of contents" for the other provisions in the proposed rulemaking, and did not add any substantive material to it. In response to this comment, and as a result of changes made to other sections of the regulations as discussed in more detail as follows, § 117.51 has been revised to more clearly establish its purpose of identifying which hospitals are subject to this final-form rulemaking.

Some commentators requested the Department remove any language that allowed facilities to elect not to provide any sexual assault emergency services pursuant to the exemption provisions of § 117.58 (relating to exemption for hospitals providing limited emergency services). Alternatively some commentators suggested the Department clarify the language in this section to require all hospitals proficient in providing these services to be required to do so. As these comments are more specifically related to the exemption provisions of § 117.58, the Department has included its response to the comments to § 117.58.

One commentator suggested the Department include language indicating the specific governmental interest in the promulgation of this final-form rulemaking. The statement is not appropriate for the regulations as it does not direct facility conduct or set a regulatory standard under which the Department's surveyors can review a facility for compliance. However, the governmental interest for promulgating this final-form rulemaking was discussed in the preamble published with the proposed regulations, and is also discussed throughout this preamble.

Section 117.52. Minimum requirements for sexual assault emergency services.

Most of the commentators commended the Department on the establishment of comprehensive minimum guidelines for the treatment of sexual assault victims in proposed § 117.52. However, some commentators did make comments and suggestions.

One commentator suggested this final-form rulemaking be more explicit as to the type of evidence that must be collected under the provisions of proposed § 117.52(a)(1). The commentator also suggested the Department mention the use of rape kits in this section. IRRC agreed with these comments. Following the publishing of proposed rulemaking by the Department, the Sexual Assault Testing and Evidence Collection Act (35 P. S. §§ 10172.1—10172.4) was enacted, requiring the Department to ad-

minister a Statewide sexual assault evidence collection program. As part of this program, the Department is to consult with the Pennsylvania Coalition Against Rape and the Pennsylvania State Police to develop minimum standard requirements for all rape kits used in hospitals and to test and approve commercially available rape kits for use in this Commonwealth. As a result of this legislation and in response to these comments, the Department has revised § 117.52(a)(1) to include a requirement that all hospitals providing sexual assault emergency services utilize the minimum standards and rape kits as approved by the Department under that act. A list of minimum standards for rape kits and rape kits approved by the Department under the Sexual Assault Testing and Evidence Collection Act will be published in the *Pennsylvania Bulletin*.

One commentator recommended the Department revise proposed subsection (a)(1) to add "as indicated by the history of the incident" at the end of the paragraph. Due to the nature of a sexual assault, this information may not be available to a practitioner before the practitioner begins to provide services. Further, the Department does not wish to include language which may be read to limit the practitioner's ability to decide what information is important for determining the appropriate examinations and tests which should be conducted. Accordingly, the Department has decided not to include the suggested language.

Another commentator suggested specific revisions to the requirements in proposed subsection (a) to create a more general requirement of diagnostic testing and treatment as deemed appropriate by the physician, and eliminating some of the more specific requirements in proposed subsection (a)(4)—(6). Due to the overwhelming comments commending the Department for its comprehensive approach to treatment of sexual assault victims, including the specific provisions in this section, the Department has retained the language included in the proposed regulations. Based on these and other comments, however, the Department has revised the language of proposed subsection (a)(5) to make it clear that a determination of the necessary testing is left to the professional judgment of the examining practitioner based on the practitioner's assessment of the victim's condition.

Another commentator recommended the Department specify that a hospital is only required to provide a victim with the initial dosage of STD or HIV prophylaxis and to give the victim information on how to obtain the rest of the recommended regimen, if any. Similar comments were received in response to proposed § 117.54 (relating to prevention of sexually transmitted diseases). This comment is addressed as follows along with the comments received in response to proposed § 117.54, and revisions have been made accordingly.

Three commentators also recommended that the Department revise the regulations to require hospitals to contact a rape crisis center or sexual assault counselor immediately upon a sexual assault victim presenting at the facility. Those commentators indicated the rape crisis center or sexual assault counselor could then advise the sexual assault victim about the services they offer and provide other counseling and information regarding treatment of the sexual assault. Although the Department believes contact with a rape crisis center or sexual assault counselor would be of great assistance to sexual assault victims, the sexual assault victim should have the ability to decide whether a center or counselor will be contacted both to protect the privacy of the victim and to

allow the victim to make an informed decision about the extent of the treatment the victim wishes to receive. Based on their experience, hospitals and their practitioners could inform the sexual assault victim of the benefits of speaking with a rape crisis center or sexual assault counselor. The Department has, however, revised subsection (a)(7) to require prompt notification of a rape crisis center or sexual assault counselor if the victim makes that request.

Two commentators suggested that the Department include a requirement for the provision of emergency contraception in this section to clearly indicate its importance in the appropriate treatment of female sexual assault victims. Similar comments were received in response to proposed § 117.53 (relating to emergency contraception). Although the Department believes the regulations do sufficiently identify the importance of emergency contraception, language has been added to this section in subsection (a)(9) to address the commentators' concerns.

Some commentators suggested the Department establish certain minimum training standards that physicians and nurses who treat sexual assault victims must meet. Another commentator recommended that the Department require that hospitals staff their facilities with Sexual Assault Nurse Examiners or Sexual Assault Forensic Examiners, or that the hospitals work with Sexual Assault Response Teams to perform evaluations and treatment and to conduct evidence collection. IRRC also made a similar suggestion. While the Department would encourage hospitals to utilize the most appropriately trained staff to provide the services required by this final-form rulemaking, the Department believes hospitals and their staff are best suited to determine the appropriate training for practitioners treating sexual assault victims under this final-form rulemaking.

IRRC inquired as to how the requirements in subsection (a) are to be balanced with other potential acute care needs of a sexual assault victim. IRRC also submitted similar comments in response to proposed §§ 117.57 and 117.58 (relating to religious and moral exemptions; and exemption for hospitals providing limited emergency services). The Department is cognizant of the fact that a sexual assault victim may present at a hospital with other physical injuries from the sexual assault, some of which may take medical priority for treatment over the requirements of these regulations. To eliminate any concerns that the regulations may be read as taking priority over other medical care which may require more immediate attention, the Department has revised subsection (a) to require a hospital to provide the required services promptly, or as immediately thereafter as medically appropriate depending on the condition of the victim. A hospital shall also provide other services for treatment of the sexual assault as medically indicated by the condition of the victim, including treatment for any injuries or trauma resulting from a violent physical attack.

IRRC also inquired as to the accessibility of medical records under these provisions. First, IRRC noted one commentator's concern that gathering information about the sexual assault and the victim and including it in the medical record may lead to its use against the victim in a court of law. Some commentators also noted the regulations do not speak directly to confidentiality or privacy. IRRC also questioned the accessibility of this information by others. Second, IRRC inquired as to the length of time a hospital is required to maintain medical records under this final-form rulemaking.

As to the concerns for confidentiality and privacy, the Department notes confidentiality and privacy of medical information is currently addressed and protected by various provisions of law which must be adhered to by the facility and practitioners, including common law and statutory privileges like the doctor-patient privilege, Federal law like the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1320d et. seq.; 45 CFR 160.101 (relating to statutory basis and purpose)) and State law like the Department's hospital regulations (Chapter 115 (relating to medical records services)). For example, § 115.27 (relating to confidentiality of medical records) provides for the confidentiality of medical records and procedures for their release. Hospitals and practitioners would be required to maintain any confidentiality or privileges provided in State and Federal law. Similarly, nothing in these regulations conflicts or supersedes the provisions of the "Rape Shield Law," 18 Pa.C.S. § 3104(a) (relating to evidence of victim's sexual conduct), which provides for the inadmissibility of evidence of a sexual assault victim's past sexual conduct in criminal proceedings.

With regards to the length of time medical records must be maintained, the Department notes its regulations, as they appear in Chapter 115, already address issues relating to medical records in hospitals. Specifically, § 115.23 (relating to preservation of medical records) provides the time periods for the retention of records. To ensure hospitals are aware of the requirement to maintain these records in a manner consistent with the provisions in Chapter 115, the Department has revised subsection (b) of this section to include reference to this chapter.

Section 117.53. Emergency contraception.

The Department received a comment requesting that it remove any specific requirement that the hospital provide a female sexual assault victim with emergency contraception. The commentator argued the language was unnecessary and that individual practitioners should determine which medication would be appropriate for the victim. As recent events in this Commonwealth have demonstrated that at least one hospital did not include emergency contraception in the policies and procedures for treating sexual assault victims, the Department believes specific language requiring hospitals to provide emergency contraception is appropriate, and has not revised the regulations.

The Department received several comments on the requirements for the oral and written emergency contraception information that must be provided by hospitals to sexual assault victims contained in proposed subsection (a)(1) and (2). The Department has addressed those comments in its discussion of § 117.55 (relating to emergency contraception informational materials).

The Department also received comments requesting the regulations specify that the oral information about emergency contraception hospitals give to sexual assault victims also be objective and medically and factually accurate. The requirement of paragraph (2), formerly proposed subsection (a)(2), that hospitals provide oral information goes beyond that of the written information materials, which only requires the hospital provide the materials to the victim without further explanation or information regarding the availability of emergency contraception. This provision requires hospitals to inform the victim of the fact that emergency contraception is available at the hospital and to explain its use, risks and efficacy. This requirement, and other requirements in §§ 117.52(a),

117.54 and 117.56 (relating to minimum services for sexual assault emergency services; prevention of sexually transmitted diseases; and information regarding payment for sexual assault emergency services) will assist in opening a dialogue between the hospital and the victim to ensure that the victim is fully informed of the available treatment for the sexual assault. Information provided by a hospital to a patient is required by other provisions of law to be medically and factually accurate, and as such, including that requirement here is unnecessary. The Department has added language to require that, at a minimum, the oral information about emergency contraception required by the regulations be objective.

Several commentators recommended revisions to the language in proposed subsection (b) regarding pregnancy testing prior to the provision of emergency contraception to female sexual assault victims. One commentator also suggested the Department broaden the language to include ovulation testing in order to allow certain hospitals to exercise moral conscience. Other commentators requested that the Department limit the ability of a facility to conduct a pregnancy test or to condition providing emergency contraception on a pregnancy test. Some commentators suggested language regarding pregnancy tests be eliminated altogether. IRRC also questioned the need for this provision, considering emergency contraception will have no effect in eliminating an existing pregnancy. IRRC commented, however, that if pregnancy is a contraindication of emergency contraception this should be specifically mentioned in the regulations.

Having considered all these comments, the Department has removed proposed subsection (b) to eliminate any of the potential problems raised by the commentators, and has renumbered the section accordingly. A hospital or practitioner may choose to exercise conscience without a regulation from the Department. Although pregnancy is a contraindication for the administration of emergency contraception, hospitals and health care practitioners should exercise professional judgment in informing sexual assault victims about the contraindications of medications and treatment available to the victim. Accordingly, the Department has clarified paragraph (3) to indicate that emergency contraception must be provided unless medically contraindicated or unless the hospital is operating under the religious or moral exemption of § 117.57.

Section 117.54. Prevention of sexually transmitted diseases.

One commentator suggested the Department eliminate this section entirely, and instead create and provide written informational materials which could be used by the victim to determine the treatment they wish to receive. While the Department is charged with promoting the health, safety and adequate care of residents in healthcare facilities in this Commonwealth, it is not appropriate for the Department to supplant the role of healthcare providers and practitioners in providing appropriate medical information and treatment to individuals. Substituting the compassionate care which is offered by health care providers and health care practitioners in this Commonwealth with written informational materials may be viewed as inappropriate, especially for an individual who presents at a hospital as the victim of a traumatic event such as a sexual assault. The Department has, therefore, retained this section with certain revisions as described as follows.

Two commentators requested the Department delete the phrase "significantly prevalent" as it appeared in subsections (a) and (c). The commentators also suggested

the Department add "including Hepatitis and HIV" to these subsections. As the hospital providing treatment to a victim is best able to determine which tests and treatments are appropriate, the Department has revised the regulations to incorporate these suggestions and allow hospitals more latitude in making these decisions.

These commentators also suggested the Department delete "and tests that may be conducted" from proposed subsection (b)(1). The commentators included no explanation for this recommendation. The risk assessment required by subsection (a) would include consideration of results from tests which may be conducted by the hospital to ensure that a victim receives the appropriate treatment. The Department has not revised the proposed subsection in response to these comments.

Some commentators suggested the Department clarify the requirement that hospitals provide STD prophylaxis to indicate that only an initial 72-hour dosage be provided, with the hospitals providing the victim information and the means, such as prescriptions, for obtaining the remainder of the medication if it is deemed necessary. Although, based on risk assessment conducted by the hospital pursuant to the regulations, some victims may not need STD prophylaxis medication, in other instances certain findings of the risk assessment or the unavailability of some information needed to complete the risk assessment may necessitate a victim receiving at least the initial 72-hour dosage. During this 72-hour period, additional information may be obtained by the hospital which would allow it to inform the victim as to whether continuing with the full dosage is necessary. A victim should not be burdened with the expense and difficulty of continuing with a 30-day regimen of STD prophylaxis if it is determined the full regimen is unnecessary. The Department has revised the regulations to incorporate the commentators' suggestions.

Some commentators asked who would be responsible for payment of the cost of STD prophylaxis and noted the potential high cost of this medication. The Department has included provisions in § 117.56 to require that hospitals inform victims of known resources for payment, including programs for the uninsured or underinsured. In fact, another commentator recommended the inclusion of text from 42 Pa.C.S. § 1726.1 (relating to forensic examination costs for sexual offences), which specifically provides that the "cost of a forensic rape examination or other physical examination conducted for the purpose of gathering evidence in any criminal investigation and prosecution under 18 Pa.C.S. Chapter 31 (relating to sexual offenses) and the cost to provide medications prescribed to the victim therein shall not be charged to the victim. If appropriate insurance is unavailable, reimbursement may be sought pursuant to the provisions of section 477.9 of the act of April 9, 1929 (P. L. 177, No. 175), known as The Administrative Code of 1929." (42 Pa.C.S. § 1726.1.) The referenced section of The Administrative Code of 1929 provides for reimbursement by the Victims Compensation Assistance Program. Because of existing law, therefore, the Department believes no revisions are necessary to address this concern.

IRRC recommended the Department include a more specific citation to the United States Department of Health and Human Services Centers for Disease Control and Prevention (CDC) risk assessment standards referenced in subsections (b) and (c). At the current time, the CDC includes its recommendations in a guidance document entitled "Sexually Transmitted Diseases Treatment Guidelines, 2006." This document, and its recommenda-

tions, can currently be found at www.cdc.gov/std/treatment/default.htm. This document was also included in the August 4, 2006, edition of the CDC's *Morbidity and Mortality Weekly Report*. Centers for Disease Control and Prevention, *Sexually Transmitted Diseases Treatment Guidelines*, 2006. MMWR 2006;55 (No. RR-11). However, as the Department is unable to predict when this document will be updated (previously the recommendations were included in "Sexually Transmitted Diseases Treatment Guidelines, 2002") or whether the recommendations will be incorporated into another CDC publication, the regulations do not include a specific document citation which may require constant revisions in the future. Hospitals and their staff should be capable of locating these guidelines for inclusion in their treatment policies and procedures and are likely already aware of these guidelines. Accordingly, no revisions have been made under IRRC's recommendations.

Section 117.55. Emergency contraception informational materials.

One commentator suggested the Department eliminate this section, because the substance of this section is addressed in § 117.52 (relating to minimum requirements for sexual assault emergency services). This section, however, contains additional information not included in § 117.52, and it is necessary for implementation of the regulations. Therefore, the Department has not revised this section.

Some commentators suggested the Department include more specific standards for the written informational materials, or review and approve the materials created by the hospitals. At least one commentator suggested the Department create the materials and make them available to hospitals. After considering these comments, the Department has revised § 117.55(b) to provide that the Department will develop the written emergency contraception informational materials and make them available to hospitals in electronic format. Hospitals, and the general public, will be able to obtain these materials from the Department's website or by requesting an electronic copy from the Department. Hospitals will be required to obtain the information materials, print them, and make them available to their staff and to sexual assault victims. This will ensure consistency in the information provided and reduce the cost to hospitals for compliance with these provisions.

Another commentator suggested the Department produce a list of locations where emergency contraception can be obtained. Some commentators suggested the written emergency contraception informational materials include a list of locations where emergency contraception is available. Due to the Department's limitations, it is not possible to create individual documents for each hospital to use, identifying the locations nearest to each hospital where emergency contraception is available. Although the materials will not include a specific list of locations where emergency contraception is available, the materials will inform victims of its availability, including the requirements that certain hospitals provide emergency contraception to sexual assault victims. Further, the materials will include contact information for rape crisis centers, where victims can obtain additional assistance, including counseling and referral for emergency contraception.

In contrast to the previous comments, one commentator suggested that requiring hospitals that exercise the religious or moral exemption provided under § 117.57 to refer victims to locations where emergency contraception can be obtained could constitute material cooperation by

the hospital in an activity it finds contradicts with its stated religious or moral beliefs. The Department will be producing the written emergency contraception materials to be used by hospitals, so that this concern should no longer be an issue. Furthermore, the commentator noted that providing a victim with contact information for a rape crisis center would not violate the stated religious or moral beliefs with which this commentator was concerned. The materials prepared by the Department will not include a list of locations to obtain emergency contraception, but will provide a toll free number that a sexual assault victim can call to contact a local rape crisis center.

Section 117.56. Payment for sexual assault emergency services.

One commentator suggested this section was unnecessary because hospitals already provide patients with information on financial resources available to pay for services received. The commentator asked that this section be deleted. Several other commentators commended the Department on requiring this information be provided by hospitals. Although § 103.22(b)(18) and (19) (relating to implementation) do contain language similar to that in § 117.56, this section goes further in identifying some of the specific resources for payment, including, for example, the Victim Compensation Assistance Program administered by the Pennsylvania Commission on Crime and Delinquency. By including this section, the Department will be able to identify additional financial resources in the regulations as they become available. It is imperative that a sexual assault victim is properly informed of financial resources for payment of the care, to ensure that a victim does not refuse treatment based on a concern of the inability to pay for the services. IRRC also commented on this section, and stated that "the regulations should require that victims receive comprehensive information on their financial responsibility and all resources available to them for covering the costs of their treatment." The Department agrees, and has accordingly retained this section of the regulations.

Another commentator requested the Department include clarification about Medicaid and Medicare payment methods for these services. It is impractical for the Department to provide more specifics about these programs in its regulations, since they are currently operated by other agencies, and are subject to change before the Department has an opportunity to amend its regulations. To ensure the regulations will not require regular revisions, no revisions have been made in response to these comments. More information regarding the treatment or services covered by Medicaid or Medicare can be obtained from the agencies responsible for administering these programs.

One commentator suggested the Department explore ways to reduce the cost of services to victims, such as working with drug manufacturers to lower medication costs. Although reducing costs of services and medications for sexual assault victims is certainly important, it would be inappropriate for the Department to engage in the negotiations and transactions required to accomplish these goals. However, there are several sexual assault victim advocacy groups in this Commonwealth that can negotiate with hospitals and drug manufacturers to achieve the same goals, and this is preferable to government intervention in cost of services or medication.

One commentator suggested the Department more clearly state whether victims will be responsible for any costs associated with the provision of these services. Because the costs for services and payment methods for

each sexual assault victim are unique, the Department cannot develop specific language to address each separate circumstance. The Department has not revised the regulations in response to the commentator's concerns.

One commentator noted that sexual assault victims should be provided information to inform them that any applicable medical insurance company need not be notified of the fact the individual was the victim of a sexual assault. However, the commentator did not provide sufficient information for the Department to determine the specific circumstances under which this statement would apply. Further, the method by which a hospital or individual requests reimbursement from a health insurer, and the information that must be provided to the insurer in order for reimbursement to occur, are not within the Department's control. The Department has not revised the regulations in response to this comment.

Section 117.57. Religious and moral exemptions.

Some commentators suggested the Department include a religious and moral exemption for individual practitioners similar to that included in this section for hospitals. The Department has not revised the regulations in response to these comments. The Health Care Facilities Act (HCFA) (35 P. S. §§ 448.101—448.904a) provides the Department with the authority to license and regulate health care providers and facilities, not health care practitioners. The authority to license and regulate the health care practitioners who would provide the services in hospitals under the regulations is vested in the Department of State. A hospital should develop procedures that would assure the provision of sexual assault victim emergency services in accordance with the Department's regulations and yet still accommodate an individual practitioner's needs. Furthermore, the Department, through its regulations relating to civil rights (28 Pa. Code §§ 51.11—51.13 and 101.161—101.165 (relating to civil rights)), requires compliance with all civil rights laws with regards to the treatment of patients and facility personnel, and discrimination against a practitioner on the basis of religion is prohibited.

Some commentators suggested that hospitals should not be provided a religious or moral exemption to the requirement that hospitals provide emergency contraception to sexual assault victims. The religious or moral exemption regarding the provisions of emergency contraception by hospitals is not created by the Department through its regulations. Instead, the regulations recognize the language of the HCFA, which creates the exemption, and provides for certain notification and transport provisions for hospitals eligible for and availing themselves of the exemption. Further, even if the HCFA did not provide the exemption, some stakeholders have argued that Pennsylvania's Religious Freedom Protection Act (RFPA) (71 P. S. §§ 2401—2407) would prohibit the Department from requiring certain hospitals to provide emergency contraception. As any exemption which may exist is a matter of statutory language enacted by the General Assembly, the Department cannot revise the regulations to address the commentators' concerns.

One commentator suggested a facility's denial of emergency contraception could be considered discriminatory towards the victim and a violation of the sexual assault victim's constitutional and statutory rights. IRRC also submitted comments to the Department on this issue and asked that it be resolved in light of one commentator's concerns that requiring hospitals to provide emergency contraception may violate the RFPA. The Department has not been presented with any law or court ruling which

would support the position that an individual has a religious or civil right to be provided a particular medication in a hospital. The Department is not in a position to make ultimate determinations on whether a hospital's refusal to provide emergency contraception would violate any rights conferred to the victim. A review is up to the applicable courts. However, the Department does enforce applicable law, and would reexamine the regulations if presented with sufficient legal authority to support the commentator's position.

Some commentators suggested that, even if a hospital were able to avail itself of a religious or moral exemption to the requirement that the hospital provide emergency contraception to a sexual assault victim, the exemption should not be extended to the requirements in § 117.52(a)(2). That section states that a hospital must orally inform the victim of the availability of emergency contraception. Comments submitted by one commentator suggest that providing oral information regarding emergency contraception would not violate a facility's religious or moral beliefs. Having reviewed material regarding religious objection to providing emergency contraception, the Department agrees with these comments and it has revised the regulations to require all hospitals to provide oral information about emergency contraception.

One commentator provided alternative language which, although similar to that in the proposed regulations, did not give reference to the HCFA, and did not ensure that arrangements would be made to arrange for transportation for a victim to a location that could provide emergency contraception. Although the Department appreciates comments which provide alternative language, the Department has not incorporated the language into this final-form rulemaking.

Some commentators suggested the "safeguards" of the RFPA be incorporated into the regulations to ensure a hospital does not improperly claim a religious or moral exemption. Another commentator suggested a hospital should be required to apply to the Department for an exception to exercise a religious or moral belief. One commentator requested additional clarification on what constituted a "religious" hospital. IRRC similarly inquired as to what the Department would deem "religious or moral beliefs."

Because the HCFA applies to all hospitals, where the RFPA only applies to those hospitals which fall within the RFPA's definition of "person," the Department opted to make reference to the HCFA which is equally applicable to hospitals within the Department's regulatory authority. However, neither the HCFA nor RFPA grant the Department the authority to make determinations of the applicability of these laws to a hospital's stated religious or moral beliefs. Those determinations can be made by a court of law. Accordingly, the Department is only requiring that a hospital inform the Department of its intent to exercise the exemption in § 117.57, and provide it with documentation, reviewed and approved by the hospital's governing body, to confirm the hospital's stated religious or moral beliefs. The Department will review this notification to ensure a facility does in fact have a stated religious or moral belief against the provision of emergency contraception. It should be noted that the *Pennsylvania Code* currently provides for a similar arrangement with regards to a facility's stated ethical policy as it pertains to abortion or sterilization. (See 16 Pa. Code §§ 51.31—51.33 (relating to rights and obligations of hospitals and other health care facilities).)

Another commentator argued the referral and transport provisions could violate a hospital's rights and the RFPA. The Department's regulations do not require referral of the victim to a facility where emergency contraception is provided, nor do they require transport by the hospital. As noted previously, the written emergency contraception informational materials will list a telephone number for a rape crisis center. This Center can make the appropriate referral of the victim to a location where emergency contraception can be obtained without the hospital's involvement. Further, a hospital is not required to actually transport the victim, but instead is required to arrange for transportation for the victim. This can be accomplished, and the regulations complied with, by having the hospital make arrangements with a local rape crisis center or other similar sexual assault victim assistance organization to provide transportation to the victim. The RFPA states that an agency shall not "substantially burden the free exercise of religion without compelling justification." 71 P. S. § 2402(1). The Department does not believe that the regulations present a substantial burden to the free exercise of religion under the RFPA. Even if it could be argued that the regulations present a substantial burden to the free exercise of religion, they do so in furtherance of compelling interests of the Department and are the least restrictive means of furthering the interest.

The Department has a compelling interest in the protection of the health, safety and welfare of the residents of this Commonwealth. Furthermore, the Department has a compelling interest in the reduction of the harmful effects, health concerns and complications which may be caused by unwanted and unplanned pregnancies which may result from sexual assaults. As drafted, the regulations are the least restrictive means of achieving these compelling interests as they reduce and even eliminate an objecting hospital's involvement in the provision of emergency contraception to sexual assault victims and allow hospitals to comply with these requirements by seeking the assistance of third-parties who can provide transportation for a victim to a location where emergency contraception could be obtained.

One commentator requested the Department require hospitals operating under this exemption inform sexual assault victims verbally and in writing that it can arrange for a transfer of the victim, at no cost, to a facility that will provide emergency contraception. Other commentators suggested the hospitals should be required to inform the victims of their objections to emergency contraception immediately upon the victims presenting at the hospitals. The regulations have been revised to clearly indicate that a hospital is required to provide oral and written information to a victim of the availability of the arrangement for transportation. (See § 117.57(5).) A similar revision has been made to § 117.58. (See § 117.58(5).) The written emergency contraception materials created by the Department will also provide this information. Furthermore, it is important to allow the practitioners at a facility to make the appropriate assessment of each sexual assault victim and determine the timing of the services and treatment that will be provided. As detailed as follows, the Department has also revised the regulations to require prominent posting of the facility's exercise of the exemption. (See §§ 117.57(5) and 117.58(5)).

One commentator suggested that if a victim cannot be transferred to a facility that will provide emergency contraception, the treating hospital should be required to provide emergency contraception notwithstanding any

religious or moral belief to the contrary. The regulations require a hospital to ensure that all treatment is provided. If a hospital determines the extended treatment of a victim could result in a victim not receiving emergency contraception due to the hospital's religious or moral belief, the hospital should inform the victim and make arrangements to transfer the victim to a facility that will continue with any treatment required for the victim, including emergency contraception. If a hospital delays informing the victim of the availability of emergency contraception, or delays in arranging for transportation, until such time as emergency contraception would no longer be effective, the hospital may not be in compliance with the regulations.

Another commentator suggested the Department address any conflict between § 117.57 and SB 990. At the end of the 2005-2006 Regular Session, SB 990 had failed to pass. On February 7, 2007, the Pennsylvania House referred House Bill 288 (HB 288), the Sexual Assault Victim Emergency Treatment Act, to the Health and Human Services Committee. Although similar to SB 990, HB 288 does not contain the religious exemption language that was included in SB 990. To date, no bill has been passed by the General Assembly regarding requirements for the provision of emergency contraception in hospitals in this Commonwealth. The Department will review these regulations periodically to determine their consistency with any subsequent legislation at either the State or Federal level which may provide for requirements similar to or related to those in these regulations.

Some commentators, including IRRC, asked the Department to require a victim to be transferred to the "closest" hospital, not just a hospital in "close proximity." Similar comments were made with regards to the transfer provision in § 117.58. The Department is cognizant of the possibility that in some areas, a hospital may exist which is not located in this Commonwealth but does provide the required services and is the closest hospital to where the victim is located. Further, in situations when other treatment has been provided and arrangements need only be made to ensure the victim receives emergency contraception, locations other than hospitals may be available. The Department has revised the regulations in light of these possibilities, including permitting transportation to out-of-State hospitals and to locations other than hospitals where emergency contraception is available.

One commentator suggested hospitals operating under the exemptions in either this section or § 117.58 prominently post this information in the hospital's emergency services area so a sexual assault victim receives additional notice of the limitation of services provided by the hospital. IRRC agreed with this recommendation. The Department has revised the regulations to include prominent posting of notice in the hospital's emergency service areas. (See § 117.57(1).)

Some commentators inquired as to applicability of the Emergency Medical Treatment and Active Labor Act (EMTALA) (42 U.S.C.A. § 1395dd) and related regulations at 42 CFR 489.24 (relating to special responsibilities of Medicare hospitals in emergency cases) to these regulations, and specifically to the exemptions and transfer provisions in this section and § 117.58. The Department notes that nothing in the regulations contradicts EMTALA or requires or allows a facility to violate the provisions of EMTALA. All hospitals which provide emergency services and are subject to EMTALA must provide the appropriate medical screening examinations and are required to treat or transfer sexual assault victims in

accordance with the requirements of EMTALA. However, there is no indication that the Centers for Medicare and Medicaid Services (CMS) considers the provision of emergency contraception to be an emergency medical service which in itself would invoke the requirements of EMTALA. It should be noted that guidance issued by CMS provides that preventative care services (which, although not specific, could include medications to prevent pregnancy) and a request for gathering of evidence for criminal law cases (rape kits) are not considered, by CMS, to be medical care services under EMTALA, and do not invoke the provision of a medical screening examination under EMTALA. The implications of EMTALA on hospitals operating under the § 117.58 exemption present distinct issues which are addressed in the responses to comments to that section.

Some commentators, including IRRC, inquired as to whether the Department required a transfer under § 117.57 be completed by an ambulance. The commentators also asked what authority the Department had to require a transfer by ambulance and who would be responsible for the cost. IRRC was also concerned about the cost of transporting victims for what may be considered nonemergency treatment. One commentator argued that requiring hospitals operating under the § 117.57 exemption to pay for the transfer would be a tax on the hospital for the exercise of their religious or moral beliefs.

If a transfer by ambulance would be required under EMTALA or other applicable law, the Department would expect the applicable parties to comply with those laws. However, if current laws do not require transfer by ambulance for the purposes of obtaining emergency contraception, then these regulations should not be construed as a new requirement to do so. The Department is requiring a hospital operating under the exemption in § 117.57 to arrange for reasonable transportation for the victim. (See, § 117.57(2).) This can be accomplished in any one of various methods, including transfer by law enforcement, by a sexual assault counselor, or by a hospital transportation service. To avoid confusion, the Department has revised the regulations to eliminate the use of the word "transfer" in § 117.57 and replace it with "transportation."

In response to the inquiry regarding payment for the transportation, the Department is only requiring that the victim not bear the cost of this transportation. Depending on the transportation arrangements made by the hospital, these costs could be covered by one of the programs available to cover the costs for sexual assault victims, or transportation could be provided by a rape crisis center who might not seek reimbursement for its services. It is not possible, therefore, to quantify these costs or determine a payer in the regulations.

Section 117.58. Exemption for hospitals providing limited emergency services.

Some commentators suggested the Department revise the proposed rulemaking to prevent hospitals from electing not to provide emergency services to sexual assault victims under § 117.58. One commentator suggested the Department more specifically define who is permitted to exempt themselves from the regulations under this exemption. Conversely, one commentator noted it was appropriate to allow hospitals to individually determine whether or not they would provide emergency services to sexual assault victims, to ensure victims receive treatment in hospitals with more experience and whose practitioners are proficient in the treatment of sexual assaults. That commentator, however, did have concerns about

some of the more proficient hospitals electing not to provide sexual assault emergency services.

Generally, the Department's regulations relating to health care facilities do not require hospitals to provide any specific services or treatment or any particular level of services. However, the existing hospital regulations do provide hospitals with guidelines for determining which level of emergency services to provide based on the scope of services otherwise generally provided by the hospital. Specifically, § 117.13 (relating to scope of services) provides for three levels of care which are acceptable in a hospital, ranging from full "effective care for any type of patient requiring emergency services" by hospitals that otherwise "offer a broad range of services," (§ 117.13(1)) to allowing hospitals to "refer all emergency patients after institution of essential life-saving measures" for hospitals that otherwise offer only "the most limited range of services." (§ 117.13(3).) Based on the concerns raised by some commentators on the exemption provisions in § 117.58, the Department has revised this section to allow only hospitals with the "most limited range of services" to continue to refer all emergency patients and exempt themselves from treating sexual assault victims in accordance with the regulations. These hospitals currently have procedures for ensuring patients in need of emergency services are not transported to their facilities and for referral and transfer of those who nevertheless present at the hospital. However, nothing should be construed to prevent a hospital operating an emergency service area under § 117.13(3) from providing emergency services to sexual assault victims if that hospital believes it can appropriately provide the services and the community which they serve would benefit from them providing the services. Hospitals electing not to provide services must still comply with certain notification provisions and should transfer victims in accordance with their current transfer policies.

Some commentators were concerned as to how a hospital electing not to provide sexual assault emergency services should respond to a victim who presents with a need for services relating to the sexual assault but not directly covered by these regulations, such as injuries from a physical assault. Again, the revisions made by the Department address these concerns. Hospitals governed by this section should have current policies and procedures that include provisions to deal with stabilizing the victim prior to transfer to another facility. These policies and procedures would apply for transfer and transport of sexual assault victims.

Another commentator asked whether hospitals that elect not to provide emergency contraception under the religious and moral exemption in § 117.57 in only limited circumstances must still comply with the notification provisions. Although the refusal by these hospitals to provide emergency contraception may be limited, the fact that a hospital could legally exercise its religious rights to deny emergency contraception demands that the public be notified to limit the occasions in which a victim will be required to receive services in piecemeal fashion. Accordingly, all hospitals which at any time may deny emergency contraception under a stated religious or moral belief must comply with the notification provisions of this section. To clarify this requirement, the regulations have been revised to include separate notification provisions in § 117.57 and this section.

Some commentators asked which law enforcement agencies and ambulance and emergency medical care and transport services must be notified under the provisions

of proposed subsection (a). Under existing regulations, hospitals are required to develop a community based plan for the provisions of emergency services. (See §§ 117.11—117.15.) This plan is to be developed “with community participation and be coordinated with the local emergency health services council.” (§ 117.15(b)(1).) Based on these existing provisions, hospitals are aware of the law enforcement agencies and ambulance and emergency medical care and transport services which may transport sexual assault victims to their facilities. Accordingly, the Department has made no revisions to the regulations.

One commentator suggested the Department require that hospitals notify their local emergency health services council of their exercise of either of the exemptions in proposed § 117.57 or this section. As stated previously, a hospital’s community based plan is to be developed “with community participation and be coordinated with the local emergency health services council.” (§ 117.15(b)(1).) Therefore, notification can be achieved pursuant to existing regulatory requirements. Furthermore, as the Department will publish notice in the *Pennsylvania Bulletin* of hospitals operating under the exemptions in § 117.57 and this section, there are adequate provisions to ensure these groups will be notified. (See §§ 117.57(1)(ii) and 117.58(1)(ii).) The Department has made no revisions to this section.

One commentator suggested hospitals be required to provide posted notice at the facility if they do not provide sexual assault victim emergency services under the exemption proposed in this section. The Department has revised the regulations to incorporate the commentator’s suggestion. (See § 117.58(5).)

Another commentator suggested the Department require hospitals notify the applicable law enforcement agency if they receive and transfer a sexual assault victim under the provisions of proposed § 117.58. To respect the privacy of the victim, and in light of the possibility that the victim may not desire to report the crime to law enforcement, revisions have not been made to address these comments. Hospitals are nevertheless required to comply with any laws requiring notification to law enforcement of the treatment of victims of crimes, and nothing in these regulations should be construed as superseding those requirements.

Some commentators were concerned the exemption provisions of § 117.58 might limit the number of hospitals providing emergency services to sexual assault victims and increase the time it takes to transport a victim to a hospital. The commentators argued this could lead to higher costs, reduction on the number of ambulances available to respond to the emergency calls at a particular time, limit patient choice and delay treatment. One commentator asked the Department to remove “at no cost” from proposed subsection (b)(2) in response to concerns of how these costs would be reimbursed.

The Department believes the revisions made to the regulations to allow only those hospitals providing emergency services under § 117.13(3) to exempt themselves from these regulations resolve these concerns. It is unlikely that victims are currently being taken to these facilities as the ambulance and law enforcement communities should be aware of which hospitals provide the broader range of services necessary for the appropriate treatment of a sexual assault victim. If a victim presents at one of these hospitals, there are procedures in the hospital’s current operations for properly transferring the victim to a hospital that can appropriately provide the required services.

These revisions also address the concerns of commentators regarding who will pay for the transfer of these victims when they present to a hospital that does not provide sexual assault emergency services. Current practices with regards to these transfer costs may also be applied for the treatment sought for a sexual assault. As the transfer procedures for these hospitals are currently in place, the Department has removed “at no cost” from proposed subsection (b)(2) (renumbered as paragraph (6)) to eliminate any interference with those standing procedures.

Some commentators raised similar issues with respect to EMTALA and ambulance transfers with respect to this section and § 117.57. Commentators questioned the Department’s authority to promulgate a regulation, and whether the ambulance community must respond if the transfer is not considered medically necessary. Commentators also raised the same issues regarding the applicability of EMTALA to hospitals that do not provide any sexual assault emergency services. These concerns are addressed in response to the comments relating to § 117.57. Further, they are also resolved by the revisions to this section, as current policies and procedure for the hospitals operating emergency services areas under § 117.13(3), which should be in compliance with State and Federal law and EMTATA, would apply to transfers and transports of sexual assault victims.

Some commentators, including IRRC, requested that additional guidance be included in the regulations for the term “close proximity” as used in proposed § 117.57, or to change this term to require transport to the “closest” hospital. The Department has revised paragraph (6) to address these concerns by incorporating the latter recommendation. (See § 117.58(6).)

IRRC suggested the final-form rulemaking clarify that the notification provisions of proposed subsection (a) apply to two types of exemptions, the exemption from providing only emergency contraception under proposed § 117.57 and the exemption from providing any sexual assault victim emergency services under proposed § 117.58. The Department has revised the regulations in response to this comment by providing separate notification requirements in §§ 117.57 and 117.58.

IRRC also suggested the Department clarify when the list of hospitals not providing services will be published. The Department has revised the regulations to provide that the list will be published annually. (See § 117.58(1)(ii).) Also, the Department will post the most recent listing on its website to reduce the need to regularly update the list between annual publications.

IRRC also suggested the regulations require ambulance or emergency medical service transport personnel inform victims of their hospital choices and whether emergency contraception would be available at certain hospitals. Although this information is very useful for victims, these regulations provide for requirements for hospital, and do not pertain to ambulance or emergency medical services personnel. However, ambulance and emergency medical services personnel are encouraged to provide sexual assault victims with any information the victim may find useful in seeking treatment for the sexual assault.

C. Affected Persons

This final-form rulemaking will affect all hospitals in this Commonwealth licensed by the Department, which will be required to consider whether or not they will provide sexual assault emergency services. Those hospitals eligible for one of the exemptions under § 117.57 or

§ 117.58, and electing to exercise one of those exemptions, will be required to inform the Department, ambulance and emergency medical care and transport services, and law enforcement agencies of this decision within a specified time frame. Further, hospitals choosing not to provide these services under § 117.57 or § 117.58 will be required to develop policies and procedures for informing sexual assault victims of the hospital's position on these issues, and for arranging to transport or transfer victims who request to be taken to locations that do provide the applicable services.

Hospitals required to provide sexual assault emergency services will need to develop policies and procedures to comply with the regulations, including those relating to provision of informational materials relating to emergency contraception, sexually transmitted diseases, and pregnancy.

This final-form rulemaking will also affect sexual assault victims, who will be offered the same information and care at all hospitals in this Commonwealth required to provide sexual assault emergency services. Victims will also be offered the opportunity to be transported to hospitals that did offer these services, if they present at a hospital that does not do so.

Lastly, this final-form rulemaking will affect law enforcement agencies and ambulance and emergency medical care and transport services, since those groups should make efforts to be aware of the list of hospitals that provide sexual assault emergency services, so that a victim may be taken to a hospital where the victim will receive appropriate sexual assault emergency services.

D. Cost and Paperwork Estimate

1. Cost

a. Commonwealth

There will be additional costs to the Commonwealth resulting from this final-form rulemaking associated with the Department's need to enforce the regulations. The Department estimates an additional position for a Health Facility Quality Administrator will be required to survey and inspect hospitals to ensure compliance with the regulations and respond to complaints relating to the manner in which these regulations will be implemented by the hospitals. These costs will include salary, benefits, workstation, computer, telephone, travel, training, and other related costs. Reducing the effects a sexual assault will have on victims through implementation of the regulations and the services offered through them, however, would outweigh the estimated costs.

The Department will also incur costs for the development of the written emergency contraception informational materials. The Department estimates that it will cost approximately \$4,500 to develop the written informational materials in seven languages and in an English audio format. Additionally, the Department could add an additional language translation of the informational brochures each year to increase the accessibility of this information to all persons in this Commonwealth.

b. Local Government

There will be no additional cost to local government. Although the regulations will require that hospitals exercising either of the exemptions under § 117.57 or § 117.58 to send notice to law enforcement agencies of their decision not to provide those services, this requires no additional work on the part of law enforcement agencies. The Department will publish, on an annual

basis, a compiled list of those hospitals in the *Pennsylvania Bulletin*, and post the list on its website.

c. Regulated Community

There will be additional cost to hospitals in this Commonwealth. Although the Department will develop the information materials regarding emergency contraception, hospitals will be required to obtain the electronic format of these materials from the Department and print them so that they may be provided to sexual assault victims they treat. The Department estimates the full color printing costs to range from \$ 0.20 to \$ 0.50 per page depending on the quantity and quality of the printing. Based on the high cost in this range and a printing of 5,000 brochures per year, the Department estimates it would cost the regulated community \$2,500 per year to comply with these provisions of the regulations.

In addition to these costs, hospitals could have additional costs of reviewing current procedures and making any changes necessary to comply with the regulations. These costs will depend upon what procedures individual hospitals in this Commonwealth currently have in place. However, hospitals may be able to reduce their costs by coordination of these efforts.

d. General Public

There is no additional cost for the general public. In fact, since victims of rapes and other sexual offenses and their families are members of the general public, and may be subject to serious medical and psychological effects as a result of the crime, including sexually transmitted disease and pregnancy, there will be a benefit to the general public from the implementation of these regulations. Because the regulations will also aid in gathering information necessary for investigation and successful prosecution of a violent crime, society as a whole will benefit from the implementation of the regulations.

2. Paperwork Estimates

a. Commonwealth

To effectively survey and inspect hospitals for the purpose of enforcing the regulations, the Department estimates additional survey and inspection time equivalent to an additional position for one Health Facility Quality Administrator will be necessary. There will be the need to review complaints in this additional area of regulation; the Department, however, already has a process in place for the review and investigation of complaints against hospitals.

Further, the Department will be required to obtain and compile a list of hospitals that are eligible and claim one of the exemptions under § 117.57 or § 117.58, and to publish that list, on an annual basis, in the *Pennsylvania Bulletin*, and post the list on its website.

The Department will also be required to produce written emergency contraception information materials which will be made available to hospitals for distribution to sexual assault victims in accordance with the requirements of the regulations. The Department proposes to produce these materials in a variety of languages and in audio format.

b. The Regulated Community

Hospitals will be required to either develop or obtain informational materials on sexually transmitted diseases, pregnancy, emergency contraception and the need for additional testing. However, documents and written guid-

ance currently exist relating to these topics, many of which are currently in use by hospitals in this Commonwealth.

Hospitals will also be required to review current policies and procedures and make any changes necessary to comply with the regulations. Whether additional or revised policies or procedures are necessary depend upon what policies and procedures each hospital currently has in place.

b. *Local Government*

There is no additional paperwork requirement for local government. Although the final-form rulemaking will require that hospitals eligible for and exercising either of the exemptions under § 117.57 or § 117.58 to send notice to law enforcement agencies of their decision not to provide emergency contraception or sexual assault emergency services, this requires no additional work on the part of law enforcement agencies. The Department will publish a compiled list in the *Pennsylvania Bulletin* on an annual basis.

c. *General Public*

There is no additional paperwork requirement for the general public.

E. *Statutory Authority*

Section 803(2) of the Health Care Facilities Act (act) (35 P. S. § 448.803(2)), authorizes the Department to promulgate, after consultation with the Health Policy Board, regulations necessary to carry out the purposes and provisions of the act. See also, 35 P. S. § 448.601 ("The Department, in the exercise of its duties under this act shall have the power to adopt such regulations as are necessary to carry out the purposes of this act.") Section 801.1 of the act (35 P. S. § 448.801a), provides that a purpose of the act is to promote the public health and welfare through the establishment of regulations setting minimum standards for the operation of health care facilities. The same section provides that the minimum standards are to assure safe, adequate and efficient facilities and services, and are also to promote the health, safety and adequate care of patients or residents of the facilities. The General Assembly has also stated that a purpose of the act is, among other things, to assure that all citizens receive humane, courteous and dignified treatment. See 35 P. S. § 448.102. Finally, the act provides the Department with explicit authority to enforce its rules and regulations promulgated under the act. See 35 P. S. § 448.201(12).

The Department also has the duty to protect the health of the people of this Commonwealth under section 2102(a) of The Administrative Code of 1929 (71 P. S. § 532(a)). The Department has general authority to promulgate regulations under the Code for this purpose. See 71 P. S. § 532(g).

F. *Effectiveness/Sunset Dates*

This final-form rulemaking will become effective upon its publication in the *Pennsylvania Bulletin*. No sunset date has been established. The Department will continually review and monitor the effectiveness of these regulations.

G. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of a notice of proposed rulemaking, published at 36 Pa.B. 6403 (October 21, 2006), to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House

Health and Human Services Committee and the Senate Public Health and Welfare Committee. In compliance with section 5(c) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of all comments received during the formal comment period, as well as other documentation.

In compliance with section 5.1(a) of the Regulatory Review Act, the Department submitted a copy of the final-form regulations to IRRC and the Committees on Monday, September 17, 2007. In addition, the Department provided IRRC and the Committees with information pertaining to commentators and a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

In preparing this final-form rulemaking, the Department has considered all comments received from IRRC, the Committees and the public.

This final-form rulemaking was deemed approved by the House Health and Human Services Committee and by the Senate Public Health and Welfare Committee on October 17, 2007. IRRC met on October 18, 2007, and approved the regulations in accordance with section 5.1(e) of the Regulatory Review Act. The Attorney General approved the regulations on January 9, 2008.

H. *Contact Person*

Questions regarding these regulations may be submitted to Sandra Knoble, Acting Director, Bureau of Facility Licensure and Certification, Department of Health, Room 932, Health and Welfare Building, 7th and Forster Streets, Harrisburg, PA 17120, (717) 787-8015. Persons with a disability may submit questions in alternative format such as by audio tape, Braille or by using V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT). Persons who require an alternative format of this document may contact Sandra Knoble at that address or telephone numbers so that necessary arrangements may be made.

I. *Findings*

The Department, after consultation with the Health Policy Board, finds that:

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

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

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

J. *Order*

The Department, after consultation with the Health Policy Board, acting under the authorizing statute, orders that:

(1) The regulations of the Department, 28 Pa. Code Chapters 101 and 117, are amended by adding §§ 117.51—117.58 and by amending §§ 101.4, 117.15 and 117.41 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

(3) The Secretary of Health shall submit this order, Annex A and a Regulatory Analysis Form to IRRC, the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare for their review and action as required by law.

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

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

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 37 Pa.B. 5951 (November 3, 2007).)

Fiscal Note: 10-182. (1) General Fund; (2) Implementing Year 2007-08 is \$40,000; (3) 1st Succeeding Year 2008-09 is \$80,997; 2nd Succeeding Year 2009-10 is \$85,765; 3rd Succeeding Year 2010-11 is \$90,837; 4th Succeeding Year 2011-12 is \$97,433; 5th Succeeding Year 2012-13 is \$101,973; (4) 2006-07 Program—\$16,057,000; 2005-06 Program—\$14,529,526; 2004-05 Program—\$14,157,071; (7) Quality Assurance; (8) recommends adoption.

Annex A

TITLE 28. HEALTH AND SAFETY

PART IV. HEALTH FACILITIES

Subpart B. GENERAL AND SPECIAL HOSPITALS

CHAPTER 101. GENERAL INFORMATION

§ 101.4. Definitions.

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

* * * * *

Emergency contraception—

(i) A drug, drug regime or device approved by the Food and Drug Administration that is used after sexual intercourse to inhibit or prevent ovulation or fertilization.

(ii) The term also includes a drug, drug regime or device approved by the Food and Drug Administration that is used after sexual intercourse to inhibit or prevent the implantation of a fertilized ovum within the uterus.

* * * * *

*Rape crisis center—*An office, institution or center that offers assistance to a sexual assault victim or the victim's family through crisis intervention, medical and legal accompaniment and follow-up counseling.

* * * * *

*Sexual assault—*Any offense specified in 18 Pa.C.S. Chapter 31, Subchapter B (relating to definition of offenses), except that the term does not include indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure) or sexual intercourse with an animal as defined in 18 Pa.C.S. § 3129 (relating to sexual intercourse with animal).

*Sexual assault counselor—*A person who is engaged or employed by a rape crisis center that arranges for the provision of services to a sexual assault victim, who has undergone at least 40 hours of sexual assault training and is under the control of a direct services supervisor of

a rape crisis center, whose primary purpose is the rendering of advice, counseling or assistance to victims of sexual assault.

*Sexual assault emergency services—*A medical examination, forensic examination, or other procedure or service provided by a hospital to a sexual assault victim because of a sexual assault.

*Sexual assault victim or victim—*A person who has been sexually assaulted.

* * * * *

CHAPTER 117. EMERGENCY SERVICES

§ 117.15. Community-based plan.

(a) Every hospital, its governing board, its chief administrative officer and its medical staff shall promote and assist other local agencies to develop a written community-based emergency plan.

(b) The plan must:

(1) Be developed with community participation and be coordinated with the local emergency health services council, where one exists.

(2) Indicate where cooperative arrangements, if any, have been made with other local hospitals to coordinate emergency services, especially when the hospital offers a very limited range of emergency services.

(3) Indicate what arrangements with other local hospitals, agencies or municipal services have been made for transportation in receiving and referring emergency cases and for communication among relevant institutions and services.

(4) State specifically what services are available and what administrative procedures shall be followed for prompt, medically appropriate treatment of patients whose emergency conditions:

(i) Are psychiatrically related.

(ii) Involve the use of drugs or alcohol.

(iii) Arise from an alleged criminal act, including specific procedures in the case of an alleged sexual assault.

(iv) Arise from a motor vehicle accident.

(v) Involve radioactive contamination.

POLICIES AND PROCEDURES

§ 117.41. Emergency patient care.

(a) Emergency patient care shall be guided by written policies and procedures which delineate the proper administrative and medical procedures and methods to be followed in providing emergency care. These policies and procedures shall be clear and explicit; approved by the medical staff and hospital governing body; reviewed annually; revised as necessary; and dated to indicate the date of the latest review or revision, or both.

(b) Policies and procedures for emergency patient care should, at a minimum, do the following:

(1) Provide for the admission of a patient if, in the judgment of the physician, admission is warranted.

(2) Provide for the referral and placement of patients whose needs cannot be met by the hospital.

(3) Establish procedures to minimize the possibility of cross-infection and contamination.

(4) Provide for the discharge of patients only upon written orders of a physician. Telephone discharge orders may be accepted in accordance with § 107.62 (relating to oral orders).

(5) Specify explicitly the location and mode of storage of medications, supplies and special equipment.

(6) Establish methods for 24-hour-a-day procurement of equipment and drugs.

(7) Establish procedures for notification of the personal physician of the patient and the transmission of relevant reports to the physician.

(8) Establish procedures on disclosure of patient information. Policies on confidentiality of emergency room records must be the same as those which apply to other hospital medical records. The identity and the general condition of the patient may be released to the public after the next of kin have been notified.

(9) Plan for communication with police, local or State health or welfare authorities as appropriate, regarding accident victims and patients whose condition or its cause is reportable, for example, persons having contagious diseases or victims of suspected criminal acts such as sexual assault or gunshot wounds, see 18 Pa.C.S. § 5106 (relating to failure to report injuries by firearm or criminal act), and child abuse, see 23 Pa.C.S. Chapter 63 (relating to Child Protective Services).

(10) Instruct personnel in special procedures for handling persons who are mentally ill, under the influence of drugs or alcohol, victims of suspected criminal acts or contaminated by radioactive material or who otherwise require special care or have other conditions requiring special instructions.

(11) Instruct personnel how to deal with patients who are dead on arrival.

(12) Provide for a review by the appropriate committee of the medical staff of each death occurring on the emergency service or, if there is no service, of each death occurring during the performance of essential life-saving measures prior to transfer to another facility.

(13) Explain the role of the emergency service in the hospital's disaster plan established in accordance with Chapter 151 (relating to fire, safety and disaster services).

(14) Delineate medical staff obligations for emergency patient care.

(15) Specify which procedures may not be performed in the emergency area.

(16) Provide for appropriate utilization of any beds used for observation.

(17) Establish procedures to be used when the patient is required to return to the hospital for treatment, for example, when treatment is impossible to arrange otherwise.

(18) Establish procedures for early transfer of severely ill or injured patients to special treatment areas within the hospital, such as the surgical suite, the intensive care unit or the cardiac care unit.

(19) Delineate instructions to be given to a patient or the patient's family, or both, or others as appropriate regarding follow-up care.

(20) Make available to the emergency service current toxicological reference material along with the telephone numbers of the regional poison control center.

(21) Provide for the ready availability of reference materials and charts relating to the initial treatment of burns, cardiopulmonary resuscitation and tetanus immunization.

(22) Provide for effective coordination with outpatient services, where these services are provided.

(23) Establish procedures to clearly inform patients of emergency service billing policies, including prominent display of that information in the emergency service area. This information must indicate whether patients are to be billed separately for physicians' services and other emergency services. Those hospitals having an obligation under section 2 of the Hospital Survey and Construction (Hill-Burton) Act (42 U.S.C.A. §§ 291—291o), shall comply with the provisions of that act as it relates to free and low-cost care.

SEXUAL ASSAULT VICTIM EMERGENCY SERVICES

§ 117.51. Scope.

Except as otherwise provided by §§ 117.57 and 117.58 (relating to religious and moral exemptions; and exemption for hospitals providing limited emergency services), a hospital shall provide sexual assault emergency services to a sexual assault victim in accordance with this section and §§ 117.52—117.58 (relating to sexual assault victim emergency services).

(1) A hospital that does not provide emergency contraception under the exemption in § 117.57 shall comply with the notification and transport provisions of that section.

(2) A hospital that provides the most limited range of services and elects to refer all emergency patients after institution of essential life-saving measures in accordance with § 117.13(3) (relating to scope of services), and elects not to provide any sexual assault emergency services under § 117.58, shall comply with the notification and transfer provisions of that section.

§ 117.52. Minimum requirements for sexual assault emergency services.

(a) Promptly upon a sexual assault victim presenting to a hospital that provides sexual assault emergency services, or as immediately thereafter as medically appropriate depending on the condition of the victim, the hospital shall, at a minimum and in addition to any other services required by the condition of the victim, provide, with the consent of the victim, the following:

(1) Medical examinations and laboratory or diagnostic tests required to ensure the health, safety and welfare of the victim, or which may be used as evidence in a criminal proceeding against a person accused of the sexual assault, or both. A hospital shall utilize a rape kit that complies with the minimum standard requirements developed by the Department or that is otherwise approved by the Department under the Sexual Assault Testing and Evidence Collection Act (35 P. S. §§ 10172.1—10172.4). The Department will publish a notice of minimum standard requirements for rape kits or approved rape kits in the *Pennsylvania Bulletin*.

(2) Oral and written information concerning the possibility of a sexually transmitted disease and pregnancy resulting from the sexual assault.

(3) Oral and written information concerning accepted medical procedures, medication and possible contraindications.

cations of the medication available for the prevention or treatment of infection or disease resulting from the sexual assault.

(4) Medication as deemed appropriate by the attending physician, including HIV and sexually transmitted disease prophylaxis.

(5) Tests and examinations as medically indicated to determine the presence or absence of a sexually transmitted disease.

(6) Oral and written instructions advising of the need for additional blood tests at time periods after the sexual assault as medically indicated to determine the presence or absence of a sexually transmitted disease.

(7) Information on the availability of a rape crisis center or sexual assault counselor and the telephone number of a local rape crisis center or sexual assault counselor. The hospital shall promptly contact the local rape crisis center or sexual assault counselor at the request of the victim.

(8) The opportunity for the victim to consult with the rape crisis center or sexual assault counselor in person and in private while at the hospital.

(9) Emergency contraception under § 117.53 (relating to emergency contraception) for a female sexual assault victim.

(b) A hospital shall maintain records of the results of all examinations, tests and services provided to a sexual assault victim in accordance with Chapter 115 (relating to medical record services) and other applicable laws and regulations, and make those records available to law enforcement officials upon the request and with the consent of the sexual assault victim.

§ 117.53. Emergency contraception.

A hospital shall provide the following services to a female sexual assault victim in addition to the minimum requirements set forth in § 117.52 (relating to minimum requirements for sexual assault emergency services):

(1) Provide the victim with written informational materials regarding emergency contraception prepared under § 117.55 (relating to emergency contraception informational materials).

(2) Objectively and orally inform the victim of the availability of emergency contraception, its use, risks and efficacy.

(3) Offer emergency contraception to the victim and provide emergency contraception onsite upon the victim's request, unless medically contraindicated or unless the hospital claims an exemption in accordance with § 117.57 (relating to religious and moral exemptions).

§ 117.54. Prevention of sexually transmitted diseases.

(a) A hospital shall provide a sexual assault victim with an assessment of the victim's risk for contracting a sexually transmitted disease, hepatitis and HIV.

(b) The hospital shall base the risk assessment upon the following considerations:

(1) Available information regarding the assault as well as the subsequent findings from medical examinations and tests that may be conducted.

(2) Established standards of risk assessment, including consideration of recommendations made by the United States Department of Health and Human Services Centers for Disease Control and Prevention.

(c) In addition to the assessment required in subsection (a), a hospital shall advise a sexual assault victim of sexually transmissible diseases, hepatitis and HIV, for which postexposure prophylaxis exists, and for which deferral of treatment would either significantly reduce treatment efficacy or would pose a substantial risk to the individual's health.

(d) Upon the victim's consent, the hospital shall provide the victim with an initial dosage of up to 72 hours of postexposure prophylactic treatment for sexually transmissible diseases, hepatitis and HIV, and provide the victim with information and prescriptions necessary to obtain the remainder of the treatment regimen. A hospital will not be required to comply with this subsection when risk evaluation, adopted by the United States Department of Health and Human Services Centers for Disease Control and Prevention, clearly recommends against the application of postexposure prophylaxis.

§ 117.55. Emergency contraception informational materials.

(a) A hospital that provides sexual assault emergency services shall ensure that each member of the hospital personnel that provides the services is furnished with written informational materials about emergency contraception developed by the Department under this section.

(b) The Department will prepare the written emergency contraception informational materials and make them available to hospitals in electronic format.

§ 117.56. Information regarding payment for sexual assault emergency services.

A hospital shall inform a sexual assault victim receiving sexual assault emergency services at the hospital of the availability of known financial resources for services provided to the victim due to the sexual assault, including payments by the victim's medical insurer, if applicable, the Victim's Compensation Assistance Program administered by the Pennsylvania Commission on Crime and Delinquency, government programs, public assistance programs and programs administered by the hospital. The hospital shall provide the victim any information required to secure the services, including copies of itemized bills and medical records.

§ 117.57. Religious and moral exemptions.

In accordance with section 902(a) of the act (35 P. S. § 448.902(a)), a hospital is not required to comply with § 117.53(3) (relating to emergency contraception) if compliance would be contrary to the stated religious or moral beliefs of the hospital. If the hospital does not provide emergency contraception under this religious and moral exemption, the hospital shall do the following:

(1) Notify the Department within 30 days of the hospital's decision not to provide emergency contraception.

(i) The hospital shall address and send the written notice to the Division of Acute and Ambulatory Care.

(ii) The Department will annually publish a list of hospitals in the *Pennsylvania Bulletin* that have chosen not to provide emergency contraception under this section.

(2) Notify the law enforcement agencies that may transport or refer a sexual assault victim to the hospital that the hospital has elected not to provide emergency contraception. The written notice to law enforcement agencies shall be sent no later than 30 days after the hospital's decision not to provide those services.

(3) Notify the ambulance and emergency medical care and transport services that may transport or refer a sexual assault victim to the hospital that the hospital has elected not to provide emergency contraception. The written notice to ambulance and emergency medical transport and care services shall be sent no later than 30 days after the hospital's decision not to provide those services.

(4) Provide individual oral and written notice to the sexual assault victim that emergency contraception is not provided at the hospital due to the stated religious or moral beliefs of the hospital.

(5) Provide oral and written notice to the victim of the hospital's obligation to arrange for transportation for the victim in accordance with paragraph (6). Notice shall also be prominently displayed in the hospital's emergency service area.

(6) Upon request of the victim, arrange for immediate transportation for the victim, at no cost to the victim, to the closest hospital where a victim could obtain emergency contraception. If the victim's medical condition does not require further inpatient hospital services, the hospital may arrange to transport the victim to a rural health clinic, Federally-qualified health center, pharmacy or other similar location where a victim could obtain emergency contraception.

§ 117.58. Exemption for hospitals providing limited emergency services.

A hospital offering the most limited range of services and that elects to refer all emergency patients after institution of essential life-saving measures under § 117.13(3) (relating to scope of services) may elect not to provide any sexual assault emergency services. If a hospital otherwise governed by this subpart elects not to provide any sexual assault emergency services under this section, the hospital shall:

(1) Notify the Department within 30 days of the hospital's decision not to provide any sexual assault emergency services.

(i) The hospital shall address and send the written notice to the Division of Acute and Ambulatory Care.

(ii) The Department will annually publish a list of hospitals in the *Pennsylvania Bulletin* that have chosen not to provide any sexual assault emergency services.

(2) Notify the law enforcement agencies that may transport or refer a sexual assault victim to the hospital that the hospital has elected not to provide any sexual assault emergency services. The written notice to law enforcement agencies shall be sent no later than 30 days after the hospital's decision not to provide those services.

(3) Notify the ambulance and emergency medical care and transport services that may transport or refer a sexual assault victim to the hospital that the hospital has elected not to provide any sexual assault emergency services. The written notice to ambulance and emergency medical transport and care services shall be sent no later than 30 days after the hospital's decision not to provide those services.

(4) Provide individual oral and written notice to the sexual assault victim that sexual assault emergency services are not provided at the hospital.

(5) Provide oral and written notice to the victim of the hospital's obligation to arrange for a transfer of the victim in accordance with paragraph (6). Notice shall also be prominently displayed in the hospital's emergency service area.

(6) Upon request of the victim, arrange for the immediate transfer of the victim to the closest hospital that provides sexual assault emergency services under §§ 117.51—117.56.

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