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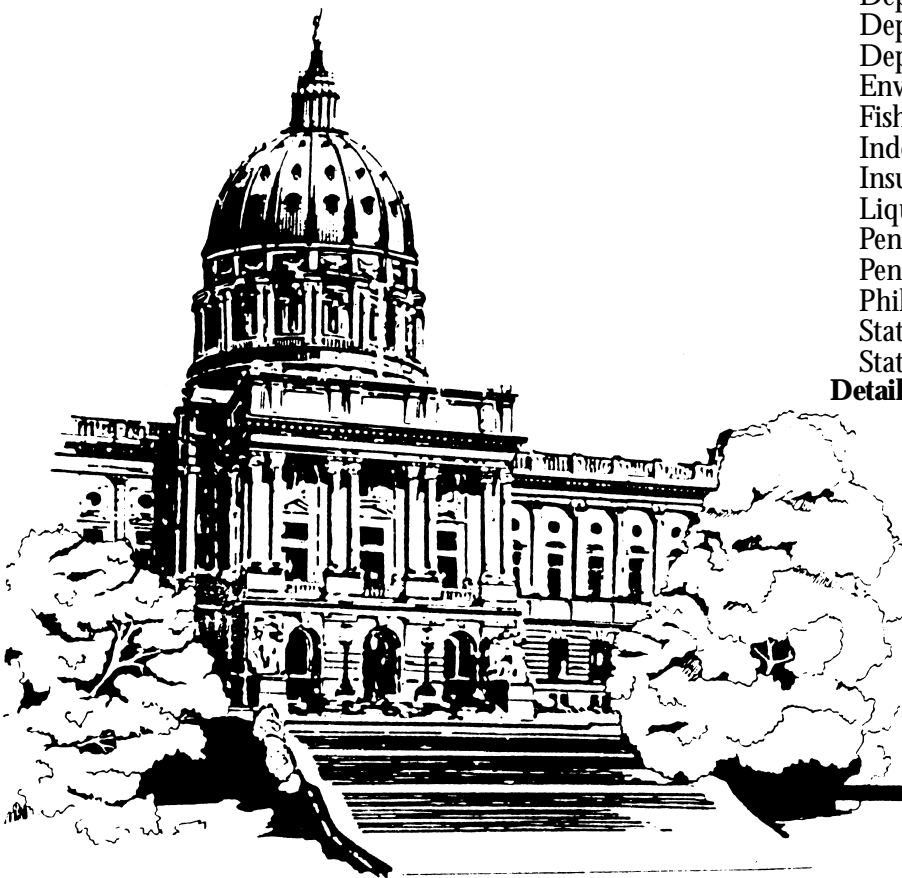
# PENNSYLVANIA BULLETIN

Volume 38  
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State Board of Nursing

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**No. 408, November 2008**

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# 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.

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 200 ..... 5163, 5843, 5844  
 300 ..... 5164  
 400 ..... 3356  
 500 ..... 3239, 3355  
 1000 ..... 2040

**Proposed Rules**

200 ..... 1817, 2046, 2151

**249 Pa. Code (Philadelphia Rules)**

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

**252 Pa. Code (Allegheny Rules)**

Unclassified ..... 64, 3483, 3488, 5947

**255 Pa. Code (Local Court Rules)**

Unclassified ..... 72, 223, 225, 338, 481, 482, 596, 748, 975, 1037, 1241, 1354, 1449, 1458, 1466, 1583, 1702, 1704, 1819, 1931, 2050, 2152, 2240, 2242, 2363, 2364, 2483, 2484, 2652, 3240, 3652, 3790, 3791, 3793, 4082, 4354, 4506, 4507, 4739, 4740, 4741, 5032, 5165, 5267, 5431, 5432, 5432, 5595, 5596, 5845, 5847, 5950, 5951, 6143, 6145, 6147, 6148

# THE COURTS

## Title 255—LOCAL COURT RULES

### CLINTON COUNTY

#### Order Amending Rules of Criminal Procedure; No. 1-08 AD

##### Order

Now, this 15th day of October, 2008, *It Is Hereby Ordered* that all existing Clinton County Rules of Criminal Procedure be revoked and the following new Rules adopted as set forth hereafter:

##### **Rule 117. Coverage.**

Pursuant to Clinton County Administrative Order 1071-07, which was filed August 14, 2007, and published in the *Pennsylvania Bulletin*, Volume 37, No. 34, on August 25, 2007, the following procedures shall be utilized to ensure Magisterial Judicial District coverage:

##### 1. *Normal Business Hours:*

a. Normal business hours shall be construed as Monday, Tuesday, Thursday, and Friday from 8:00 a.m. until 5:00 p.m. and Wednesday from 8:00 a.m. until 12:30 p.m. except when a Court holiday has been declared.

b. All Court proceedings normally conducted before a Magisterial District Judge during normal business hours shall be conducted at the established office of the appropriate Magisterial District Judge as determined by the Rules relating to venue. When, during regular business hours, the Magisterial District Judge who has venue over a particular matter is unavailable, any other Magisterial District Judge is hereby temporarily assigned to serve the Magisterial District or in accordance with special Orders issued from time to time by the Court.

##### 2. *On Call Magisterial District Judge:*

a. The Court Administrator shall establish a rotating schedule assigning a Magisterial District Judge to be on call outside of normal business hours of the Court to perform all duties of an issuing authority as required by the Rules of Criminal or Civil Procedure and the Protection From Abuse Act.

##### 3. *Bail, Search and Arrest Warrants, and Protection From Abuse Petitions:*

a. The on-call Magisterial District Judge shall be available without unreasonable delay at all times at his or her established office for the purpose of accepting the posting of a defendant's bail. Monetary bail may also be posted outside of regularly scheduled hours at the Clinton County Correctional Facility. The Warden of the Correctional Facility, or his designee, is authorized to accept bail bonds and deposits as provided in Pa.R.Cr.P. 117 by having the defendant sign the bail bond, releasing the defendant, and delivering the bail deposit and/or bail bond and the surety information page to the issuing authority or the Clerk of Courts by the close of the next business day.

b. The on-call Magisterial District Judge shall be available without unreasonable delay at his or her established office for the issuance of search warrants pursuant to Rule 203, arrest warrants pursuant to Rule 513, and Emergency Protection From Abuse Orders. Advanced

communication technology may be utilized to submit the warrant application and affidavits and to issue the warrant in accordance with the requirements of the Criminal Rules.

##### 4. *Arraignments on Weekdays:*

When an individual is placed under arrest and requires arraignment or processing under Rule 441:

a. The individual shall be taken to the Clinton County Correctional Facility for booking.

b. Between the hours of 5:00 p.m. and 11:00 p.m., the on-call Magisterial District Judge shall be available without unreasonable delay at his or her established office or, at the discretion of the Magisterial District Judge, advanced communication technology may be utilized for the arraignment.

c. Between the hours of 11:00 p.m. and 8:00 a.m. the following day, individuals placed under arrest and requiring arraignment shall be temporarily detained at the Clinton County Correctional Facility. The Magisterial District Judge shall be advised at 8:00 a.m. that the individual has been detained. Personnel of the Correctional Facility shall make such individuals available at the video conferencing site by 8:30 a.m., at which time the Magisterial District Judge shall conduct the preliminary arraignment through the use of advanced communication technology. In the event of technological failure, the individual shall be transported by officials of the Correctional Facility or the Sheriff to the office of the Magisterial District Judge.

##### 5. *Arraignments on Saturdays, Sundays, and Holidays:*

When an individual is placed under arrest and requires arraignment or processing under Rule 441:

a. The individual shall be taken to the Clinton County Correctional Facility for booking and shall thereafter be temporarily detained pending arraignment.

b. Between the hours of 8:00 a.m. and 11:00 p.m., the on-call Magisterial District Judge shall be available without unreasonable delay at his or her established office, or, at the discretion of the Magisterial District Judge, advanced communication technology may be utilized for the arraignment. The on-call Magisterial District Judge shall be contacted by the Correctional Facility staff at 8:00 a.m., 2:00 p.m., and 10:00 p.m. each day and advised if any individual has been temporarily detained. Individuals so detained shall be promptly arraigned through the use of advanced communication technology.

c. Between the hours of 11:00 p.m. and 8:00 a.m. the following day, individuals placed under arrest and requiring arraignment shall be temporarily detained at the Clinton County Correctional Facility. Individuals so detained shall be made available at the video conferencing site by 8:30 a.m. the following morning. In the event of technological failure, the individual shall be transported by officials of the Correctional Facility or the Sheriff to the office of the Magisterial District Judge.

##### 6. *Bench Warrants in Court Cases:*

a. Any individual executing a court case bench warrant shall proceed in accordance with Rule 150 and shall notify the Court Administrator no later than 8:30 a.m. the next business day that the subject of the warrant is in custody.

b. When the subject of a warrant has been delivered to the Clinton County Correctional Facility or has voluntarily surrendered pursuant to the issuance of a warrant, the Warden of the Clinton County Correctional Facility shall immediately notify the Court Administrator that the subject of the warrant is in custody or, if the warrant has been executed after the close of the business day, no later than 8:30 a.m. on the next business day.

c. Upon Receiving notice that a bench warrant has been executed or that the subject has surrendered, the Court Administrator shall immediately notify the issuing Judge, the issuing Magisterial District Judge, the District Attorney, any counsel of record, and the Public Defender that the subject is in custody. After consultation with the Judge, the Court Administrator shall schedule a hearing as soon as possible but not later than seventy-two (72) hours after the subject has been lodged in the Correctional Facility. The Court Administrator may give oral notice of this hearing, along with written notice, and shall maintain a record of that notice.

*7. Summary Offense Arrest Warrants and Bench Warrants:*

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

b. In the event the warrant is executed between 8:00 a.m. and 11:00 p.m. Saturdays, Sundays, and holidays, the individual executing the warrant shall proceed in accordance with Paragraph 5.b. above.

c. In the event the warrant is executed between the hours of 11:00 p.m. and 8:00 a.m. the following day, the individual executing the warrant shall proceed in accordance with Paragraph 5.c. above.

**Rule 202. Approval of Search Warrant Applications by Attorney for the Commonwealth.**

The District Attorney of Clinton County having filed a Certification pursuant to Pa.R.Crim.P. 202, no Search Warrant Application shall hereafter be accepted by a Magisterial District Judge unless the Search Warrant Application has the approval of an attorney for the Commonwealth prior to filing.

**Rule 301. Procedures for Accelerated Rehabilitative Disposition in Summary Cases before the Minor Judiciary.**

Diversion in summary cases shall be in accordance with the local procedures adopted for Adjudication Alternative Programs (A.A.P.), as adopted by this Court on January 23, 2006, by Administrative Order 1-2006, which states:

1. The following types of summary cases shall be eligible for A.A.P. to be supervised by the Magisterial District Judge, pursuant to 42 Pa.C.S.A. § 1520.

- a. Retail Theft. 18 Pa.C.S.A. § 3929(a), (b)(1)(i).
- b. Purchase, consumption, possession or transportation of intoxicating beverages by one less than 21 years of age. 18 Pa.C.S.A. § 6308.
- c. Misrepresentation of age to secure liquor or malt or brewed beverages by one less than 21 years of age. 18 Pa.C.S.A. § 6307.
- d. Carrying a false identification card. 18 Pa.C.S.A. § 6310.3.

e. Use of tobacco in schools prohibited. 18 Pa.C.S.A. § 6306.1.

f. Disorderly conduct if defendant is a juvenile. 18 Pa.C.S.A. § 5503.

g. Harassment if defendant is a juvenile. 18 Pa.C.S.A. § 2709(a).

h. Criminal mischief if defendant is a juvenile. 18 Pa.C.S.A. § 3304.

2. Admission shall be requested within ten (10) days of receipt of the citations or summons. Extensions of the application period may be granted by the Magisterial District Judge for good cause. The Magisterial District Judge shall determine eligibility for summary A.A.P. within seventy-two (72) hours of the submission of the application.

3. a. No defendant who has previously been placed in an A.A.P. or A.R.D. program in any court shall be admitted to A.A.P. in a summary matter.

b. A defendant who applies for A.A.P. in a summary matter shall execute the following:

**AFFIDAVIT**

I have not previously been placed in an A.A.P. or A.R.D. program in any court at either the Common pleas Court or Magisterial District Court level. I make this statement subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

Date	Name

c. Prior to placing a defendant in A.A.P., the Magisterial District Judge shall determine that the defendant has not previously been placed in A.A.P. in a summary matter in this judicial district by contacting the other District Courts within the Judicial District.

4. Costs of supervision and restitution, if any, must be paid in full before admission to the A.A.P. program. These costs include court costs incident to a non-traffic summary offense and any costs incident to the program to which the defendant is referred.

5. The defendant shall be notified in writing of acceptance or rejection from the A.A.P.

a. If accepted, defendant shall appear at a time designated by the Magisterial District Judge for completion of all documentation incident to admission to A.A.P.

b. If rejected, the Magisterial Judge shall notify defendant that he has ten (10) days to enter his plea and the case shall proceed in accord with Chapter 400 of the Pennsylvania Rules of Criminal Procedure.

6. The Magisterial District Judge shall schedule and notify the defendant at time of admission to A.A.P. of a hearing date to determine if all A.A.P. requirements have been met within the prescribed time frame of the specific programs entered into.

7. Requests for continuance of said hearing shall be denied, except in compelling circumstances. No continuance shall be for more than seven (7) days.

8. A defendant accepted into A.A.P. shall be referred to the following programs:

- a. Retail theft
- b. Alcohol

- c. Tobacco in schools
- d. Disorderly conduct
- e. Criminal mischief
- f. Harassment

9. Upon successful completion of all requirements, this defendant's case shall be dismissed and the defendant discharged.

10. If defendant declines A.A.P. or fails to successfully complete the program requirements, the case shall proceed in accord with Chapter 50 of the Pennsylvania Rules of Criminal Procedure.

11. No summary case shall remain "active" for purposes for A.A.P. supervision in excess of one (1) year.

12. The following shall be displayed in each Magisterial District office:

NOTICE TO THOSE CHARGED WITH CERTAIN  
SUMMARY OFFENSES—

Retail Theft,  
Underage Alcohol Offenses,  
Tobacco on School Property,  
Harassment,  
Disorderly Conduct,  
And Criminal Mischief by a Juvenile

You may be eligible to participate in a program (A.A.P.) which will result in dismissal of the charge against you. The A.A.P. program is available for defendants who have not previously been placed into an A.A.P. or A.R.D. program. You must pay all costs and restitution before admission to the A.A.P. program. You will be required to attend a counseling program. If you successfully complete the program, the charge against you will be dismissed. If you want to apply for the A.A.P. program, notify the Magisterial District Judge immediately.

**Rule 302. Procedures for Accelerated Rehabilitative Disposition in Summary Cases in the Court of Common Pleas.**

Because the District Attorney has not filed a Certification to proceed by local option under Rule 300, no local rule exists.

**Rule 507. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth.**

The District Attorney of Clinton County, having filed a Certification pursuant to Pa.R.Crim.P. 507, Criminal Complaints and Arrest Warrant Affidavits charging felonies shall not hereafter be accepted by a Magisterial District Judge unless the Complaint and Affidavit have the approval of an attorney for the Commonwealth prior to filing.

This Order shall take effect thirty (30) days after publication in the *Pennsylvania Bulletin*.

*By the Court*

J. MICHAEL WILLIAMSON,  
*President Judge*

[Pa.B. Doc. No. 08-2010. Filed for public inspection November 7, 2008, 9:00 a.m.]

**CRAWFORD COUNTY**

**In the Matter of the Amendment of Crawford County Civil Rules of Court; No. AD-2008-1807**

**Order**

*And Now*, October 6, 2008 it is ordered as follows:

1. Existing local Crawford County Civil Rules Cra.R.C.P. 1302 and 1303 are rescinded.

2. Local Crawford County Civil Rules Cra.R.C.P. 1302 and 1303 are revised and amended as set forth on the attached exhibit.

3. The Court Administrator of Crawford County shall:

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

b. Forward two certified copies of this order, with the diskette, with the Legislative Reference Bureau for publication in *The Pennsylvania Bulletin*.

c. File one (1) certified copy of this order with the Pennsylvania Civil Procedural Rules Committee.

d. Keep continuously available for public inspection copies of this order.

4. The Prothonotary of Crawford County shall keep continuously available for public inspection copies of this order.

5. This order shall become effective thirty (30) days after publication in *The Pennsylvania Bulletin* or on January 1, 2009 whichever occurs last.

*By the Court*

GORDON R. MILLER,  
*President Judge*

**COMPULSORY ARBITRATION**

**Rule 1301. Arbitration.**

(1) Cases Subject to Arbitration.

All cases which are at issue where the amount in controversy shall be twenty-five (\$25,000) thousand dollars or less, exclusive of interest and costs, shall be submitted to and heard by a Board of Arbitrators consisting of three (3) members or one (1) member of the Bar in active practice in this County.

In all cases where a party has obtained a judgment by default, said party may elect to have unliquidated damages assessed at a trial by arbitration with the issues limited to the amount of damages which shall not exceed twenty-five (\$25,000) thousand dollars. The election to assess damages by arbitration shall constitute a waiver by the party making such election of any damages in excess of \$25,000.

(2) Arbitration by Stipulation.

By agreement signed by the parties or their counsel, the parties may agree to submit a case to arbitration. Such agreement shall define the issues and contain such stipulation as to facts, admissions, or waivers of defenses or proofs as are agreed upon.

(3) Exceptions.

These rules shall not apply to the following actions:

- (a) Ejectment
- (b) Quiet Title
- (c) Replevin—except by Order of Court
- (d) Mandamus

- (e) Quo Warranto
- (f) Mortgage Foreclosure
- (g) Actions requiring Equitable or Declaratory Relief
- (4) Compensation of Board.

(a) Each member of a Board of Arbitration shall receive as compensation a fee in an amount as set by the Court from time to time by special order. Where hearings exceed 1/2 day, the arbitrators may petition the Court for additional compensation, which may be granted for cause shown.

(b) In the event that a case shall be settled or withdrawn or otherwise terminated by or between the parties before the board members have attended any hearing, the attorney for the plaintiff(s) in such case shall file a praecipe with the Prothonotary, requesting that the board so appointed be vacated. A copy of the praecipe shall be given to the Court Administrator.

- (5) Procedure for Payment.

Where the arbitrators are entitled to a fee, the Prothonotary shall certify to the County Commissioners and to the County Treasurer the names of the members of the Board and an Order for payment. The County Commissioners and Treasurer shall pay the applicable fee to each member of the Board. Such fees shall not be taxed as costs.

**Rule 1302. List of Arbitrators. Appointment to Board. Oath.**

- (1) Eligibility to Serve as Arbitrators.

Only persons actively engaged in the practice of law in Crawford County shall be eligible to serve as arbitrators. For purposes of this rule, persons "actively engaged in the practice of law" are persons who regularly maintain a law office in Crawford County for the practice of law. That shall include part-time assistant public defenders and part-time assistant district attorneys. Excluded are the chief public defender, the district attorney, and full time assistant public defenders and full-time assistant district attorneys. Only persons admitted to the practice of law for at least five (5) years are eligible to serve as chair of the Board of Arbitrators, or as sole arbitrator.

- (2) List of Arbitrators.

The Court Administrator shall, on or before January 1 of each year, compile a list of persons eligible to serve as arbitrators and a list of persons eligible to serve as chair of Boards of Arbitrators, or as a sole arbitrator.

- (3) Selection of Board.

A party wishing to have an arbitration hearing shall file a Praecipe for Arbitration with the Prothonotary and simultaneously serve a copy on the Court Administrator. A Praecipe for Arbitration shall contain a certificate of service indicating service upon all other parties and the date of service.

- (a) Selection Method.

The Court Administrator shall select the first three (3) available attorneys in alphabetical order from the list maintained by the Court Administrator. The first member named who is eligible to be chair shall be chair of the board; or

- (b) Sole Arbitrator.

A sole arbitrator may be selected to adjudicate the case by agreement of all parties. The award shall have the

same effect as that of a three (3) person panel. The Court Administrator shall select the sole arbitrator.

- (4) Notification of Appointment and Objections.

The Prothonotary shall file the appointment of the Board of Arbitrators and shall deliver a copy thereof to the chair and to each party or their counsel of record. Attorneys must sign their qualifications within five (5) business days after their appointment. The Prothonotary shall approach the President Judge if attorneys have not signed their qualification within said period of time. Any party may object to the composition of the Board of Arbitration at this point only for good cause shown. The filing of such objections shall operate as a stay of proceedings. The party filing such objections shall serve a copy thereof upon all other parties or their counsel and shall give notice of intention to present the objections to Motions Court. Failure to file such objections within five (5) days of delivery of notice of the appointment shall operate as a waiver thereof.

- (5) Companion Cases.

The Court Administrator shall appoint the same Board to serve as arbitrators in any companion case.

- (6) Vacancies on Board—Prior to Hearing.

An attorney appointed to the Board of Arbitrators who desires to be excused must file a motion with the Prothonotary, with a copy to the Court Administrator, at least ten (10) days prior to the date of the arbitration hearing and must set forth adequate reasons in support of said motion. Upon approval of the motion by the Court, the Court Administrator shall make an appointment to fill that vacancy. Should a member of the Board fail to attend the hearing, a member of the Board shall notify the Court Administrator who shall immediately vacate that appointment and make an appointment to fill that vacancy.

- (7) Post-Hearing Vacancies.

Should a vacancy on the Board of Arbitration occur after hearing but before an award is signed by all arbitrators, or should a member of the board fail or refuse to perform his/her duties, the award shall be signed and filed by the remaining members of the Board. If they are unable to agree, they shall notify the Court Administrator who shall appoint a third member. Thereafter, the arbitrators may in their discretion schedule a rehearing for the new Board, which shall thereafter file an award.

**Rule 1303. Hearing. Notice.**

- (1) Scheduling of Hearing.

The Court Administrator shall fix the date, time and place of arbitration hearings, which shall be held within sixty (60) days after appointment of the Board of Arbitrators and shall be held at the Crawford County Court-house.

- (2) Notice.

Notice of the hearing shall be in writing and mailed to all unrepresented parties by certified mail, return receipt requested, and counsel for represented parties by regular mail at least thirty (30) days prior to the hearing date, all in accordance with Pa.R.C.P. 1303. Arbitrators shall be notified by regular mail or email.

- (3) Continuances.

The Board of Arbitrators shall have the power to grant one continuance for good and sufficient reason before the hearing convenes and shall immediately reschedule the hearing for a time not more than thirty (30) days beyond

the date set for the original hearing. A party requesting further continuances must file a motion with the Court in keeping with Cra.R.C.P. 208.3 governing motions practice.

(4) Compliance with Time Requirements.

The Court expects arbitrators and parties to comply with all time limits governing arbitration. Any arbitrator or party who believes the arbitrators or any other party are not following any time limits or time requirements governing arbitrations may file a motion with the Court for relief. The Court may sanction those who do not comply with the arbitration time requirements.

**Rule 1304. Conduct of Hearing. Generally.**

The Board or Arbitrators shall have no power to allow amendment of pleadings, the addition or substitution of parties, nor rule on preliminary objections, motions for judgment on the pleadings or motions for summary judgment.

**Rule 1305. Conduct of Hearing. Evidence.**

(1) Pretrial Exchange of Information.

In all cases subject to compulsory arbitration, the parties shall exchange the following information at least twenty (20) days prior to the arbitration hearing:

(a) A copy of all expert reports, including those from physicians, whom the party expects to call as a witness at the arbitration. These shall include the substance of the facts, findings or opinions of the expert, as well as a summary of the grounds or reasons for each opinion. The report must be signed by the expert.

(b) Names and addresses of all witnesses the party expects to call.

(c) Copies of all exhibits the party intends to use at the arbitration, with the designation of those documents to be produced pursuant to Pa.R.C.P. 1305.

If timely production is not made of any of the information required above, such evidence may be excluded by the arbitrators.

(2) Rulings on Objections.

Initially, all rulings on objections to evidence or on other issues which arise during the hearing shall be made by the Chair of the Board of Arbitrators and such rulings shall be final unless objected to by one of the other arbitrators. In the latter instance, the arbitrators shall consult and vote and the final ruling shall be that of the majority.

(3) Release of Exhibits.

Following the hearing and entry of award, the Chair of the Board of Arbitrators shall release the exhibits to the party that offered them.

**Rule 1306. Award.**

The arbitrators shall file their award within seven (7) days after the completion of the arbitration hearing. Arbitrators who fail to file the award as required by this rule may forfeit their fees. The arbitrators may consider the subject of damages for delay after an award has been made in accordance with Pa.R.C.P. 238. Any such delay damages shall be added to the principal amount awarded, but shall be separately stated on the report and award.

[Pa.B. Doc. No. 08-2011. Filed for public inspection November 7, 2008, 9:00 a.m.]

**LEHIGH COUNTY**

**Administrative Order Establishing Standard Conditions of House Arrest and Electronic Monitoring;  
No. M-2008; AD-7-2008**

**Order**

*And Now*, this 20th day of October, 2008, the within Administrative Order establishing standard conditions for House Arrest and Electronic Monitoring shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

The following conditions, in addition to any other conditions set forth in the sentencing order or mandated by the Lehigh County Probation Department, shall apply to all sentences of House Arrest and Electronic Monitoring imposed by the Criminal Courts of Lehigh County except where specifically and otherwise ordered by the sentencing judge:

1. Follow all curfew restrictions and home detention restrictions as imposed by the Court or supervising probation/parole officer.

2. Remain at your residence at all times unless granted emergency leave authorization by the Lehigh County Adult Probation Department.

3. Not have any optional residential telephone services, including but not limited to call-waiting, call-forwarding, conference calls and \*69 service, a facsimile (fax) machine, answering machine or computer modem attached to your telephone. Not use a portable or cordless phone. Limit all calls to ten (10) consecutive minutes.

4. Be responsible for telephone service and all related costs.

5. Not consume any alcoholic beverages.

6. Not have visitors unless pre-approved by your supervising probation/parole officer.

7. If placed on the active system:

A. Permit authorized Lehigh County Adult Probation Department personnel to hook-up a monitoring device, maintain, and inspect said device on your person and in your residence.

B. Be responsible for the equipment used for Electronic Monitoring, and for any damage to or theft of the said equipment. Agree to pay, and pay, the costs of the program.

*It Is Further Ordered* that seven (7) certified copies of this Order shall be filed with the Administrative Office of Pennsylvania Courts; that two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Criminal Procedural Rules Committee of the Supreme Court of Pennsylvania; and that one (1) copy shall be filed with the Clerk of Courts—Criminal of the Court of Common Pleas of Lehigh County.

*By the Court*

WILLIAM H. PLATT,  
*President Judge*

[Pa.B. Doc. No. 08-2012. Filed for public inspection November 7, 2008, 9:00 a.m.]



## LEHIGH COUNTY

**Administrative Order Establishing Standard Conditions of Parole; Applicable in all Criminal Cases Where a County Sentence of Imprisonment is Imposed; No. M-2008; AD-6-2008****Order**

*And Now*, this 20th day of October, 2008, the within Administrative Order establishing standard conditions of county parole shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

The following conditions, in addition to any other conditions set forth in the sentencing order, the Parole Order, or mandated by the Lehigh County Probation Department, shall apply to all sentences which include a period of county parole supervision imposed by the Criminal Courts of Lehigh County except where specifically and otherwise ordered by the sentencing judge:

1. Follow all verbal and written instructions and report in person at such times and places as instructed by the supervising parole officer.
2. Maintain the residence approved by the supervising probation officer and not change that residence without permission from that officer. Report any change of residence to the supervising probation officer within 72 hours prior to moving; and the new address shall be verified by the parole officer.
3. Not leave the Commonwealth of Pennsylvania unless permitted in advance by the supervising parole officer. If arrested in another state while under supervision of the Lehigh County Adult Probation Department, agree to waive extradition and not resist being returned to the Commonwealth of Pennsylvania and the County of Lehigh.
4. Obey all laws. Report any arrest or citation to the supervising parole officer.
5. Refrain from the unlawful possession, use or sale of illegal and prescription drugs.
6. Undergo drug screening as directed by the supervising parole officer.
7. Obtain and maintain employment. Notify the supervising parole officer within 72 hours of any change or loss of employment.
8. Not possess, discharge or have any contact with any firearm or deadly weapon; hunting is prohibited.
9. Not act in any manner which threatens or presents a danger to yourself or others.
10. Make all payments on costs, fines and restitution.
11. Permit the search of your person, property and residence without a warrant by any law enforcement authority to ensure compliance with the terms and conditions of supervision. Any items, the possession of which constitutes a violation, shall be subject to seizure and may be used as evidence in the violation process.
12. Not enter into any agreement to act as a confidential informant for any law enforcement agency without the express written permission of the Lehigh County Adult Probation Department.
13. Obey all other conditions as may be ordered by the Court or the Lehigh County Adult Probation Department.

14. Undergo DNA testing as required by law.

*It Is Further Ordered* that seven (7) certified copies of this Order shall be filed with the Administrative Office of Pennsylvania Courts; that two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Criminal Procedural Rules Committee of the Supreme Court of Pennsylvania; and that one (1) copy shall be filed with the Clerk of Courts—Criminal of the Court of Common Pleas of Lehigh County.

*By the Court*

WILLIAM H. PLATT,  
*President Judge*

[Pa.B. Doc. No. 08-2013. Filed for public inspection November 7, 2008, 9:00 a.m.]

## LEHIGH COUNTY

**Administrative Order Establishing Standard Conditions of Probation; Applicable in all Criminal Cases Where a Sentence of County Probation is Imposed; No. M-2008; AD-8-2008****Order**

*And Now*, this 20th day of October, 2008, the within Administrative Order establishing standard conditions of county probationary sentences shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

The following conditions, in addition to any other conditions set forth in the sentencing order or mandated by the Lehigh County Probation Department, shall apply to all sentences of county probation imposed by the Criminal Courts of Lehigh County except where specifically and otherwise ordered by the sentencing judge:

1. Follow all verbal and written instructions and report in person at such times and places as instructed by the supervising probation officer.
2. Maintain the residence approved by the supervising probation officer and not change that residence without permission from that officer. Report any change of residence to the supervising probation officer within 72 hours prior to moving; and the new address shall be verified by the probation officer.
3. Not leave the Commonwealth of Pennsylvania unless permitted in advance by the supervising probation officer. If arrested in another state while under supervision of the Lehigh County Adult Probation Department, agree to waive extradition and not resist being returned to the Commonwealth of Pennsylvania and the County of Lehigh.
4. Obey all laws. Report any arrest or citation to the supervising probation officer.
5. Refrain from the unlawful possession, use or sale of illegal and prescription drugs.
6. Undergo drug screening as directed by the supervising probation officer.
7. Obtain and maintain employment. Notify the supervising probation officer within 72 hours of any change or loss of employment.

8. Not possess, discharge or have any contact with any firearm or deadly weapon; hunting is prohibited.

9. Not act in any manner which threatens or presents a danger to yourself or others.

10. Make all payments on costs, fines and restitution.

11. Permit the search of your person, property and residence without a warrant by any law enforcement authority to ensure compliance with the terms and conditions of supervision. Any items, the possession of which constitutes a violation, shall be subject to seizure and may be used as evidence in the violation process.

12. Not enter into any agreement to act as a confidential informant for any law enforcement agency without the express written permission of the Lehigh County Adult Probation Department.

13. Obey all other conditions as may be ordered by the Court or the Lehigh County Adult Probation Department.

14. Undergo DNA testing as required by law.

*It Is Further Ordered* that seven (7) certified copies of this Order shall be filed with the Administrative Office of Pennsylvania Courts; that two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Criminal Procedural Rules Committee of the Supreme Court of Pennsylvania; and that one (1) copy shall be filed with the Clerk of Courts—Criminal of the Court of Common Pleas of Lehigh County.

*By the Court*

WILLIAM H. PLATT,  
*President Judge*

[Pa.B. Doc. No. 08-2014. Filed for public inspection November 7, 2008, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 58—RECREATION

### PENNSYLVANIA GAMING CONTROL BOARD

[ 58 PA. CODE CHS. 405a, 407a, 421a, 433a AND 435a ]

#### Releases

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 1311, 1311.1, 1311.2, 1317, 1317.1, 1318 and 1517, amends Chapters 405a, 407a, 421a, 433a and 435a to read as set forth in Annex A.

#### *Purpose of the Final-Form Rulemaking*

This final-form regulations implement the requirement that applicants for a principal or key employee license execute releases that will enable the Board to receive information pursuant to a request for information under the Freedom of Information Act (5 U.S.C.A. § 552). It will also clarify that the Bureau of Investigations and Enforcement (Bureau) may request applicants for or holders of licenses, permits, certifications or registrations to also execute such a releases and that information received as a result of any release will be treated as confidential.

#### *Explanation of Amendments to Chapters 405a, 407a, 421a, 433a and 435a*

Currently, as part of the application process, applicants for principal or key employee licenses are required to execute a number of releases that allow the Board to conduct an investigation of the applicant. These releases include items such as tax information from the Departments of Revenue and Labor and Industry, military records and information from past employers.

This final-form regulations amend the general language related to releases in Chapter 421a to clarify that it includes releases that will enable the Board to receive information under to a request for information under the act in addition to the other releases required in the application.

The amendments to Chapters 433a and 435a specifically require applicants for principal or key employee licenses to execute releases that will enable the Board to receive information under a request for information under the act in addition to the other releases required in the application.

The amendments to Chapter 405a clarify that the Bureau may require applicants for or holders of a license, permit, certification or registration to also execute a release that will enable the Bureau and Board to receive information under a request for information under the act. The decision to require an individual to execute a release will be made on a case by case basis depending on the nature of the job the individual will be performing and results of the review of the other information provided by the individual.

Chapter 407a is being amended to clarify that all information received by the Board as a result of the execution of any release will be treated as confidential information.

#### *Comment and Response Summary*

Notice of proposed rulemaking was published at 38 Pa.B. 2054 (May 3, 2008).

The Board received comments from Sands Casino Resort Bethlehem, Washington Trotting Association, Inc., Aristocrat Technologies, Inc., Aristocrat Australia Pty. Ltd., Shuffle Master, Inc., WMS Gaming, Inc., Modern Gaming Pennsylvania, LLC, GTECH Corporation and Spielo Manufacturing ULC. By letter dated July 2, 2008, the Independent Regulatory Review Commission (IRRC) also submitted comments. All of these comments were reviewed by the Board and are discussed in detail in the following paragraphs.

Commentators and the Independent Regulatory Review Commission (IRRC) expressed concerns about whether the information obtained through the execution of a release would be treated as confidential information.

It was always the Board's intent to treat this information as confidential information. To further clarify this intent, the Board has added a new paragraph (8) to § 407a.3(a) (relating to confidential information) which states that any information obtained as the result of the execution of a release at the request of the Board will be considered to be confidential information. Additionally, §§ 421a.1, 433a.8 and 435a.2 have been further amended to clarify that the information requested as the result of a release under the Freedom of Information Act is to be provided to the Board.

IRRC also noted that information available under the Pennsylvania Right-to-Know Law (65 P. S. §§ 66.1—66.4) does not require a release. The Board agrees with IRRC's observation and accordingly has deleted the references to the Pennsylvania Right-to-Know Law in the final-form version of the regulations.

#### *Affected Parties*

Applicants for a principal or key employee license will be required to execute releases that will enable the Board to receive information about the applicants under a request for information under the act. The Board receives approximately 700 to 800 principal and key employee applications annually.

#### *Fiscal Impact*

#### *Commonwealth*

Applicants are responsible for paying the costs associated with the review of their applications. Therefore, these amendments will have no fiscal impact on the Board or other agencies of the Commonwealth.

#### *Political Subdivisions*

This final-form rulemaking will have no fiscal impact on political subdivisions of this Commonwealth.

#### *Private Sector*

Applicants who are required to execute these releases will be responsible for reimbursing the Board for any costs associated with the filing of the requests for information and time spent reviewing the information that is received.

#### *General Public*

This final-form regulations will have no fiscal impact on the general public.

*Paperwork requirements*

The Board is in the process of amending its existing applications to include the release related to requests for information under the Freedom of Information Act. These releases are not lengthy and should only take a few minutes for an applicant to complete.

*Effective Date*

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

*Contact Person*

The contact person for questions about this final-form regulations, Director of Regulatory Review, at (717) 214-8111.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a), on April 21, 2008, the Board submitted a copy of the proposed rulemaking, published at 38 Pa.B. 2054, and a copy of the Regulatory Analysis Form to IRRC and the Chairpersons of the House Gaming Oversight Committee and the Senate Committee (Committees) on Community, Economic and Recreational Development.

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 Board has considered all comments received from IRRC, the Committees and the public.

Under section 5.1(j.2) of the act (71 P. S. § 745.5a(j.2)), on October 1, 2008, the final-form rulemaking was deemed approved by the House Gaming Oversight Committee and the Senate Committee on Community, Economic and Recreational Development. Under section 5.1(e) of the Regulatory Review Act (71 P. S. § 745.5a(e)), IRRC met on October 2, 2008, and approved the final-form rulemaking.

*Findings*

The Board finds that:

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

(2) The final-form regulations are necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II (relating to gaming).

*Order*

The Board, acting under 4 Pa.C.S. Part II, orders that:

(a) The regulations of the Board, 58 Pa. Code Chapters 405a, 407a, 421a, 433a and 435a are amended by amending §§ 405a.2, 407a.3, 421a.1, 433a.8 and 435a.2 to read as set forth in Annex A.

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

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

MARY DIGIACOMO COLINS,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 38 Pa.B. 5818 (October 18, 2008)).*

**Fiscal Note:** Fiscal Note 125-84 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 58. RECREATION**

**PART VII. GAMING CONTROL BOARD**

**Subpart A. GENERAL PROVISIONS**

**CHAPTER 405a. BUREAU OF INVESTIGATIONS AND ENFORCEMENT**

**§ 405a.2. Information.**

(a) An applicant for or holder of a license, permit, certification or registration shall provide all information, data and documents requested by the Bureau under section 1517(a) of the act (relating to enforcement). The Bureau may also request the execution of a release which would enable the Bureau and the Board to receive information pursuant to a request for information under the Freedom of Information Act (5 U.S.C. § 552).

(b) The Director of the Bureau, the Chief Enforcement Counsel, and their designees, will have the power and authority to administer oaths and affirmations for the purpose of obtaining voluntary sworn statements with regard to any matter or thing which may properly fall within the jurisdiction of the Board. Any person so designated will have the power and authority to obtain by subpoena the sworn statement of a person deemed to have information relevant to an investigation that the Board is authorized to conduct. Designation pursuant to this section will be made in writing, filed with the Clerk, and remain in effect until revoked.

(c) A State or local law enforcement agency, including the Pennsylvania State Police and the Office of Attorney General, the Department or other executive agency may provide information, data and documents requested by the Bureau relating to an applicant for or holder of a license, permit, certification or registration.

(d) The Bureau may, upon request, provide pertinent information relating to an applicant for or holder of a license, permit, certification or registration to law enforcement agencies, including the Federal Bureau of Investigation or other domestic or foreign agencies or jurisdictions.

(e) Information under this section may be provided or received by electronic distribution.

**CHAPTER 407a. PUBLIC ACCESS TO BOARD FILES**

**§ 407a.3. Confidential information.**

(a) Confidential information may include background investigation information, including information provided under section 1310(a) of the act (relating to slot machine license application character requirements), submitted in connection with an application required for the issuance of any license, permit, certification or registration under this part, discovery procedures, or cross-examination or that is provided as a courtesy to a party in a formal proceeding received by the Board or the Department as well as records obtained or developed by the Board or the Department as part of an investigation related to an applicant for or holder of a license, permit, certification or registration containing any of the following:

(1) Personal information, including home addresses, telephone numbers, Social Security numbers, educational records, memberships, medical records, tax returns and declarations, actual or proposed compensation, financial

account records, credit-worthiness or financial condition relating to an applicant, licensee or permittee or the immediate family thereof.

(2) Documents and information relating to proprietary information, trade secrets, patents or exclusive licenses, architectural and engineering plans and information relating to competitive marketing materials and strategies which may include customer-identifying information or customer prospects for services subject to competition.

(3) Security information including risk prevention plans, detection and countermeasures, emergency management plans, security and surveillance plans, equipment and usage protocols and theft and fraud prevention plans and countermeasures.

(4) Information with respect to which there is a reasonable possibility that public release or inspection of the information would constitute an unwarranted invasion into personal privacy as determined by the Board.

(5) Records or information that is designated confidential by statute or the Board.

(6) Records of an applicant or licensee not required to be filed with the SEC by issuers that either have securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C.A. § 781) or are required to file reports under section 15(d) of that act (15 U.S.C.A. § 780(d)).

(7) Records considered nonpublic matters or information by the SEC as provided by 17 CFR 200.80 (relating to commission records information).

(8) Information obtained about an applicant for or holder of a license, permit, certification or registration as a result of a release executed by the individual at the request of the Bureau or the Board.

(b) Confidential information may be released by the Board under the following circumstances:

(1) To State or Federal law enforcement agencies or entities upon approval of the Attorney General or pursuant to a lawful order issued by court of competent jurisdiction.

(2) To the public, in whole or in part, if one of the following occurs:

(i) Upon written request from the applicant or holder of a license, permit, certification or registration, to the extent that the information does not contain otherwise confidential information about another person.

(ii) If the information subsequently becomes a part of the public domain by an action by the applicant or holder of a license, permit, certification or registration.

(3) To a person with the written consent of the applicant or holder of a license, permit, certification or registration.

### **Subpart B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION**

#### **CHAPTER 421a. GENERAL PROVISIONS**

##### **§ 421a.1. General requirements.**

(a) A license, permit, certification or registration issuance, renewal or other approval issued by the Board is a revocable privilege. No person holding a license, permit, certification or registration, renewal, or other approval is deemed to have any property rights related to the license, permit, certification or registration.

(b) By filing an application with the Board, an applicant consents to an investigation of the applicant's general suitability, financial suitability, character, integrity and ability to engage in, or be associated with, gaming activity in this Commonwealth to the extent deemed appropriate by the Board. The investigation may include a background investigation of the applicant, employees of the applicant, all persons having a controlling interest in the applicant and other persons as determined by the Board.

(c) By filing an application for a license, permit, certification or registration issuance, renewal or other approval from the Board, an applicant agrees to:

(1) Abide by the provisions of the act and this part.

(2) Waive liability as to the Board, its members, its employees, the Pennsylvania State Police, the Commonwealth and its instrumentalities for damages resulting from disclosure or publication in any manner, other than a willfully unlawful disclosure or publication of material or information acquired during an investigation of the applicant.

(3) Execute all releases requested by the Board, including releases whereby the applicant consents to the release of information that may be requested by the individual under the Freedom of Information Act (5 U.S.C. § 552) to the Board.

(d) An applicant for or holder of a license, permit, certification or registration may not give or offer to give, compensation or reward or a percentage or share of the money or property played or received through gaming to a public official or public employee in consideration for or in exchange for obtaining a license, permit, certification or registration issued pursuant to this part.

(e) An applicant for or holder of a license, permit, certification or registration shall have a duty to inform the Bureau of an action which the applicant for or holder of a license, permit, certification or registration believes would constitute a violation of the act. A person who so informs the Bureau may not be discriminated against by an applicant for or holder of a license, permit, certification or registration for supplying the information.

(f) An applicant for a license, permit, certification or registration shall have a continuing duty to inform the Board of changes in the information supplied to the Board in or in conjunction with the original or renewal application. An applicant for or holder of a license, permit, certification or registration shall have a continuing duty to inform the Board of a change in circumstances that may render the applicant for or holder of a license, permit, certification or registration ineligible, unqualified or unsuitable to hold a license, permit, certification or registration under the standards and requirements of the act and of this part.

(g) An applicant for a license, permit, certification or registration shall have a continuing duty to promptly provide information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(h) An application submitted to the Board constitutes the seeking of a privilege. An applicant shall at all times have the burden of proof. It shall be the applicant's affirmative responsibility to establish the facts supporting its suitability under the act and this part by clear and convincing evidence, including why a license, permit, certification or registration should be issued or renewed by the Board.

(i) A person holding a license, permit, certification or registration issued by the Board who violates a provision of the act or this part may be held jointly or severally liable for the violation.

(j) The Board will maintain lists of applicants for licenses, permits, certifications or registrations under this part as well as a record of the actions taken with respect to each applicant. The lists will be posted on the Board's web site ([www.pgcb.state.pa.us](http://www.pgcb.state.pa.us)).

**CHAPTER 433a. PRINCIPAL LICENSES**

**§ 433a.8. Principal applications.**

(a) An individual required to be licensed as a principal, unless otherwise directed by the Board, shall file:

(1) An original and three copies of a completed Multi-Jurisdictional Personal History Disclosure Form.

(2) An original and three copies of a completed Principal/Key Employee Form—Pennsylvania Supplement to the Multi-Jurisdictional Personal History Disclosure Form.

(3) Executed releases requested by the Board, including releases whereby the applicant consents to the release of information that may be requested by the individual pursuant to the Freedom of Information Act (5 U.S.C. § 552) to the Board.

(4) The nonrefundable application fee posted on the Board's web site ([www.pgcb.state.pa.us](http://www.pgcb.state.pa.us)).

(b) A principal entity required to be licensed as a principal shall file a completed Principal Entity Form and submit the applicable application fee posted on the Board's web site ([www.pgcb.state.pa.us](http://www.pgcb.state.pa.us)).

(c) A principal affiliate shall apply for the principal license as if it itself applying for the slot machine license, manufacturer license, manufacturer designee license, supplier license, management company license or junket enterprise license.

(d) In addition to the materials required under subsections (a) or (b), an applicant for a principal license shall:

(1) Promptly provide information requested by the Board relating to the principals' application or regulation and cooperate with the Board in investigations, hearings and enforcement and disciplinary actions.

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

**CHAPTER 435a. EMPLOYEES**

**§ 435a.2. Key employee license.**

(a) An applicant for a key employee license from the Board, unless otherwise directed by the Board, shall submit:

(1) An original and three copies of a completed [Multi-jurisdictional] Multi-Jurisdictional Personal History Disclosure Form.

(2) An original and three copies of a completed Principal/Key Employee Form—Pennsylvania Supplement to the Multi-Jurisdictional Personal History Disclosure Form.

(3) Executed releases requested by the Board, including releases whereby the applicant consents to the release of

information that may be requested by the individual under the Freedom of Information Act (5 U.S.C. § 552) to the Board.

(4) The nonrefundable application fee posted on the Board's web site ([www.pgcb.state.pa.us](http://www.pgcb.state.pa.us)).

(b) In addition to the materials required under subsection (a), an applicant for a key employee license shall:

(1) Promptly provide information requested by the Board relating to its application or regulation and cooperate with the Board in investigations, hearings, and enforcement and disciplinary actions.

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications).

(c) In addition to the information under subsections (a) and (b), the Board may require letters of reference from law enforcement agencies under section 1310(b) of the act (relating to slot machine application character requirements).

(d) An applicant for a key employee license will be required to reimburse the Board for additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.

(e) After review of the information submitted under subsections (a), (b) and (c), including the background investigation, the Board may issue a key employee license if the individual applicant has proven that the individual is a person of good character, honesty and integrity and is eligible and suitable to be licensed as a key employee.

(f) A license issued under this section will be valid for employment with any licensed entity.

(g) An individual who is a key employee may request in writing that the Board waive the obligation to be licensed as a key employee by:

(1) Filing an original and three copies of a Principal/Key Employee Waiver Form.

(2) The nonrefundable waiver application fee posted on the Board's website ([www.pgcb.state.pa.us](http://www.pgcb.state.pa.us)).

(h) As part of the waiver request, the individual shall be required to demonstrate one of the following:

(1) The individual is not assigned to an applicant's or licensee's gaming operations in this Commonwealth.

(2) The individual's duties do not have an effect on or require contact with slot machines for use or play in this Commonwealth.

(i) The request for a waiver must include, at a minimum, the following:

(1) A description of the individual's title, duties and responsibilities with the applicant, licensee or with any of its affiliates, intermediaries, subsidiaries or holding companies.

(2) A certification by the chief executive officer stating that the employee is not assigned to the licensee's gaming operations in this Commonwealth or that the employee's duties do not have an effect on or require contact with slot machines for use or play in this Commonwealth.

(j) An applicant for a key employee waiver will be required to reimburse the Board for any additional costs, based on the actual expenses incurred by the Board, in conducting the background investigation.

[Pa.B. Doc. No. 08-2015. Filed for public inspection November 7, 2008, 9:00 a.m.]

# PROPOSED RULEMAKING

## ENVIRONMENTAL HEARING BOARD

[ 25 PA. CODE CH. 1021 ]

### Practice and Procedure

The Environmental Hearing Board (Board) proposes to revise Chapter 1021 (relating to practice and procedures) by adding new procedural rules to read as set forth in Annex A.

The proposed procedural rules have the following objectives:

(1) To provide the regulated community and the Department of Environmental Protection (Department) and other potential litigants with more specific guidance on how to represent their interests before the Board.

(2) To improve the rules of practice and procedure before the Board.

#### I. Statutory Authority for Proposed Revisions

The Board has the authority under section 5 of the Environmental Hearing Board Act (act) (35 P. S. § 7515) to adopt regulations pertaining to practice and procedure before the Board.

#### II. Description of Proposed Revisions

The proposed revisions are modifications to provisions of the rules to improve practice and procedure before the Board. These proposed revisions are based on the recommendations of the Environmental Hearing Board Rules Committee (Rules Committee), a nine member advisory committee created by section 5 of the act to make recommendations to the Board on its rules of practice and procedure. The Board may promulgate proposed regulations based in whole or in part on the recommendations of the Rules Committee.

This summary provides a description of: (1) the existing rules of practice and procedure when relevant to proposed revisions; (2) the Board's proposed revisions; and (3) how, if any, the proposal differs from the Rules Committee's recommendations.

Where the recommendations of the Rules Committee were not in proper legislative style and format, they have been modified to conform to those requirements. Similarly, where recommendations did not contain proper cross references to 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure), references to those rules have been added.

The proposed rulemaking can be divided into three categories: 1) adoption of new rules; 2) substantive amendments to existing rules; and 3) correction of typographical errors.

##### 1. § 1021.32 (relating to filing)

Two changes have been proposed to § 1021.32. The first is the correction of a typographical error in subsection (f). The second is the addition of subsection (h) which would require all documents filed with the Board to conform to recently enacted Pa.R.C.P. 204.1, requiring uniformity of filings.

##### 2. § 1021.34(b). (relating to service by a party)

The proposed rule change in § 1021.34(b) clarifies that when documents are filed with the Board in an expedited

manner, such as, by overnight mail, facsimile or same day delivery, they should also be delivered to the other parties on the same day or by overnight delivery.

##### 3. § 1021.51. (relating to commencement, form and content)

In subsection (f), a change adds a reference to proposed new § 1021.54a (relating to prepayment of penalties), dealing with prepayment of penalties.

Subsections (h)—(j) ensure that all recipients of an action being appealed receive notice of the appeal and are provided an opportunity to participate in the appeal, under the Commonwealth Court's holding in *Schneiderwind v. DEP*, 867 A.2d 724 (Pa. Cmwlth. 2005).

##### 4. § 1021.54a. (relating to prepayment of penalties).

In the last set of revisions to its rules, the Board deleted an earlier version of this rule dealing with prepayment of civil penalties since it did not conform to statutory requirements regarding prepayment of penalties. The proposed rule explains that parties must follow the requirements of the statute under which a penalty has been assessed when determining whether to submit prepayment of the penalty to either the Board or the Department.

##### 5. § 1021.55 (relating to hearing on inability to prepay)

The proposed change adds a reference to proposed new § 1021.54a, dealing with prepayment of penalties.

##### 6. § 1021.74 (relating to answers to complaints)

This change adds a reference to proposed new § 1021.76a, dealing with default judgment.

##### 7. § 1021.76a. (relating to entry of default judgment)

This proposed new section clarifies that the Board, upon motion, may enter default judgment not only as to liability but also on the amount of the civil penalty requested by the Department of Environmental Protection in a complaint for civil penalties when the defendant fails to file an answer to the complaint.

##### 8. § 1021.93. (relating to discovery motions)

This proposed amendment to subsection (b) of the existing rule would require parties to certify that they have conferred or attempted to confer with opposing parties before filing a discovery motion with the Board.

##### 9. § 1021.94a. (relating to summary judgment motions)

This rule was created in the Board's last set of rules changes in an attempt to make summary judgment practice more manageable by discouraging the filing of summary judgment motions containing lengthy recitations of background facts to which the opposing party must respond. The proposed amendments to § 1021.94a are a further attempt to accomplish this and to discourage the filing of summary judgment motions when there are clear issues of disputed material fact. The proposed amendments require the moving party to file a statement of undisputed material facts and the opposing party to file a responding statement. The proposed amendments impose page limits on the statement of undisputed material facts, responding statement and briefs.

##### 10. §§ 1021.96a—1021.96d (relating to expedited hearings)

The Board has proposed new rules clarifying when parties may request an expedited prehearing and hearing

schedule and setting forth the factors the Board will consider in granting the request.

11. § 1021.141b. (relating to withdrawal without prejudice)

This proposed new rule would clarify that appellants may withdraw appeals without prejudice upon agreement of the parties.

The Board concurred with each of the recommendations set forth in this preamble.

III. Fiscal Impact of the Proposed Revisions

The proposed amendments will have no measurable fiscal impact on the Commonwealth, political subdivision or the private sector. The amendments may have a favorable economic impact in that they may eliminate potential litigation over existing uncertainties in the Board's procedures, authority and requirements.

IV. Paperwork Requirements for Proposed Revisions

The proposed amendments may require only minor changes to the Board's standard orders.

V. Public Meeting on Proposed Rules

In accordance with 65 Pa.C.S. §§ 701—716 (relating to Sunshine Law), a quorum of the members of the Board voted to adopt the proposed rules at a public meeting held on February 12, 2008, at the Board's Harrisburg office, Hearing Room 2, Second Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

VI. Government Reviews of Proposed Revisions

On October 28, 2008, as required under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted copies of the proposed revisions to the Independent Regulatory Review Commission (IRRC) and the Senate and House Standing Committees on Environmental Resources and Energy (Committees). The Board also provided IRRC and the Committees with copies of a Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1 (relating to regulatory review and promulgation). Copies of the Regulatory Analysis Form are available to the public upon request.

If IRRC has objections to any of the proposed revisions, it will notify the Board within 30 days of the close of the public comment period, specifying the regulatory review criteria that have not been met. The Regulatory Review Act sets forth procedures for review, prior to final publication of the proposed revisions, by the Board, the General Assembly and the Governor of objections raised.

VII. Public Comment Regarding Proposed Revisions

The Board invites interested persons to submit written comments, suggestions or objections regarding the proposed revisions to Mary Anne Wesdak, Senior Assistant Counsel, 1507 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222, within 30 days of this publication.

THOMAS W. RENWAND, Acting Chairperson and Chief Judge

Fiscal Note: 106-9. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION PART IX. ENVIRONMENTAL HEARING BOARD CHAPTER 1021. PRACTICE AND PROCEDURES

DOCUMENTARY FILINGS

FILING AND SERVICE OF DOCUMENTS

§ 1021.32. Filing.

\* \* \* \* \*

(f) Hard copy of any electronically filed legal document which exceeds 50 pages in length must also be filed with the Board in accordance with subsections (a) and (c) and § 1021.37 (relating to the number of copies). Exhibits to legal documents may be filed and served either electronically or by hard copy in accordance with the sections in this chapter relating to filing and service. If these requirements are met by hard copy of exhibits, they must be sent to the Board by mail or express delivery and, in the case of requests for expedited disposition, service shall mean actual receipt by the opposing party as required by § 1021.34 [ (b) ](c) (relating to service by a party).

\* \* \* \* \*

(h) Pleadings and other documents filed with the Board must comply with Pa.R.C.P. 204.1 (relating to filing uniformity).

§ 1021.34. Service by a party.

\* \* \* \* \*

(b) When a document is filed with the Board by overnight delivery, facsimile or personal service, it shall be [ served ] delivered to the opposing parties on the same day or by overnight delivery [ or personal service on the parties ].

\* \* \* \* \*

FORMAL PROCEEDINGS

APPEALS

§ 1021.51. Commencement, form and content.

\* \* \* \* \*

(f) When the appeal is from an assessment of a civil penalty for which the statute requires an appellant to prepay the penalty or post a bond, the appellant shall [ submit to the Board with the appeal a check in the amount of the penalty or an appropriate bond securing payment of the penalty or a verified statement that the appellant is unable to pay ] follow the procedures set forth in § 1021.54a (relating to prepayment of civil penalties) [ (Editor's Note: Section 1021.54 dealing with prepayment of penalties has been deleted in this final rulemaking. Section 1021.51(f) should have been amended to reflect this change and will be corrected in future rulemaking.) ].

\* \* \* \* \*

(h) For purposes of this section, the term "recipient of the action" includes the following:

(1) The [ recipient of a permit, license, approval or certification ] person to whom the action of the Department is directed or issued.

\* \* \* \* \*



(3) [The] A mining company, well operator or owner or operator of a storage tank in appeals involving a claim of subsidence damage [ or ], water loss [ under The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.2) ] or contamination.

(4) [The well operator in appeals involving a claim of pollution or diminution of a water supply under section 208 of the Oil and Gas Act (58 P. S. § 601.208).

(5) The owner or operator of a storage tank in appeals involving a claim of an affected water supply under section 1303 of the Storage Tank and Spill Prevention Act (35 P. S. § 6021.1303).

(6) ] Other interested parties as ordered by the Board.

(i) The service upon the [recipient of a permit, license, approval or certification, as required by subsection (h)(1), ] person to whom the action of the Department is directed or issued shall subject the recipient to the jurisdiction of the Board, and the recipient shall be added as a party to the third-party appeal without the necessity of filing a petition for leave to intervene under § 1021.81. The [recipient of a permit, license, approval or certification ] person to whom the action of the Department is directed or issued who is added to an appeal [pursuant to ] under this section [must ] shall still comply with §§ 1021.21 and 1021.22 (relating to representation of parties; and notice of appearance.)

(j) Other recipients of an action [appealed by a third party, served as required by subsections ] under subsection (h)(2), (3)[, ] or (4) [or (5) ], may intervene as of course in the appeal by filing an entry of appearance within 30 days of service of the notice of appeal in accordance with §§ 1021.21 and 1021.22, without the necessity of filing a petition for leave to intervene [pursuant to ] under § 1021.81. If a recipient of an action under subsection (h)(2), (3) or (4) elects not to intervene as of course following service of notice of an appeal, the recipient's right to appeal from the Board's adjudication in the matter may be adversely affected.

\* \* \* \* \*

*Comment:* Subsection (j) of this rule was amended in response to the Commonwealth Court's ruling in *Schneiderwind v. DEP*, 867 A.2d 724 (Pa. Cmwlth. 2005).

§ 1021.54a. Prepayment of penalties.

(a) When an appeal is from the assessment of a civil penalty for which the statute requires an appellant to prepay the penalty or post a bond with the Department, the appellant shall submit to the Office of Chief Counsel of the Department a check in the amount of the penalty or an appropriate bond securing payment of the penalty or a verified statement that the appellant is unable to pay.

(b) When an appeal is from the assessment of a civil penalty for which the statute requires an appellant to prepay the penalty or post a bond with the Board, the appellant shall submit to the Board a check in the amount of the penalty or an appro-

priate bond securing payment of the penalty or a verified statement that the appellant is unable to pay.

(c) When an appellant claims it does not have the ability to prepay a civil penalty assessment, it shall include with the notice of appeal a verified statement that alleges financial inability to prepay or post an appeal bond.

*Comment:* Practitioners should note that the Air Pollution Control Act (35 P. S. §§ 4001—4015) requires that prepayment of a civil penalty be made to the Board and not to the Department. If a civil penalty is assessed under more than one statute, an appellant shall follow the procedures set forth in each statute.

§ 1021.55. Hearing on inability to prepay penalty.

(a) If an appellant submits a verified statement that he is unable to pay in accordance with [§ 1021.51 ] 1021.54a(c) (relating to [commencement, form and content ] prepayment of penalties), the Board may schedule a hearing on the validity of this claim and may require the appellant to supply appropriate financial information to the Department in advance of the hearing.

\* \* \* \* \*

SPECIAL ACTIONS

§ 1021.74. Answers to complaints.

\* \* \* \* \*

(d) A defendant failing to file an answer within the prescribed time shall be deemed in default and, upon motion made as set forth in § 1021.76a (relating to entry of default judgment), all relevant facts in the complaint may be deemed admitted and default judgment may be entered. Further, the Board may impose any other sanctions for failure to file an answer in accordance with § 1021.161 (relating to sanctions).

\* \* \* \* \*

§ 1021.76a. Entry of default judgment.

(a) The Board, on motion of the plaintiff, may enter default judgment against the defendant for failure to file within the required time an answer to a complaint that contains a notice to defend.

(b) The motion for default judgment must contain a certification that the plaintiff served on the defendant a notice of intention to seek default judgment after the date on which the answer to the complaint was due and at least 10 days prior to filing the motion.

(c) The filing of an answer to the complaint by the defendant prior to the filing of a motion for default judgment by the plaintiff shall correct the default.

(d) Where default judgment is sought in a matter involving a complaint for civil penalties, the Board may assess civil penalties in the amount of the plaintiff's claim or may assess the amount of the penalty following a hearing at which the issues shall be limited to the amount of the civil penalties.

*Comment:* This rule is modeled after Pa.R.C.P. 237.1 and 1037.

MOTIONS

§ 1021.93. Discovery motions.

\* \* \* \* \*

(b) A discovery motion may not be filed unless it contains a certification that the movant has in good faith conferred or attempted to confer with the party against whom the motion is directed in an effort to secure the requested discovery without Board action. Discovery motions [ shall ] must contain as exhibits the discovery requests and answers giving rise to the dispute.

\* \* \* \* \*

§ 1021.94a. Summary judgment motions.

(a) **Rules governing summary judgment motions.** Except as otherwise provided by these rules, motions for summary judgment shall be governed by Pa.R.C.P. Rules 1035.1—1035.5.

(b) **Summary judgment motion record.**

(1) A summary judgment motion record must contain the following separate items:

(i) A motion prepared in accordance with subsection [ (b) ] (c).

(ii) **A statement of undisputed material facts in accordance with subsection (d).**

(iii) A supporting brief prepared in accordance with subsection [ (c) ] (e).

[ (iii) ] (iv) The evidentiary materials relied upon by the movant.

[ (iv) ] (v) A proposed order.

\* \* \* \* \*

[ (b) ] (c) **Motion.** A motion for summary judgment must contain only a concise statement of the relief requested and the reasons for granting that relief. The motion should not include any recitation of the facts and should not exceed two pages in length.

(d) **Statement of undisputed material facts.** A statement of undisputed material facts must consist of numbered paragraphs and contain only those material facts to which the movant contends there is no genuine issue together with a citation to the portion of the motion record establishing the fact or demonstrating that it is uncontroverted. The citation must identify the document and specify the paragraphs and pages or lines thereof or the specific portions of exhibits relied on. The statement of undisputed material facts, absent the portions of exhibits and affidavits relied upon, may not exceed five pages in length unless leave of the Board is granted.

[ (c) ] (e) **Brief in support of the motion for summary judgment.** The motion for summary judgment shall be accompanied by a brief containing an introduction [ and ], summary of the case, [ a statement of material facts ] and [ a discussion of ] the legal argument supporting the motion. [ The statement of material facts shall set forth in separately numbered paragraphs a concise statement of each material fact as to which the movant contends there is no genuine issue together with a citation to the portion of the motion record establishing the fact or demonstrating that it is uncontroverted. The citation shall identify the document and specify the pages and paragraphs or lines thereof or the specific portions of exhibits relied on.

(d) **Evidentiary materials.** Affidavits, deposition transcripts or other documents relied upon in support of a motion for summary judgment shall accompany the motion and brief and shall be separately bound and labeled as exhibits. Affidavits shall conform to Pa.R.C.P. 76 and 1035.4.

(e) **Proposed order.** The motion shall be accompanied by a proposed order. ]

(f) [ **Brief by party in opposition to motion.** ] *Opposition to motion for summary judgment.* Within 30 days of the date of service of the motion, a party opposing the motion shall file the following:

(1) A response to the motion for summary judgment which includes a concise statement, not to exceed two pages in length, as to why the motion should not be granted.

(2) [ a brief containing a responding statement ] **A response to the statement of undisputed material facts** either admitting or denying or disputing each of the facts in the movant's statement. [ and a discussion of the legal argument in opposition to the motion. All material facts in the movant's statement which are sufficiently supported will be deemed admitted for purposes of the motion only, unless specifically disputed by citation conforming to the requirements of subsection (c) ] **Any response must include citation to the portion of the record contravening a material fact. The citation must identify the document and specify the pages and paragraphs or lines thereof or the specific portions of exhibits relied on demonstrating existence of a genuine issue as to the fact disputed. An opposing party may also include in the responding statement additional facts the party contends are material and as to which there exists a genuine issue. Each fact shall be stated in separately numbered paragraphs [ together with ] and contain citations to the motion record. [ Affidavits, deposition transcripts or other documents relied upon in support of a response to a motion for summary judgment, which are not already a part of the motion record, shall accompany the responding brief. ] The response to the statement of undisputed material facts may not exceed five pages in length unless leave of the Board is granted.**

(3) A brief containing the legal argument in opposition to the motion.

(g) **Length of brief in support of and in opposition to summary judgment.** Unless leave of the Board is granted, the brief in support of or in opposition to the motion may not exceed 30 pages.

(h) **Evidentiary materials.** Affidavits, deposition transcripts or other documents relied upon in support of a motion for summary judgment or response must accompany the motion or response and be separately bound and labeled as exhibits. Affidavits must conform to Pa.R.C.P. 76 and 1035.4 (relating to definitions; and affidavits).

(i) **Proposed order.** The motion shall be accompanied by a proposed order.

[ (g) ](j) **Reply brief.** A [ concise ] reply brief may be filed by the movant within 15 days of the date of service of the response. It may not exceed 15 pages unless leave of the Board is granted. Additional briefing may

be permitted at the discretion of the presiding administrative law judge.

**[(h) Motion for summary] (k) Summary judgment.** When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading or its notice of appeal, but the adverse party's response, by affidavits or as otherwise provided by this rule, must set forth specific facts showing there is a genuine issue for hearing. If the adverse party does not so respond, summary judgment may be entered against the adverse party. Summary judgment may be entered against a party who fails to respond to a summary judgment motion.

**[(i) (l) Judgment rendered.** The judgment sought shall be rendered forthwith if the motion record shows that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.

*Comment:* The statement of material facts **[in the briefs]** should be limited to those facts which are material to disposition of the summary judgment motion and should not include lengthy recitations of undisputed background facts or legal context.

**§ 1021.96a. Motions for expedited hearing.**

(a) A motion for an expedited hearing may be filed at any time in either an appeal or special action, or the Board may order an expedited hearing on its own motion.

(b) The Board may issue an order, for an expedited hearing notwithstanding the time requirements contained in a previous order of the Board, the Board's Rules of Practice and Procedure in § 1021.101 (relating to prehearing procedure), or the Pa.R.C.P. relating to discovery.

(c) In issuing such an order, the Board will be guided by relevant judicial and Board precedent. Among other factors to be considered:

(1) Whether pollution or injury to the public health, safety or welfare exists or is threatened during the period ordinarily required to complete the proceedings.

(2) The severity of prejudice to any party during the time period ordinarily required to complete the proceedings.

(3) The status of discovery and the realistic need of the parties for extended discovery and for time to prepare for a hearing.

(4) Whether the issuance of such an order would promote judicial economy or would otherwise be in the public interest.

(5) The effect of expedited proceedings on the nonrequesting party.

(d) The Board will grant a motion for expedited hearing only in rare circumstances.

(e) The Board may direct that a prehearing conference be held to determine an appropriate schedule for the completion of prehearing proceedings as well as the time and place of the hearing.

**§ 1021.96b. Contents of motion for expedited hearing.**

(a) A motion for an expedited hearing must state facts with particularity and be supported by one of the following:

(1) Affidavits based on personal knowledge or experience setting forth facts supporting the issuance of an order for an expedited hearing.

(2) An explanation of why affidavits have not accompanied the motion if no affidavits are submitted with the motion for an expedited hearing.

(b) A motion for an expedited hearing shall be accompanied by a memorandum of law.

(c) A motion may not be filed unless it contains a certification that the moving party has in good faith conferred or attempted to confer with the party against whom the motion is directed in an effort to secure an agreement on expediting the proceeding.

**§ 1021.96c. Response to motion for expedited hearing.**

A response and supporting memorandum of law shall be filed within 10 days of service unless otherwise ordered by the Board.

**§ 1021.96d. Conduct of expedited hearing.**

(a) Nothing contained in this rule limits the rights of the parties to a full hearing before the Board under the applicable rules of evidence with full rights of cross-examination of witnesses. The Board may limit the number of witnesses or the subjects of examination to avoid duplication of evidence as provided in § 1021.126 (relating to limiting number of witnesses and additional evidence).

(b) Testimony may be submitted by prepared written testimony as provided under § 1021.124 (relating to written testimony).

(c) After the conclusion of the hearing the Board will direct the prompt filing of post hearing briefs.

**TERMINATION OF PROCEEDINGS**

**§ 1021.141b. Withdrawal without prejudice.**

(a) Upon agreement of all parties, an appellant may withdraw an appeal without prejudice.

(b) Except as agreed by the parties under subsection (c), when an appeal is withdrawn without prejudice the withdrawal of the appeal shall have no effect upon the ability of any party to raise, in future proceedings, any issue of law or fact raised or that could have been raised in the withdrawn appeal.

(c) Any agreement by the parties that limits the issues that may be raised or that determines the finality of the action being appealed will be binding

[Pa.B. Doc. No. 08-2016. Filed for public inspection November 7, 2008, 9:00 a.m.]

## PENNSYLVANIA GAMING CONTROL BOARD

[ 58 PA. CODE CHS. 441a AND 467a ]

Smoking in Licensed Facilities

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and specific

authority contained in sections 3 and 4 of the Clean Indoor Air Act (35 P. S. §§ 637.3—637.4) (act) proposes to amend Chapters 441a and 467a (relating to slot machine licenses; and commencement of slot operations) to read as set forth in Annex A.

*Purpose of the Proposed Rulemaking*

This proposed rulemaking adds a new § 441a.25 (relating to smoking in licensed facilities) and amends § 467a.1 (relating to gaming floor plan) to implement the provisions of the act.

*Explanation of Amendments to Chapters 441a and 467a*

The new § 441a.25 sets forth the procedures and requirements that slot machine licensees must comply with as a result of the passage of the act.

Subsection (a) mirrors the provisions of the act which restrict smoking to no more than 25% of the gaming floor on September 11, 2008, the effective date of the act, and limit the maximum amount of the gaming floor that may eventually be designated as smoking to 50% of the gaming floor.

Subsection (b) reflects the requirement of the act that slot machine licensees request a gross terminal report from the Department of Revenue on December 10, 2008, and subsection (c) reflects the slot machine licensees' right to request subsequent reports on a quarterly basis.

Subsection (d) parallels the language of the act that permits proportionate increases in the amount of the gaming floor designated for smoking areas when there is a difference in the average gross terminal revenue for slot machines in the smoking areas as opposed to the slot machines in the nonsmoking areas.

Subsection (e) sets forth the process slot machine licensees will be required to use whenever they want to make a change to the designated smoking areas. Changes to designated smoking areas will be submitted to the Board's Executive Director, who will verify that the changes are consistent with the provisions of the act and the Board's regulations. Once this is done, the slot machine licensee will be notified and may proceed with the changes.

Subsection (f) reflects the provision of the act that allows a slot machine licensee who is operating a temporary licensed facility to use the same percentage of square footage designated for smoking areas in the temporary licensed facility in the permanent licensed facility. For example, if a slot machine licensee is authorized to designate 35% of the gaming floor in the temporary licensed facility as smoking, the slot machine licensee will be able to designate 35% of the gaming floor in the permanent facility as smoking.

Subsection (g) requires signage that clearly delineates where smoking may or may not be permitted on the gaming floor and requires that signs be posted at all public entrances which indicate that smoking is permitted in designated areas. While the act only requires "smoking permitted" signs at entrances, such signs at a licensed facility could give patrons the misimpression that they can smoke anywhere in the licensed facility. Because licensed facilities are only partially exempt from the smoking ban, language reflecting that fact is needed at the entrances to licensed facilities.

The Board is also seeking comments on whether or not smoking or nonsmoking labels should be required on each individual slot machine. In particular, the Board is requesting input on the effectiveness of individual labels

and the costs and possible logistical problems that would be associated with placing labels on each slot machine.

Subsection (h) requires slot machine licensees to provide training to their employees on when smoking is and is not permitted and on what the employees should do if they see an individual smoking in a nonsmoking area.

Lastly, § 467a.1 has been amended to add designated smoking areas as one of the items that must be depicted on gaming floor plans.

*Affected Parties*

This proposed rulemaking will affect any slot machine licensee that permits smoking in designated areas in a licensed facility.

*Fiscal Impact*

*Commonwealth*

Under this proposed rulemaking, the Board's Executive Director will be required to review requests filed by slot machine licensees desiring to change the size or location of the designated smoking areas in their licensed facilities. These requests will be handled by existing staff so the Board does not foresee that there will be any new costs or savings to the Board or other Commonwealth agencies as a result of this proposed rulemaking.

*Political Subdivisions*

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

*Private Sector*

Affected slot machine licensees will experience costs related to submitting changes to their gaming floor plans to designate areas where smoking is permitted; for posting signs indicating where smoking may or may not occur and training their employees.

The actual costs will vary by licensed facility depending on how frequently a slot machine licensee elects to make changes to their gaming floor. Costs per change are anticipated not to exceed \$2,500.

Violations of these regulations could subject the slot machine licensee to fines between \$250 to \$1,000 under the act and other disciplinary action by the Board.

*General Public*

This proposed rulemaking will have no fiscal impact on the general public. However, under the act, individuals who smoke in areas designated as nonsmoking will be subject to fines of \$250 to \$1,000.

*Paperwork requirements*

Slot machine licensees will have to submit a request and revised floor plan any time they want to make a change to their designated smoking areas.

*Effective Date*

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

*Public Comments*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking, within 30 days after the date of publication in the *Pennsylvania Bulletin* to Richard Sandusky, Director of Regulatory Review, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation No. 125-92.

*Contact Person*

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

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 28, 2008, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee. A copy of this material is available to the public upon request and is available on the Board's web site ([www.pgcb.state.pa.us](http://www.pgcb.state.pa.us)).

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

MARY DIGIACOMO COLINS,  
*Chairperson*

**Fiscal Note:** 125-92. No fiscal impact; (8) recommends adoption.

**Annex A****TITLE 58. RECREATION****PART VII. GAMING CONTROL BOARD****Subpart C. SLOT MACHINE LICENSING****CHAPTER 441a. SLOT MACHINE LICENSES****§ 441a.25. Smoking in licensed facilities.**

(a) Beginning on September 11, 2008, a slot machine licensee, except a slot machine licensee whose licensed facility is located in a city of the first class that has prohibited smoking in public places, may permit smoking on up to 25% of the square footage of the gaming floor. A slot machine licensee may increase the area of the gaming floor where smoking is permitted to a maximum of 50% of the square footage of gaming floor in accordance with the procedures in subsections (b)—(e).

(b) On December 10, 2008, or 90 days after commencement of slot operations at the licensed facility, whichever occurs later, a slot machine licensee shall request a report from the Department that analyzes the gross terminal revenue per slot machine unit in operation at the licensed facility within the 90-day period preceding the request.

(c) After receipt of the initial report under subsection (b), a slot machine licensee may request additional reports from the Department that analyze the gross terminal revenue per slot machine unit in operation at the licensed facility within the 90-day period preceding the request on a quarterly basis.

(d) When a report from the Department indicates that the average gross terminal revenue per slot machine unit in the designated smoking areas exceeds the average gross terminal revenue per slot machine unit in the designated nonsmoking areas, the slot machine licensee may, after verification by the Board's Executive Director, increase the square footage of the gaming floor designated for smoking in proportion to the percentage difference in revenue. The designated smoking areas may at no time exceed 50% of the square footage of the gaming floor.

(e) A notice of intent to increase, decrease or reconfigure the square footage of the gaming floor designated for smoking shall be submitted to the Board's Executive Director in writing and include a revised gaming floor plan. The Executive Director will review the revised gaming floor plan to verify compliance with the Clean Indoor Air Act (35 P. S. §§ 637.1—637.14) and this part. A slot machine licensee may not implement the increase, decrease or reconfiguration until compliance is verified.

(f) If a slot machine licensee moves from a temporary licensed facility to a permanent licensed facility, the slot machine licensee may utilize the current percentage of the square footage of the temporary licensed facility that is designated for smoking areas to determine the percentage of the square footage in the permanent facility that may be designated smoking areas. The designated smoking areas in the permanent facility shall be indicated on the gaming floor plan for the permanent facility submitted to the Board under § 467a.1 (relating to gaming floor plan).

(g) Slot machine licensees that permit smoking in designated areas of the licensed facility shall post signs, which at a minimum, contain the words "Smoking" or "No Smoking" or the international "No Smoking" symbol, to clearly delineate smoking and nonsmoking areas. Slot machine licensees that permit smoking in designated areas of a licensed facility shall also post signs that contain the phrase "Smoking Permitted in Designated Areas" at every public entrance to the licensed facility.

(h) Slot machine licensees that permit smoking in designated areas of the licensed facility shall provide training to their employees on:

(1) Where smoking is and is not permitted.

(2) The procedures employees should follow if an employee sees an individual smoking in an area that is not designated for smoking.

**Subpart E. SLOT MACHINE TESTING, CERTIFICATION AND CONTROL****CHAPTER 467a. COMMENCEMENT OF SLOT OPERATIONS****§ 467a.1. Gaming floor plan.**

(a) An applicant for, or holder of a slot machine license, shall submit to the Board a floor plan of its gaming floor and the restricted areas servicing the slot operation. A floor plan must be:

\* \* \* \* \*

(2) Certified by an architect licensed to practice in this Commonwealth and depict the following:

\* \* \* \* \*

**(xii) Designated smoking areas.****(xiii)** Additional documentation requested by the Board relating to the floor plan for the gaming floor.

\* \* \* \* \*

[Pa.B. Doc. No. 08-2017. Filed for public inspection November 7, 2008, 9:00 a.m.]

# STATE BOARD OF NURSING

[ 49 PA. CODE CH. 21 ]

## Certified Registered Nurse Practitioners; General Provisions

The State Board of Nursing (Board) proposes to amend Chapter 21, Subchapter C (relating to certified registered nurse practitioners) to read as set forth in Annex A.

### *Effective Date*

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

### *Statutory Authority*

The proposed amendments are authorized under sections 2.1(k) and (l) and 8.1—8.3 of the Professional Nursing Law (act) (63 P. S. §§ 212.1(k) and (l) and 218.1—218.3).

### *Background and Purpose*

In 1974, the General Assembly, in amendments to the act and the Medical Practice Act of 1974 (63 P. S. §§ 211—225) authorized the Board and the State Board of Medical Education and Licensure (now the State Board of Medicine) to jointly promulgate regulations that would authorize qualified nurses to perform acts of medical diagnosis and prescribe medical, therapeutic or corrective measures. In 1977, the Board and the State Board of Medicine jointly promulgated regulations granting certified registered nurse practitioner (CRNP) status to certain professional nurses (RNs), and governing acts of medical diagnosis and prescription of medical therapeutic or corrective measures performed by CRNPs. These regulations were promulgated in Chapter 18, Subchapter C. In 2000, the Boards jointly promulgated additional regulations for CRNP practice with regard to prescribing and dispensing drugs.

The act of December 9, 2002 (P. L. 1567, No. 206) (Act 206), amended section 2.1 of the act (63 P. S. § 212.1) and repealed sections of the Medical Practice Act to give the Board exclusive jurisdiction over CRNPs. Section 7(c) of Act 206 required the Board to promulgate regulations consistent with Act 206.

The act of July 20, 2007 (P. L. 318, No. 48) (Act 48), amended section 8.2(c.1) of the act (63 P. S. § 218.2(c.1)) to provide specific authorization for CRNPs to perform certain tasks, including ordering home health and hospice care; ordering durable medical equipment; issuing oral orders in health care facilities; making physical therapy, occupational therapy, respiratory therapy and dietitian referrals; performing disability assessments for the program providing Temporary Assistance to Needy Families; issuing home bound schooling certifications; and perform-

ing and signing the initial assessment of methadone treatment evaluations. The act also amended section 8.7 of the act (63 P. S. § 218.7), to require CRNPs to maintain a level of professional liability coverage as required for a nonparticipating health care provider under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910). The MCARE Act requires nonparticipating health care providers to maintain a minimum of \$1 million per occurrence and \$3 million annual aggregate. The act became effective on September 18, 2007.

The existing regulations prevent the effective use of CRNPs to the full extent of their education and ability and are inconsistent with the expanded scope of practice authorized by Act 48. The proposed amendments will enhance patient access to care in all practice settings by expanding the utilization of CRNPs in a manner comparable to other mid-level practitioners and giving practitioners and facilities clearer guidelines for CRNP scope of practice.

### *Description of Proposed Amendments*

The proposed amendments make substantive and editorial changes to §§ 21.251—21.351. All references to the State Board of Medicine are removed or changed to refer solely to the State Board of Nursing. The following is a section-by-section analysis of the proposed changes.

#### *§ 21.251 (relating to definitions)*

The Board proposes to add a definition for “act” to indicate that references are to the Professional Nursing Law. The Board proposes to delete the definition for “Boards” because it is no longer used in the regulations. The Board proposes to amend the definition of “certified registered nurse practitioner” and to delete the definition for “direction” to reflect changes made by Act 206. The Board proposes to add definitions for “collaborative agreement” and “prescriptive authority collaborative agreement” which are terms used in amendments to the regulations. To mirror other subchapters of its regulations, the Board will also add a definition of “Board.”

#### *§ 21.252 (relating to purpose)*

The Board proposes to rescind this section, which became outdated by Act 206.

#### *§ 21.261 (relating to designation of CRNP; authority to use CRNP)*

The proposed give a new title to § 21.261 and clarify when a registered nurse practitioner may use the designation CRNP. The proposal indicates that the Board will name the CRNP’s clinical specialty area on the current Pennsylvania certification document of the CRNP. The Board is already placing the clinical specialty area on CRNP certifications. This section also consolidates and clarifies the long-standing rule that a CRNP may not practice during the time the CRNP’s Pennsylvania certification is revoked, suspended, inactive, lapsed or expired.

#### *§ 21.271 (relating to currently licensed; course of study and experience; continuing education)*

This section has been renamed and amended to clarify the statutorily mandated qualifications for certification as a CRNP. The section also adds a provision by which a CRNP may change clinical specialty area. The requirements set forth in this section mirror the qualifications set forth in Act 206.

#### *§ 21.272 (relating to certification by endorsement)*

The regulation is proposed to be rescinded because the qualifications for certification by endorsement have been moved to § 21.271.

*§ 21.273 (relating to application for certification as a CRNP)*

The Board proposes to add this section to detail the requirements for applications for approval and certification as a CRNP in this Commonwealth. Subsection (b) sets forth the application requirements for individuals applying for initial certification as a CRNP while subsection (c) sets forth the qualifications for individuals applying for certification by endorsement. Subsection (d) sets forth the requirements for individuals applying for certification in a new specialty area. This section includes the requirement that the CRNP-applicant verify that the CRNP is covered by liability insurance as set forth in section 8.7 of the act.

*§§ 21.281 and 21.282 (relating to application for approval; and approval by the State Board of Nursing)*

The Board proposes to reserve these sections, as the relevant information in them has been moved.

*§ 21.282a (relating to medical examination, diagnosis and treatment)*

The Board proposes to add a new section effectuating section 8.2(b) of the act, as amended, which authorizes all CRNPs to perform acts of medical diagnosis in accordance with regulations promulgated by the Board. The proposal provides that a CRNP may perform comprehensive assessments and establish medical diagnoses for patients; may order diagnostic tests; may interpret diagnostic tests (such as blood work, sugar levels, and the like) to the extent that the interpretation is within the CRNP's capabilities; may initiate referrals to and consultations with other licensed professionals; may consult with other licensed health care professionals; may develop and implement treatment plans, excluding plans for pharmaceutical treatments unless the CRNP holds current prescriptive authority approval; complete admission and discharge summaries; order blood and blood components; order diets; order durable medical equipment for patients; and perform other acts authorized by section 8.2(c.1) of the act.

*§ 21.283 (relating to prescribing and dispensing drugs)*

The Board proposes to amend this section, in accordance with sections 8.2(c) and 8.3 of the act (63 P.S. §§ 218.2(c) and 218.3), to clarify that a CRNP with prescriptive authority approval may, within the scope of the CRNP's specialty and prescriptive authority collaborative agreement, prescribe and dispense drugs and order medical therapeutic or corrective measures. The section codifies the current procedure that a CRNP obtain prescriptive authority approval from the Board by submitting an application, paying a fee and documenting that the CRNP has 45 hours of coursework in advanced pharmacology. The proposed rulemaking would also clarify that a CRNP may issue orders, either written or oral, for medical and therapeutic measures, including orders for drugs, Total Parenteral Nutrition and Lipids, and disposables and devices adjunctive to a treatment plan. The examples given are not intended to be a finite list, but include items about which the Board is frequently asked and which the Board has determined are within the existing scope of practice for CRNPs.

*§ 21.284 (relating to prescribing and dispensing parameters)*

The Board rewrote § 21.284(b) in accordance with current statutory language requiring that CRNPs practice within their area of clinical specialty (see § 8.2(a) of the act, 63 P.S. § 218.2(a)) and consistent with the CRNPs

prescriptive authority collaborative agreement (see section 8.3(a)(2) of the act (63 P.S. § 218.3(a)(2))).

The Board retained the list of categories of drugs in § 21.284 from the prior jointly-promulgated regulations. The Board's proposal does not add or delete categories of drugs from which CRNPs may prescribe. Within the categories of drugs, the Board proposes to remove references to physicians in § 21.284(b)(3), to allow individual physicians and CRNPs to make determinations, based on their patients and practice, related to initial and ongoing prescriptions. The category of central nervous system agents will also remain, without reference to specific drugs within that category. At the Board's February 12, 2007, public hearing related to procedural sedation, representatives from the Pennsylvania Chapter of the American College of Emergency Physicians, the Capital Area Chapter of the Emergency Nurses Association, the Pennsylvania Emergency Nurses Association, the Hospital and Healthsystem Association of Pennsylvania and the Children's Hospital of Pittsburgh, among others, spoke strongly in support of the use of general anesthetics for purposes other than the administration of general anesthesia. CRNPs are prohibited from administering general anesthesia under § 21.17 (relating to anesthesia) of the Board's regulations. MAOIs are infrequently used as more effective central nervous system agents are now available.

The Board has retained the prohibitions on CRNPs prescribing from particular categories set forth in § 21.284(c), and has added, as prohibited, all Schedule I controlled substances.

The Board proposes to delete subsection (d), which regulates the collaborating physician and allows the State Board of Medicine to regulate physicians. The Board proposes to amend subsection (e)(1) and (2) to conform to acceptable practice standards and to delete subsection (f)(2) to conform to common usage of certain prescription medications. The proposed rulemaking would authorize a CRNP to write a prescription for a Schedule II controlled substance for up to a 30-day dose, instead of a 72-hour dose. The proposed rulemaking would authorize a CRNP to write a prescription for a Schedule III or IV controlled substance for up to a 90-day dose, instead of a 30-day dose. These amendments will allow consumers to utilize common 30-day and 90-day insurance discounts for these categories of drugs. The current provision in subsection (e)(1) requiring notification of the collaborating physician within 24 hours is deleted as an unnecessary paperwork requirement that does not positively influence patient care. The current provision in subsection (e)(2), providing that only a physician may refill a prescription for controlled substances, is deleted as an unnecessary duplication of health care efforts.

The Board proposes to amend current subsection (f), now renumbered subsection (e), to delete the prohibition on CRNPs prescribing or dispensing drugs for off-label use without approval of the collaborating physician. Many drugs are routinely prescribed for off-label use. The Board also proposes to remove language that suggesting that a CRNP's prescriptive authority derives from an assignment by the collaborating physician. A CRNP's prescriptive authority derives from the individual's prescriptive authority approval granted by the Board in accordance with the act and regulations of the Board. Finally, the Board proposes to delete current subsections (g) and (h), as these provisions have been incorporated into the new § 21.284a (relating to prescribing and dispensing drugs).

*§ 21.284a (relating to prescribing and dispensing drugs)*

The Board proposes to add this new section detailing the requirements for prescribing and dispensing drugs. Subsection (a) would provide that a CRNP who holds current prescriptive authority approval from the Board may request, receive and sign for professional samples and may distribute professional samples to patients in accordance with the collaborative agreement and facility policies.

Subsection (b) would repeat the current requirements that the CRNP's name and certification must be printed on prescription blank, along with identification of the collaborating physician. However, because CRNPs often practice in collaboration with other CRNPs and multiple collaborating physicians and inclusion of all those names could overwhelm the available space on a prescription blank, the proposed rulemaking would permit a CRNP's prescription blank to omit the collaborating physician so long as the collaborating physician is appropriately identified on the prescription as finally written. Consistent with the current regulation, the proposed rulemaking would continue to require a CRNP to designate the CRNP's status and to include the new National Provider Identifier (NPI) number, in addition to the CRNP's DEA registration number. The proposed rulemaking would also permit a CRNP to use a prescription blank generated by a hospital, but no prescription blank could be resigned.

Proposed subsection (c) sets forth recordkeeping requirements, similar to those recently adopted by the State Board of Medicine for physician assistants. Proposed subsection (c) also requires that the collaborative agreement must be available for inspection to determine the CRNP's authority to prescribe or dispense a drug. Proposed subsection (d) relates to packaging and requires that prescription drugs be dispensed in accordance with Federal regulations relating to packaging drugs. Proposed subsection (e) relates to the labeling of dispensed drugs. The proposal would also move references to the regulations of the Department of Health from § 21.283 to subsection (f).

*§ 21.284b (relating to prescribing, administering and dispensing controlled substances)*

This new section would repeat the duties previously imposed by the State Board of Medicine in § 16.92 (relating to prescribing, administering and dispensing controlled substances), as required by section 2.1(l) of the act. The provisions relate to the duties of a CRNP when prescribing controlled substances in facilities regulated by the Department of Health under 28 Pa. Code (relating to Health and Safety) and in facilities regulated by the Department of Public Welfare under 55 Pa. Code (relating to Public Welfare).

*§ 21.285 (relating to collaborative agreement)*

The Board proposes to rename and amend this section to reflect the requirements of section 8.3(a)(2) of the act with regard to prescriptive authority collaborative agreements. The definition of collaborative agreement formerly in subsection (a) is moved to § 21.251 (relating to definitions), along with a new definition for a prescriptive authority collaborative agreement.

*§ 21.286 (relating to identification of the CRNP)*

The Board proposes to modify this section. Department of Health regulations in 28 Pa. Code § 51.6 (relating to identification of personnel) require licensed health care providers to wear an identification tag which displays that person's full name and professional designation at all

licensed facilities, including ambulatory surgical facilities, general hospitals, special hospitals, long-term care nursing facilities, birth centers, home health care agencies and cancer treatment centers. For CRNPs not covered under the Department of Health regulations, the Board proposes to provide that a CRNP shall wear an identification tag with the CRNPs name and title.

*§ 21.287 (relating to physician supervision)*

The Board proposes to rescind this section as unnecessary. In the 6 years since the regulations granting prescriptive authority to qualified CRNPs have been in effect, the Board has not received any requests from physicians to supervise more than four CRNPs who prescribe and dispense drugs. In addition, the State Board of Medicine is the proper regulatory body to adopt regulations relating to the parameters of a physician's practice.

*§ 21.288 (relating to CRNP standards of conduct)*

The Board proposes to add this section to emphasize that CRNPs may undertake a specific practice only if the CRNP is competent to properly perform the task.

*§§ 21.291—21.294 (relating to health care facility policies)*

The Board proposes to rescind these sections relating to health care facility policies as unnecessary. Most health care facilities are cognizant of CRNP functions and utilize CRNPs. It is the Board's understanding that these health care facilities have well-established committees which establish standard written policies and procedures pertaining to the scope and circumstances of the practice of CRNPs in the medical management of patients. The Board further notes that it has no jurisdiction over health care facilities, which are licensed and regulated by the Department of Health.

*§ 21.311 (relating to accountability of the CRNP)*

The Board proposes to rescind this section as unnecessary and unenforceable. The standards of conduct at §§ 21.18 and 21.288 (relating to standards of nursing conduct; and CRNP standards of conduct) provide the relevant standards for CRNP practice and conduct.

*§ 21.321 (relating to performance of tasks without collaboration; performance of tasks without training; other)*

The Board proposes to rescind this section and move its substantive provisions to § 21.351 (relating to penalties for violation).

*§ 21.331 (relating to biennial renewal of certification)*

The Board proposes to revise this section to consolidate and clarify the provisions for biennial renewal of certification, to include continued licensure as a registered nurse, completion of statutorily-mandated continuing education for CRNPs, and continued certification as a nurse practitioner from a Board-recognized National certification organization in the particular clinical specialty area in which the nurse is certified by the Board. In addition, this section will note that CRNPs will verify, on their biennial renewal applications, that they have the required liability insurance coverage.

*§ 21.332 (relating to requirement of continuing education)*

The Board proposes to amend this section so as not to repeat provisions added to § 21.331.

*§ 21.332a (relating to inactive status and reactivation)*

The Board proposes to add the requirement that a nurse practitioner show continued competency to practice after a lengthy period of nonpractice in this Common-



wealth, either by continued certification as a nurse practitioner by a Board-recognized National certification organization in the particular clinical specialty area or by continued practice as a registered nurse practitioner in another jurisdiction under a current license. This provision is consistent with that of §§ 21.30a and 21.156a (relating to continued competency) for RNs and LPNs, respectively.

The Board also proposes to add new subsections (d) and (e) to set forth specific continued competency requirements for CRNPs whose licenses have been suspended or revoked.

§ 21.333 (relating to continuing education subject matter)

The Board proposes to amend this section to eliminate cross-references that are unnecessary and to clarify that a CRNP must complete courses that address the CRNP's area of specialty certification.

§ 21.334 (relating to sources of continuing education)

The Board proposes to amend this section to provide that a continuing education course offered by a provider approved by any of various types of National organizations, CRNP education programs and state boards, instead of certain named providers, is approved for continuing education credit.

§ 21.351 (relating to penalties for violation)

The Board proposes to amend this section to provide for disciplinary action against a CRNP for practicing beyond the scope of certification or for practicing without the requisite competence or qualification, as well as for practicing as a CRNP on a lapsed or suspended or revoked certification.

*Fiscal Impact and Paperwork Requirements*

The amendments will have no adverse fiscal impact on the Commonwealth or its political subdivisions, because the costs of the Board's activities are supported by fees charged to licensees and others who benefit from specific activities of the Board. The amendments will impose no additional paperwork requirements upon the Commonwealth or political subdivisions.

*Sunset Date*

The Board continuously monitors the effectiveness of its regulations. Therefore, no sunset date has been assigned.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 24, 2007, the Board 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 Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations of objections to the proposed rulemaking 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 Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

*Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Ann Steffanic, Board Administrator, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Please reference No. 16A-5124 (CRNP general revisions), when submitting comments.

MARY BOWEN, RN, DNS, CNAA,  
Chairperson

**Fiscal Note:** 16A-5124. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

#### PART I. DEPARTMENT OF STATE

#### Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

#### CHAPTER 21. STATE BOARD OF NURSING

#### Subchapter C. CERTIFIED REGISTERED NURSE PRACTITIONERS

#### GENERAL PROVISIONS

#### § 21.251. Definitions.

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

**Act**—The Professional Nursing Law (63 P. S. §§ 211—225.5).

**[ Boards ]**—The State Board of Nursing and the State Board of Medicine. ]

**Board**—The State Board of Nursing of the Commonwealth.

**CRNP**—Certified Registered Nurse Practitioner [ (CRNP) ]—A registered nurse licensed in this Commonwealth who is certified by the [ Boards ] Board in a particular clinical specialty area and who, while functioning in the expanded role as a professional nurse, performs acts of medical diagnosis or prescription of medical therapeutic or corrective measures in collaboration with [ and under the direction of ] a physician licensed to practice [ medicine ] in this Commonwealth and in accordance with the act and this subchapter. Nothing in this subchapter is to be deemed to limit or prohibit a nurse from engaging in those activities which normally constitute the practice of nursing as defined in section 2 of [ The Professional Nursing Law ] the act (63 P. S. § 212).

**Collaborative agreement**—The oral or written agreement between a CRNP and a collaborating physician in which they agree to the details of their collaboration.

**[ Direction ]**—The incorporation of physician supervision to the certified registered nurse practitioner's performance of medical acts in the following ways:

(i) Immediate availability of a licensed physician through direct communications or by radio, telephone or telecommunications.

(ii) A predetermined plan for emergency services which has been jointly developed by the supervising physician and the certified registered nurse practitioner.

(iii) A physician available on a regularly scheduled basis for:

(A) Referrals.

(B) Review of the standards of medical practice incorporating consultation and chart review.

(C) Establishing and updating standing orders, drug and other medical protocols within the practice setting.

(D) Periodic updating in medical diagnosis and therapeutics.

(E) Cosigning records when necessary to document accountability by both parties. ]

*Prescriptive authority collaborative agreement*—The written and signed agreement between a CRNP with prescriptive authority and a collaborating physician in which they agree to the details of their collaboration.

§ 21.252. [ Purpose ] (Reserved).

[ The Boards have established rules and regulations to govern acts of medical diagnosis or prescription of medical therapeutic or corrective measures as authorized by The Professional Nursing Law (63 P. S. §§ 211—225.5) and the Medical Practice Act of 1985 (63 P. S. §§ 422.1—422.51a). ]

#### LEGAL RECOGNITION

§ 21.261. [ Designation of CRNP; authority to use CRNP ] Use of title; authorization to practice.

(a) A registered nurse who has satisfactorily met the requirements set forth in the act and this subchapter [ and in additional rules and regulations that may be jointly promulgated by the Boards shall be designated on his license “Certified Registered Nurse Practitioner (CRNP),” in the area for which qualified ] and holds current certification issued by the Board as a CRNP or whose certification is maintained on inactive status may use the designation CRNP.

(b) The Board will identify the particular clinical specialty area in which a CRNP is certified by the Board on the certification issued to the CRNP.

(c) [ A nurse may not practice or offer to practice as a Certified Registered Nurse Practitioner in this Commonwealth or use the abbreviation CRNP unless authorized to do so by the State Board of Nursing ] Only persons who hold current active certification from the Board as a CRNP may practice or offer to practice as a CRNP in this Commonwealth.

(d) A nurse may not practice or offer to practice as a CRNP in this Commonwealth during the time the nurse’s certification is revoked, suspended, inactive, lapsed or expired.

#### CERTIFICATION REQUIREMENTS [ FOR APPROVAL ]

§ 21.271. [ Currently licensed; course of study and experience; continuing education ] Licensure, educational and National certification requirements for applicants seeking certification as a CRNP.

(a) [ The applicant for whom approval is requested shall be currently licensed as a registered nurse by the State Board of Nursing.

(b) The applicant shall have successfully completed a course of study consisting of at least 1 academic year in a program administered by nursing in an institution of higher education as approved by the Boards.

(c) Nurses currently practicing in the role covered by this subchapter prior to the promulgation of this subchapter who have not completed an approved course of study, may individually petition the Boards for certification within 2 years following the final filing of this subchapter.

(d) Evidence of continuing competency in the area of medical diagnosis and therapeutics at the time of renewal of the applicant’s certification renewal. ]

*Initial certification.* An applicant for initial certification as a CRNP by the Board shall meet the following requirements:

(1) *Professional nurse license.* An applicant for certification by the Board shall hold a current, unrestricted license as a professional nurse in this Commonwealth.

(2) *Education.* An applicant for certification by the Board shall have completed an accredited, Board-approved master’s or postmaster’s nurse practitioner program or other Board-approved program that awarded an advanced degree or a course of study considered by the Board to be equivalent to that required for certification in this Commonwealth at the time the course was completed.

(3) *National certification.* An individual applying for initial certification by the Board after February 7, 2005, shall hold certification as a CRNP from a Board-recognized National certification organization which required passing of a National certifying examination in the particular clinical specialty area in which the nurse is seeking certification by the Board.

(b) *Certification by endorsement.* An applicant for certification by the Board who holds a current, unrestricted license or certificate as a CRNP from another state, territory or possession of the United States or a foreign country, shall meet the certification requirements of the Board that were effective at the time the applicant was licensed or certified as a CRNP by the other jurisdiction. Applicants who were initially licensed by another state, territory or possession of the United States or a foreign country on or after February 7, 2005, shall hold certification as a CRNP from a Board-recognized National certification organization which required passing of a National certifying examination in the particular clinical specialty area in which the nurse is seeking certification by the Board.

(c) *Change of clinical specialty area.* A CRNP who is already certified by the Board may apply for certification in an additional specialty area. To be granted certification in an additional specialty area, the CRNP shall meet the educational and National certification requirements for the specialty area in which the CRNP is applying for certification.

§ 21.272. [ Certification by endorsement; currently licensed ] (Reserved).

[ (a) A registered nurse who has been granted certification by another state board may be granted certification in this Commonwealth by endorsement of the original certifying board if the credentials are equivalent to those required by the Boards.

(b) The applicant for certification in this Commonwealth by endorsement shall meet the requirements as stated in the act for licensure as a registered nurse. ]

§ 21.273. Application for certification as a CRNP.

(a) An applicant for certification as a CRNP shall submit an application form provided by the Board to the Board for its review and approval. The applicant shall verify compliance with section 8.7 of the act (63 P. S. § 218.7) regarding liability coverage.

(b) An applicant for initial certification shall include documentation satisfactory to the Board of the following:

(1) Proof of completion of a Board-approved master's or postmaster's nurse practitioner program or other Board-approved program that awarded an advanced degree as a nurse practitioner or proof of completion of a course of study and evidence demonstrating that the course of study is equivalent to that required in this Commonwealth at the time the course was completed.

(2) Proof of current certification as a nurse practitioner from a Board-recognized National certification organization that requires passing of a National certifying examination in the particular clinical specialty area in which the nurse is seeking certification by the Board.

(c) An applicant for certification by endorsement shall verify compliance with section 8.7 of the act and include documentation satisfactory to the Board of the following:

(1) Verification of current, unrestricted licensure or certification as a CRNP issued by the proper licensing authority of another state, territory or possession of the United States or a foreign country.

(2) Copy of the licensure or certification requirements at the time the applicant was first licensed or certified by another jurisdiction and a copy of the criteria under which the applicant was originally licensed or certified.

(3) Official transcript from the applicant's CRNP program, including degree awarded.

(4) Proof of current National certification as a nurse practitioner from a Board-recognized National certification organization that requires passing of a National certifying examination in the

particular clinical specialty area in which the nurse is seeking certification by the Board, if the applicant was first licensed after February 7, 2005.

(d) An applicant who holds certification from the Board as a CRNP who is applying for certification in a different specialty than the applicant's current certification shall verify that the applicant is in compliance with section 8.7 of the act and submit documentation of the following:

(1) Official copy of the transcript from the applicant's CRNP program and any additional educational programs, including degree awarded, demonstrating a concentration in the specialty area in which the applicant is seeking certification.

(2) Proof of current certification as a nurse practitioner from a Board-recognized National certification organization that requires passing of a National certifying examination in the particular clinical specialty area in which the nurse is seeking certification by the Board.

(e) An applicant shall remit the certification fee set forth in § 21.253 (relating to fees).

(f) An applicant shall submit additional information as identified on the application or as requested by the Board. Applications will remain on file for 12 months.

#### [ APPLICATION FOR APPROVAL ]

§ 21.281. [ Application for approval ] (Reserved).

[ The applicant shall submit an application form provided by the State Board of Nursing to the Board for its review and approval. The application shall include the following:

(1) An official document from the program.

(2) Additional information as identified on the application. ]

§ 21.282. [ Approval by the State Board of Nursing ] (Reserved).

[ Applicants approved by the State Board of Nursing may use the designation C.R.N.P., and the designation and area of specialty will be indicated on the current license of the nurse. ]

#### CRNP PRACTICE

§ 21.282a. Medical examination, diagnosis and treatment.

(a) A CRNP may perform comprehensive assessments of patients and establish medical diagnoses.

(b) A CRNP may order, perform and supervise diagnostic tests for patients and, to the extent that the performance and interpretation of diagnostic tests is within the CRNP's capabilities and consistent with other laws and regulations, may perform and interpret diagnostic tests.

(c) A CRNP may initiate referrals to and consultations with other licensed professional health care providers, and may consult with other licensed professional health care providers at their request.

(d) A CRNP may develop and implement treatment plans, including issuing orders to implement treatment plans; however, only a CRNP with current prescriptive authority approval from the

Board may develop and implement treatment plans for pharmaceutical treatments.

(e) A CRNP may complete admission and discharge summaries.

(f) A CRNP may order blood and blood components for patients.

(g) A CRNP may order diets for patients.

(h) A CRNP may order durable medical equipment required to carry out a treatment plan developed by the CRNP or by a physician.

(i) A CRNP may perform other acts authorized by section 8.2(c.1) of the act (63 P. S § 218.2(c.1)).

§ 21.283. [ Prescribing ] Authority and qualifications for prescribing and dispensing drugs and other medical therapeutic or corrective measures.

(a) A CRNP with prescriptive authority approval from the Board may, when acting in collaboration with a physician as set forth in a prescriptive authority collaborative agreement, prescribe and dispense drugs [ if the following requirements are met ] and give written or oral orders for medical therapeutic or corrective measures. These orders may include:

(1) Orders for drugs, Total Parenteral Nutrition and lipids, in accordance with §§ 21.284 and 21.285 (relating to prescribing and dispensing parameters; and prescriptive authority collaborative agreement).

(2) Disposables and devices adjunctive to a treatment plan.

(b) To obtain prescriptive authority approval, a CRNP shall:

(1) [ The CRNP has completed a CRNP program which is approved by the Boards or, if completed in another state, is equivalent to programs approved by the Boards.

(2) The CRNP has successfully completed ] Successfully complete at least 45 hours of course work specific to advanced pharmacology in accordance with the following:

(i) The course work in advanced pharmacology may be either part of the CRNP education program or, if completed outside of the CRNP education program, an additional course or courses taken from an educational program or programs approved by the [ Boards ] Board.

\* \* \* \* \*

(iii) The course work shall have been completed within 5 years immediately preceding the date the applicant applies for initial prescriptive authority approval.

(2) Submit an application for prescriptive authority approval to the Board.

(3) Pay the fee set forth in § 21.253 (relating to fees).

(c) A CRNP who has prescriptive authority shall complete at least 16 hours of State Board of Nursing approved continuing education in pharmacology in the 2 years prior to the biennial renewal date of the CRNP certification. The CRNP shall show proof that the CRNP completed the continuing education when submitting a biennial renewal. The forms for the application, col-

laborative agreement and verification of completion of pharmacology are available on the Board's website or by contacting the Board.

[ (4) In prescribing and dispensing drugs, a CRNP shall comply with standards of the State Board of Medicine in §§ 16.92—16.94 (relating to prescribing, administering and dispensing controlled substances; packaging; and labeling of dispensed drugs) and the Department of Health in 28 Pa. Code §§ 25.51—25.58, 25.61—25.81 and 25.91—25.95. ]

§ 21.284. Prescribing and dispensing parameters.

\* \* \* \* \*

(b) A CRNP with current prescriptive authority approval from the Board may prescribe [ and dispense a drug ], dispense and administer drugs and therapeutic or corrective measures consistent with the prescriptive authority collaborative agreement and relevant to the CRNP's area of practice [ of the CRNP ] from the following categories [ if that authorization is documented in the collaborative agreement (unless the drug is limited or excluded under this or another subsection) ]:

\* \* \* \* \*

(3) Antineoplastic agents, unclassified therapeutic agents, devices and pharmaceutical aids [ if originally prescribed by the collaborating physician and approved by the collaborating physician for ongoing therapy ].

\* \* \* \* \*

(7) Central nervous system agents [ , except that the following drugs are excluded from this category:

- (i) General anesthetics.
(ii) Monoamine oxidase inhibitors ]

\* \* \* \* \*

(c) A CRNP may not prescribe or dispense a drug from the following categories:

\* \* \* \* \*

(5) Schedule I controlled substances as defined section 4 of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-104).

(d) [ If a collaborating physician determines that the CRNP is prescribing or dispensing a drug inappropriately, the collaborating physician shall immediately take corrective action on behalf of the patient and notify the patient of the reason for the action and advise the CRNP as soon as possible. This action shall be noted by the CRNP or the collaborating physician, or both, in the patient's medical record.

(e) ] Restrictions on CRNP prescribing and dispensing practices are as follows:

(1) A CRNP may write a prescription for a Schedule II controlled substance for up to a [ 72 hour ] 30-day dose. [ The CRNP shall notify the collaborating physician as soon as possible but in no event longer than 24 hours. ]

(2) A CRNP may prescribe a Schedule III or IV controlled substance for up to [ 30 ] 90 days. [ The pre-

scription is not subject to refills unless the collaborating physician authorizes refills for that prescription.

(f) (e) A CRNP may not [ :

(1) Prescribe or dispense a Schedule I controlled substance as defined in section 4 of the Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-14).

(2) Prescribe or dispense a drug for a use not approved by the United States Food and Drug Administration without approval of the collaborating physician.

(3) Delegate ] delegate prescriptive authority [ specifically assigned to the CRNP by the collaborating physician ] to another health care provider.

[ (g) A prescription blank shall bear the certification number of the CRNP, name of the CRNP in printed format at the top of the blank and a space for the entry of the DEA registration number, if appropriate. The collaborating physician shall also be identified as required in § 16.91 (relating to identifying information on prescriptions and orders for equipment and service).

(h) The CRNP shall document in the patient's medical record the name, amount and dose of the drug prescribed, the number of refills, the date of the prescription and the CRNP's name. ]

§ 21.284a. Prescribing and dispensing drugs.

(a) *Professional samples.* A CRNP who holds current prescriptive authority approval may request, receive and sign for professional samples and may distribute professional samples to patients.

(b) *Prescription blanks.* The requirements for prescription blanks are as follows:

(1) Prescription blanks must bear the name, title and identification number of the CRNP in printed format. The collaborating physician must be identified on the prescription blank.

(2) When appropriate, the CRNP's National Provider Identifier (NPI) number must appear on the prescription. When prescribing controlled substances, the CRNP's DEA registration number must appear on the prescription.

(3) Prescription blanks may not be presigned.

(4) The CRNP may use a prescription blank generated by a hospital, provided the information in paragraph (1) appears on the blank.

(c) *Recordkeeping requirements.* Recordkeeping requirements are as follows:

(1) When prescribing a drug, the CRNP shall document in the patient's medical record the name, amount and dosage of the drug prescribed, the number of refills, the date of the prescription and the CRNP's name.

(2) When dispensing a drug, the CRNP shall record in the patient's medical records the CRNP's name, the name, amount and dosage of the medication dispensed and the date the medication was dispensed.

(3) The CRNP shall provide immediate access to the prescriptive authority collaborative agreement to anyone seeking to confirm the CRNP's authority

to prescribe or dispense a drug. The agreement must list the categories of drugs that the CRNP is permitted to prescribe.

(d) *Packaging.* Prescription drugs shall be dispensed in accordance with Federal regulations pertaining to packaging. (See 16 CFR Part 1700 (relating to poison prevention packaging).)

(e) *Labeling of dispensed drugs.*

(1) The label on a dispensed drug container must include the name of the drug, using abbreviations if necessary; the quantity; and the name of the manufacturer if the drug is a generic drug. If a CRNP specifically indicates that the name of the drug may not appear on the label, the recognized National drug code number shall be placed on the label if the number is available for the product. The label must also bear the name and address of the CRNP, the date dispensed, the name of the patient and the directions for use of the drug by the patient.

(2) Drugs that, at the time of their dispensing, have full potency for less than 1 year, as determined by the expiration date placed on the original label by the manufacturer, may only be dispensed with a label that indicates the expiration date. The label must include the statement, "Do not use after manufacturer's expiration date," or similar wording.

(f) *Compliance with regulations relating to prescribing, administering, dispensing, packaging and labeling of drugs.* A CRNP shall comply with this section, § 21.284b (relating to prescribing, administering and dispensing controlled substances) and regulations of the Department of Health in 28 Pa. Code §§ 25.51—25.58, 25.61—25.63, 25.72, 25.81 and 25.91—25.95.

§ 21.284b. Prescribing, administering and dispensing controlled substances.

(a) A CRNP authorized to prescribe or dispense, or both, controlled substances shall register with the Drug Enforcement Administration.

(b) A CRNP shall carry out the following minimum standards when prescribing, administering or dispensing controlled substances:

(1) *Initial medical history and physical examination.* In a health care facility regulated by the Department of Health, the Department of Public Welfare or the Federal government, an initial medical history shall be taken and an initial physical examination shall be conducted to the extent required by the Department of Health in 28 Pa. Code (relating to health and safety) or Department of Public Welfare in 55 Pa. Code (relating to public welfare) or the Federal government in appropriate Federal regulations, whichever is applicable, and bylaws of the health care facility and its medical staff. In other practice settings, before commencing treatment that involves prescribing, administering or dispensing a controlled substance, an initial medical history shall be taken and an initial physical examination shall be conducted unless emergency circumstances justify otherwise. Alternatively, medical history and physical examination information recorded by another health care provider may be considered if the medical history was taken and the physical examination was conducted

within the immediately preceding 30 days. The physical examination must include an evaluation of the heart, lungs, blood pressure, pain level, and body functions that relate to the patient's specific complaint.

(2) *Reevaluations.* Among the factors to be considered in determining the number and frequency of follow-up evaluations that should be recommended to the patient are the condition diagnosed, the controlled substance involved, expected results and possible side effects. For chronic conditions, periodic follow-up evaluations shall be recommended to monitor the effectiveness of the controlled substance in achieving the intended results.

(3) *Patient counseling.* Appropriate counseling shall be given to the patient regarding the condition diagnosed and the controlled substance prescribed, administered or dispensed. Unless the patient is in an inpatient care setting, the patient shall be specifically counseled about dosage levels, instructions for use, frequency and duration of use and possible side effects.

(4) *Medical records.* In a health care facility regulated by the Department of Health, the Department of Public Welfare or the Federal government, information pertaining to the prescription, administration or dispensation of a controlled substance shall be entered in the medical records of the patient and the health care facility under 28 Pa. Code or 55 Pa. Code or appropriate Federal regulations, whichever is applicable, and bylaws of the health care facility and its medical staff. In other practice settings, certain information shall be recorded in the patient's medical record on each occasion when a controlled substance is prescribed, administered or dispensed. This information must include the name of the controlled substance, its strength, the quantity and the date it was prescribed, administered or dispensed. On the initial occasion when a controlled substance is prescribed, administered or dispensed to a patient, the medical record must also include a specification of the symptoms observed and reported, the diagnosis of the condition for which the controlled substance is being given and the directions given to the patient for the use of the controlled substance. If the same controlled substance continues to be prescribed, administered or dispensed, the medical record must reflect changes in the symptoms observed and reported, in the diagnosis of the condition for which the controlled substance is being given and in the directions given to the patient.

(5) *Emergency prescriptions.* In the case of an emergency phone call by a known patient, a prudent, short-term prescription for a controlled substance may be issued. Neither a refill nor a consecutive issuance of this emergency prescription may be given unless a physical examination and evaluation of the patient are first conducted. The results of this examination and evaluation shall be set forth in the patient's medical record together with the diagnosis of the condition for which the controlled substance is being prescribed. An emergency oral prescription for a Schedule II controlled substance shall be covered by a written prescription delivered to the pharmacist within 72 hours. In certain health care facilities regulated by the Department of Health, the Department of Public Wel-

fare and the Federal government, an order for the immediate, direct administration of a Schedule II controlled substance to a patient is not considered a prescription and is, therefore, not subject to the requirements in this paragraph. Further information regarding this exclusion can be found in The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144) and 28 Pa. Code Chapter 25 (relating to controlled substances, drugs, devices and cosmetics).

(c) This section establishes minimum standards for the prescription, administration and dispensation of controlled substances by a CRNP. This section does not restrict or limit the application of The Controlled Substance, Drug, Device and Cosmetic Act or of another statute or regulation, and does not relieve a CRNP from complying with more stringent standards that may be imposed by another statute or regulation, or policy of the CRNP's employer or facility in which the CRNP is employed.

(d) Compliance with this section will not be treated as compliance with the standards of acceptable and prevailing practice as a CRNP when medical circumstances require that the CRNP exceed the requirements of this section.

§ 21.285. [ Collaborative ] Prescriptive authority collaborative agreement.

(a) [ A collaborative agreement is the signed written agreement between a CRNP and a collaborating physician in which they agree to the details of the collaborative arrangement between them with respect to the care of CRNP patients.

(b) [ The prescriptive authority collaborative agreement between a physician and a CRNP who will prescribe drugs [ shall ] and other medical therapeutic or corrective measures, as set forth in § 21.283(a) (relating to authority and qualifications for prescribing and dispensing drugs and other medical therapeutic or corrective measures), must satisfy the following requirements. The agreement [ shall ] must:

(1) Identify the parties, including the collaborating physician, the CRNP, and [ a ] at least one substitute physician who will provide collaboration [ and direction for up to 30 days ] if the collaborating physician is unavailable.

(2) Identify the [ area of practice ] clinical specialty in which the CRNP is certified by the Board.

(3) Identify the categories of drugs from which the CRNP may prescribe or dispense in accordance with [ § 21.284 (relating to prescribing and dispensing parameters) ] section 8.3(a)(2)(ii) of the act (63 P.S. § 218.3(a)(2)(ii)).

(4) [ Contain attestation by the collaborating physician that the physician has knowledge and experience with any drug that the CRNP will prescribe.

(5) [ Specify the circumstances and how often the collaborating physician will personally see the patient [ , based on the type of practice, sites of service and condition of the patient, whether the treatment is for an ongoing or new condition, and whether the patient is new or continuing.

**(6) Specify the conditions under which the CRNP may prescribe a Schedule II controlled substance for up to 72 hours ]**.

**[ (7) ] (5) Be kept at the primary practice location of the CRNP and a copy filed with the Bureau of Professional and Occupational Affairs.**

**[ (8) ] (6) Be made available for inspection [ to anyone seeking to confirm the scope of practice of the CRNP ] and be provided, without charge, to any licensed pharmacist or pharmacy.**

**[ (9) ] (7) Be reviewed and updated by the primary collaborating physician and the CRNP at least once every 2 years or whenever [ it ] the agreement is changed [ substantively ].**

**[ (10) ] (8) Specify the amount of professional liability insurance [ carried by ] that covers the CRNP.**

**[ (c) ] (b) The CRNP shall notify the Bureau whenever a prescriptive authority collaborative agreement [ of a CRNP who prescribes and dispenses drugs ] is updated or terminated.**

**§ 21.286. Identification of the CRNP.**

**[ (a) A patient shall be informed at the time of making an appointment that the patient will be seen by a CRNP.**

**(b) ] A CRNP shall wear a name tag [ that clearly identifies the ] using the title CRNP [ with the title "certified registered nurse practitioner." ] and comply with State, Federal and facility regulations regarding identification of personnel.**

**[ (c) A CRNP who holds a doctorate should take appropriate steps to inform patients that the CRNP is not a doctor of medicine or doctor of osteopathic medicine. ]**

**§ 21.287. [ Physician supervision ] (Reserved).**

**[ (a) At any time a physician may not supervise more than four CRNPs who prescribe and dispense drugs. This section, however, does not limit the number of collaborative agreements that a physician may have with prescribing CRNPs. By way of example, a physician may supervise four prescribing CRNPs who work in the morning and four other prescribing CRNPs who work in the afternoon as long as the physician has a collaborative agreement with each CRNP.**

**(b) A physician may apply for a waiver of the supervision requirements expressed in subsection (a) for good cause, as determined by the Boards.**

**(c) The limit of the general rule of not more than four prescribing CRNPs to one physician does not apply to CRNPs who do not prescribe or dispense drugs. By way of example, a physician may supervise at the same time four CRNPs who prescribe and dispense drugs and one or more CRNPs who do not prescribe and dispense drugs. ]**

**§ 21.288. CRNP standards of conduct.**

**A CRNP shall undertake a specific practice or procedure only if the CRNP has the necessary knowledge, preparation, experience and competency to properly execute the practice or procedure**

**and the practice is within the scope of the CRNP's particular clinical specialty. A CRNP shall comply with § 21.18 (relating to standards of nursing conduct).**

**[ HEALTH CARE FACILITY POLICIES ]**

**§ 21.291. [ Institutional health care facility committee; committee determination of standard policies and procedures ] (Reserved).**

**[ (a) In those health care facilities providing health services in which the practice of certified registered nurse practitioners involves the acts of medical diagnosis or prescription of medical therapeutic or corrective measures, there shall be a committee in each area of practice whose function is to establish standard policies and procedures, in writing, pertaining to the scope and circumstances of the practice of the nurses in the medical management of the patient.**

**(b) The committee may serve not only as a policy making body for the special area but also as an advisory and interpretative body to the various staff of the health facility. The committee shall include equal representation from the medical staff, the nursing staff, including a nurse practitioner and nursing administration. ]**

**§ 21.292. [ Free-standing health care facility committee ] (Reserved).**

**[ If a certified registered nurse practitioner is associated with a physician or group of physicians, the committee may consist of, but need not be limited to, the nurse practitioners and the physicians. ]**

**§ 21.293. [ Review and acceptance of standard policies and procedures by the committee ] (Reserved).**

**[ The standard policies and procedures shall be reviewed and accepted by the committee at least annually and at such other times as necessary. ]**

**§ 21.294. [ Review of the medical functions of the C.R.N.P. by the committee ] (Reserved).**

**[ The committee shall review annually the effectiveness of the medical functions of the C.R.N.P. through an evaluation of the care rendered to patients using the data sources as patient records, statistics and patient follow-up. ]**

**[ ACCOUNTABILITY ]**

**§ 21.311. [ Accountability of CRNP ] (Reserved).**

**[ The CRNP is responsible for his own professional judgments and is accountable to the individual consumer. He is also accountable to the physician and the employing agency in the area of medical diagnosis and therapeutics. ]**

**[ TERMINATION OF APPROVAL ]**

**§ 21.321. [ Performance of tasks without direction; performance of tasks without training; other ] (Reserved).**

**[ (a) The approval as provided in this subchapter for a certified registered nurse practitioner may be**

terminated by the State Board of Nursing when, after notice and hearing, the Board finds the following:

(1) That the registrant has engaged in the performance of medical functions and tasks other than at the direction of a physician licensed by the State Board of Medicine, except in the situations as provided for in section 1 of the act of August 8, 1963 (P. L. 582, No. 301) (Reserved).

(2) That the registrant has performed a medical task or function which the registrant is not qualified by education to perform. ]

**MAINTENANCE OF CERTIFICATION**

**§ 21.331. Biennial renewal of certification.**

(a) [ Effective October 31, 1985, the certifications of Certified Registered Nurse Practitioners shall be renewed at the same time as their registered nurse licenses. See § 21.29 (relating to expiration and renewal of license).

(b) The certification renewal fee for certifications that expire on April 30, 1986 will be 25% of the renewal fee for the usual 2-year renewal period. The renewal fee for certifications that expire on a biennial anniversary of April 30, 1986 will be the renewal fee for the usual 2-year renewal period.

(c) The certification renewal fee for certifications that expire on October 31, 1986 will be 50% of the renewal fee for the usual 2-year renewal period. The renewal fee for certifications that expire on a biennial anniversary of October 31, 1986 will be the renewal fee for the usual 2-year renewal period.

(d) The certification renewal fee for certifications that expire on April 30, 1987 will be 75% of the renewal fee for the usual 2-year renewal period. The renewal fee for certifications that expire on a biennial anniversary of April 30, 1987 will be the renewal fee for the usual 2-year renewal period.

(e) The certification renewal fee for certifications that expire on October 31, 1987 will be the renewal fee for the usual 2-year renewal period. The renewal fee for certifications that expire on a biennial anniversary of October 31, 1987 will be the renewal fee for the usual 2-year renewal period.

(f) The certification renewal fees for certifications that expire on April 30, 1986, October 31, 1986, April 30, 1987 or October 31, 1987 shall be paid to the Board by October 30, 1985. The certification renewal fees for certifications that expire on a biennial anniversary of April 30, 1986, October 31, 1986, April 30, 1987 or October 31, 1987 shall be paid to the State Board of Nursing by that anniversary date ] The certification, and prescriptive authority approval, if applicable, of a CRNP will expire at the same time as the CRNP's registered nurse license as provided in § 21.29 (relating to expiration and renewal of license).

(b) Notice of application for renewal will be forwarded biennially to each active CRNP at the CRNP's address of record with the Board prior to the expiration date of the current biennial period.

(c) As a condition of biennial renewal, a CRNP shall:

(1) Simultaneously renew the CRNP's registered nurse license.

(2) Complete a minimum of 30 hours of Board-approved continuing education in the 2 years prior to renewal. As a condition of biennial renewal of prescriptive authority approval, a CRNP shall complete a minimum of 16 of the 30 hours of Board-approved continuing education in pharmacology in the 2 years prior to renewal.

(3) For a CRNP certified by the Board after February 7, 2005, also maintain current certification as a nurse practitioner from a Board-recognized National certification organization which requires passing of a National certifying examination in each particular clinical specialty area in which the nurse is certified by the Board.

(d) Renewal application forms shall be accompanied by the required renewal fee in § 21.253 (relating to fees) and verification that the CRNP is in compliance with section 8.7 of the act (63 P. S. § 218.7) regarding liability coverage. Upon approval of the renewal application, the CRNP will receive a certification for the current renewal period.

(e) Any written communication with the Board shall be typed or printed and include the CRNP's full name, including former names, the current address and certification number.

**§ 21.332. Requirement of continuing education.**

\* \* \* \* \*

(b) Continuing education requirements shall be completed each biennial cycle.

(1) [ An applicant for biennial renewal of certification is required to complete, during the 2 years preceding renewal, a minimum of 30 hours of Board-approved continuing education, as set forth in section 8.1(c) of the act (63 P. S. § 218.1(c)). Completion of a course described in § 21.283(2) (relating to prescribing and dispensing drugs) satisfies the continuing education requirement for the biennial renewal period in which it is completed.

(2) An applicant for biennial renewal of prescriptive authority approval is required to complete, during the 2 years preceding renewal, a minimum of 16 of the 30 hours of continuing education in pharmacology. Completion of a course described in § 21.283(2) shall satisfy the continuing education requirement for the biennial renewal period in which it is completed.

(3) A person ] An individual failing to meet the continuing education requirements for a biennial renewal period will be subject to formal disciplinary action under section 14(a)(3) of the act (63 P. S. 244(a)(3)).

[ (4) ] (2) The Board may waive the requirements of continuing education in cases of illness or undue hardship. It is the duty of each licensee who seeks a waiver to notify the Board in writing and request the waiver prior to the end of the renewal period. The Board will grant, deny or grant in part the request for waiver.

(3) An individual who requests a waiver may not prescribe or dispense drugs after the expiration of his current prescriptive authority [ and ] until the Board grants the waiver request or the prescriptive authority approval has been renewed.

**§ 21.332a. Inactive status and reactivation.**

(a) A CRNP who places his certification on inactive status is not required to meet the continuing education



requirements in [ § 21.332(b)(1) (relating to requirement of continuing education) ] section 8.1(c) of the act (63 P. S. § 218.1(c)) during the period the certification is on inactive status. Upon application for reactivation of certification, the CRNP shall show proof of meeting the continuing education requirements for the biennial period immediately preceding the request for reactivation[ (.) ], and, if the certification has been lapsed or on inactive status for 5 years or longer, the CRNP shall have a current, active professional nurse license, reactivated in accordance with the continued competency requirements in § 21.30a (relating to continued competency), and at least one of the following:

(1) Proof of current certification as a nurse practitioner from a Board-recognized National certification organization that requires the passing of a National certifying examination in the particular clinical specialty area in which the nurse is seeking reactivation of certification by the Board, if the CRNP was initially certified after February 7, 2005.

(2) Evidence that the applicant has practiced as a registered nurse practitioner in another jurisdiction at some period of time within the last 5 years under a current license or certification during that time.

\* \* \* \* \*

(c) A CRNP who places his prescriptive authority approval on inactive status for 3 years or longer or whose prescriptive authority approval is lapsed for 3 years or longer, may reactivate the prescriptive authority approval by meeting one of the following conditions:

(1) Complete the requirement in [ § 21.283(2) (relating to prescribing and dispensing drugs) ] § 21.283(b)(1) (relating to authority and qualifications for prescribing and dispensing drugs and other medical therapeutic or corrective measures) by taking at least 45 hours of course work in advanced pharmacology.

(2) Provide evidence to the Board that:

\* \* \* \* \*

(iii) The CRNP was required, as a condition for continued practice in the other jurisdiction, to complete continuing education that is substantially equivalent to the requirements [ of ] in § [ 21.283(3) ] 21.283(b)(1).

\* \* \* \* \*

(d) A CRNP whose certification has been suspended for 5 years or longer shall meet the requirements in subsection (a), and other requirements set forth by Board order. A CRNP whose prescriptive authority approval has been suspended for 3 years or longer shall, in addition to meeting the requirements to renew the CRNP certification, meet the requirements in subsection (c), and other requirements by Board order.

(e) A CRNP whose certification has been revoked shall meet all of the requirements for original licensure as a CRNP, the requirements in subsection (a), and other requirements set forth by Board order. A CRNP whose prescriptive authority approval has been revoked shall, in addition to meeting the requirements to reinstate the CRNP certification, meet the requirements in subsection (c), and other requirements by Board order.

§ 21.333. Continuing education subject matter.

(a) Continuing education courses [ shall ] must address the CRNP's area of [ practice and meet the requirements of § 21.332(b)(1) (relating to continuing education) ] specialty certification.

(b) Pharmacology continuing education courses [ shall meet the requirements of section 8.1(c) of the act (62 P. S. § 218.1(c)) and § 21.332(b)(2) and ] must provide the knowledge and skills to understand the pharmacokinetics and pharmacodynamics of broad categories of drugs or drugs used in the CRNP's particular specialty and to analyze the relationship between pharmacologic agents and physiologic/pathologic responses.

§ 21.334. Sources of continuing education.

(a) The following providers of continuing education and credentialing organizations have currently met the standards for course approval for continuing education. Therefore, all courses offered by these providers are approved for continuing education credits required for biennial license renewal.

(1) [ Accordingly, provided that these providers agree to abide by § 21.336(a) (relating to continuing education course approval), the courses offered or approved by the following providers or credentialing organizations are approved:

- (i) Board-approved CRNP programs.
- (ii) The American Nurses Credentialing Center's Commission on Accreditation (ANCC).
- (iii) The American Academy of Nurse Practitioners (AANP).
- (iv) The National Association of Pediatric Nurse Practitioners (NAPNP).
- (v) The American Medical Association (AMA).

(2) The approval given to the providers and credentialing organizations in paragraph (1) is subject to reevaluation. A rescission of provider or credentialing organization approval will be made only in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) or by amendment of this section. ] Board-approved CRNP educational programs and CRNP educational programs approved by other state boards of nursing or that hold current accreditation issued by a National nursing accreditation organization.

(2) National and international nursing organizations and their state and local affiliates.

(3) National and international medical and osteopathic organizations and their state and local affiliates.

(4) National pharmaceutical organizations and their state and local affiliates.

(5) National nursing specialty organizations.

(6) Continuing education programs approved by other state boards of nursing.

(b) CRNPs may obtain credit for courses offered by providers not indicated in subsection (a)(1)—(6) if the provider receives approval of the course under § 21.336 (relating to continuing education course approval) prior to its implementation.

\* \* \* \* \*

**PENALTIES FOR VIOLATION****§ 21.351. Penalties for violation.**

Certification as a CRNP may be suspended [ or ], revoked or [ the violator may be placed on probation as the Boards, or a joint committee thereof, determine after a formal hearing has been held, and a violation of The Medical Practice Act of 1974 (63 P. S. §§ 421.1—421.18) and of The Professional Nursing Law (63 P. S. §§ 211—225), of this subchapter, or of regulations pertaining to the aforementioned has been adjudicated. ] otherwise restricted when, after notice and opportunity to be heard, the Board finds that:

(1) The CRNP has engaged in the performance of medical functions and tasks beyond the scope of practice permitted for a CRNP or beyond the scope of the CRNP's clinical specialty area as provided in the act and this subchapter.

(2) The CRNP has performed a medical task or function which the CRNP does not have the necessary knowledge, preparation, experience and competency to perform properly or is not qualified under the act and this subchapter to perform.

(3) The CRNP has violated the act or this subchapter, or engaged in any conduct prohibited for professional nurses.

[Pa.B. Doc. No. 08-2018. Filed for public inspection November 7, 2008, 9:00 a.m.]

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# NOTICES

## DEPARTMENT OF AGRICULTURE

### Guidance

#### *Recitals*

A. Act 119 of October 9, 2008, amended numerous sections of the Dog Law (law) (3 P. S. §§ 459-101—459-1205). The amendments to section 903 of the law added authority for the Department of Agriculture (Department) to impose civil penalties, and placed certain restrictions on the issuance of those penalties. See 3 P. S. § 459-903(a) and (g).

B. The amendments to section 903(a)(1) of the law require that for a first violation the law or its attendant regulations, the Department must issue a Notice of Violation (NOV) setting forth a summary of the violation and affording a reasonable time period for correction of the violation. Where the kennel owner takes the actions necessary to correct the violation, within the time period set forth in the NOV, no civil penalty will be issued for that violation. See 3 P. S. § 459-903(a)(1).

C. The amendments to section 903(a)(2) of the law further state that where a violation has not been corrected in the time period established by the NOV, or where the kennel owner has already been issued a NOV in that calendar year and the Department finds a subsequent violation of the law or its attendant regulations, a civil penalty may issue. See 3 P. S. § 459-903 (a)(2).

D. The amendments to section 903(g) of law further limit the use of civil penalties by the Department. The Department may not issue a civil penalty and pursue a criminal penalty for the same violation of the law or its attendant regulations, at the same time. See 3 P. S. § 459-903(g).

E. To clarify the implementation of these new provisions, which become effective December 8, 2008, the Department has decided to publish this Guidance Document.

#### *Guidance Document*

This Guidance Document establishing the Department's intent and procedure with regard to the issuance of civil fines and penalties under the law.

The Bureau of Dog Law Enforcement (Bureau) is tasked with enforcing the law in this Commonwealth.

It will not be the practice of the Bureau to issue civil penalties for violations found on the initial kennel inspection. Rather, civil penalties are to be used for remedial purposes in order to promote compliance with this act and the regulations after a violations has been found.

Upon finding a violation of the law, the Bureau will not assess a civil fine during the first kennel inspection that the violation is found. Instead, the Bureau can issue a NOV, which is a warning setting forth the violations found and establishing the time period the kennel owner will have to fix the violations delineated in the NOV and come into compliance with the act or regulations. The time frame shall be reasonable and shall take into consideration the amount of time it will take to bring the violations into compliance.

Upon an unannounced follow-up inspection, if the violations outlined in the NOV has not been corrected within the time frame established in the NOV, the Bureau may

decide to assess a civil penalty for the violations that has not been corrected, the amount of which will be based on the gravity of the violation, the harm to the public, the effect of the violation on the dogs, the willfulness of the violation, the previous history of the violator in following the law, and the benefit received by not following the law.

The Bureau will only impose a civil penalty where the kennel owner has already been issued a NOV and has failed to take the remedial measures required in the NOV or where a NOV has already been issued to that kennel owner in any calendar year and the Department finds violations again. As with all Commonwealth agencies, the Bureau may always determine, based on facts specific to each case, to issue a NOV instead of assessing a civil penalty.

The criminal penalties provided for within the law may always be assessed, just as under the law as it existed prior to the passage of Act 119 of 2008. They are to be used to punish offenders and deter future violations of the law.

DENNIS C WOLFF,  
*Secretary*

[Pa.B. Doc. No. 08-2019. Filed for public inspection November 7, 2008, 9:00 a.m.]

### Year 2009 Dog Control Facility Bill Reimbursement Grant Program

The Department of Agriculture (Department) gives notice that it intends to award up to \$550,000 in grants under its Year 2009 Dog Control Facility Bill Reimbursement Program (Program). The Program will award bill reimbursement grants of up to \$15,000 per recipient to humane societies or associations for the prevention of cruelty to animals that meet the guidelines and conditions of this Program. The Program will be funded from the Dog Law Restricted Account, from funds which are hereby declared to be "surplus" funds for the limited purposes set forth in section 1002(b) of the Dog Law (3 P. S. § 459-1002(b)).

The Department hereby gives notice that although it proposes the Program for year 2009, there is not likely to be a similar program in 2010. Humane societies or associations for the prevention of cruelty to animals are hereby provided notice of this fact and—for budgeting and financial planning purposes—should proceed on the assumption that the Department will not be offering a year-2010 version of the Program or, at best, will be offering a significantly scaled-back version of the Program.

In fulfillment of 7 Pa. Code § 23.4 (relating to guidelines and conditions), the Department invites public and legislative review of the proposed guidelines and conditions set forth as follows. Commentators should submit their comments, in writing, so they are received by the Department no later than November 21, 2008, 30 days from the date the proposed guidelines and conditions are published in the *Pennsylvania Bulletin*. Comments should be directed to Sue West, Director, Bureau of Dog Law Enforcement, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408.

The Department will review and consider all written comments in preparing the final guidelines and conditions for the Program. The final guidelines and conditions for

the Program will be published in the *Pennsylvania Bulletin* after the close of the comment period referenced. The Department will invite the submission of grant applications at that time.

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

**Proposed Guidelines and Conditions for the  
Year 2009**

**Dog Control Facility Bill Reimbursement  
Grant Program**

1. *Definitions.*

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

*Department*—The Department of Agriculture.

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

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

- i. The date the document is issued.
- ii. The name and address of the humane society or association for the prevention of cruelty to animals to which the bill is issued.
- iii. If for materials, a description of the materials and the date of delivery. Invoices and/or receipts for materials must set forth or be accompanied by a written description of the intended use of the material and the date the material is used. Materials may not include computers, computer equipment or software. Examples of eligible materials include the following:
  - Cleaning supplies;
  - Office supplies—typical supplies used to carry on daily office duties;
  - Materials for building and repair projects; and
  - Purchases of medication, needles, and the like . . .
- iv. If for services, the services must be other than veterinary services or spaying/neutering services, and shall include a description of the nature of the services and the dates upon which the services were rendered. Examples of services include the following:
  - Labor charges with respect to which the invoice details the exact service performed and the date of performance;
  - Cremation services with respect to which the invoice either verifies that only dogs were cremated or—in the event that animals other than dogs were cremated—separates the dogs from those other animals and identifies a charge attributable to only the cremation of the dogs.
  - Exterminator services with respect to which the invoice identifies the date of the service and identifies location of the service.
  - Property, casualty and liability insurance services (excluding workers compensation insurance).

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

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

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

*Program*—The Year 2009 Dog Control Facility Bill Reimbursement Program.

2. *Eligibility.*

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

- a. Has been in operation for at least 1 year immediately preceding the application date.
- b. Has performed dog control functions for at least 1 year immediately preceding the application date.
- c. Has, in the performance of its dog control functions, accepted at least 100 stray or unwanted dogs into its facility within the year immediately preceding the application date.
- d. Is not a party to a contract with the Department under which the Department pays that humane society or association for the prevention of cruelty to animals for dog control activities performed in the year 2009.
- e. Agrees—as a condition of receiving any grant money under the Program—to continue to perform dog control activities and to accept stray or unwanted dogs from the Department's State Dog Wardens performing dog control functions, through the year 2009.
- f. Agrees—as a condition of receiving any grant money under the Program—to accept stray or unwanted dogs as described in the preceding paragraph without regard to whether the stray or unwanted dog originates from a county other than the county in which the humane society or association for the prevention of cruelty to animals is located.
- g. Has a valid Pennsylvania 2009 "Non Profit" kennel license, and operates only a nonprofit kennel at the facility for which grant reimbursement is requested. Facilities which house kennel operations other than a nonprofit facility (that is, boarding kennel and/or commercial kennel) at the same location are not eligible to participate in this program.
- h. If the Humane Society/SPCA has a total operating budget of \$350,000 or less for the 2009 calendar year or, if its budget is on a basis other than calendar year, has a total operating budget of \$350,000 or less for each fiscal year comprising any portion of calendar year 2009, the maximum grant amount will not exceed \$15,000.
- i. If the Humane Society/SPCA has a total operating budget exceeding \$350,000 for the 2009 calendar year or, if its budget is on a basis of other than calendar year, has a total operating budget over \$350,000 for each fiscal year comprising any portion of calendar year 2009, the maximum grant amount will not exceed \$10,000.

3. *Use of Grant Funds.*

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

The maximum grant amount will be retained by the Department and used to reimburse the grant recipient for eligible bills the grant recipient has paid with respect to materials, services or utilities provided to the grant recipient from March 1, 2009, through December 31, 2009. The total reimbursement the Department will pay a grant recipient will not exceed the maximum grant amount. Any money remaining in a grant allocation beyond the termination date of the grant agreement will lapse into the Dog Law Restricted Account. If a bill covers materials, services or utilities provided, in whole or in part, before March 1, 2009, or after December 31, 2009, that bill is not an eligible bill and will not be reimbursed by the Department under the Program.

#### 4. *Application Process.*

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

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

Requests for application forms should be directed to Susan West, Director, Bureau of Dog Law Enforcement, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4833, fax (717) 772-4352.

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

- i. The name and address of the applicant.
- ii. Information to verify that the applicant is a humane society or association for the prevention of cruelty to animals and otherwise meets the eligibility requirements set forth in paragraph 2.
- iii. The maximum grant amount sought by the applicant—not to exceed \$15,000 (or \$10,000, if Paragraph 2(i) is applicable).
- iv. A description of the eligible bills for which the grant applicant intends to seek reimbursement, including a description (and copies, if available) of bills received by the applicant in 2008 for the same type of materials, services (other than veterinary services and spaying/neutering services) or utilities for which reimbursement will be sought under the grant agreement.
- v. Verification that, in the event a grant is awarded, the applicant will continue to perform dog control activities, and to accept stray or unwanted dogs from the Department's State Dog Wardens performing dog control functions, through the year 2009.
- vi. Other information as the Department might reasonably require.

#### 5. *Review and approval of grant application.*

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

incomplete or the Department requires additional information or documentation to evaluate the grant request, it will so advise the applicant within 30 days from the date it receives the grant application.

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

- i. The number of applications received and the availability of funds for the grants sought.
- ii. The relative contribution of the applicant to dog control activities in the area it serves.
- iii. The relative contribution of the applicant to dog control as compared to the relative contribution of other applicants.
- iv. The relative importance of the grant to the continued operation of the applicant's dog control facility.

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

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

#### 6. *Grant agreement.*

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

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

By August 15, 2009, the grant recipient will: (1) deliver copies of the eligible bills it has paid between March 1, 2009 and July 31, 2009; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 5-month period.

By January 15, 2010, the grant recipient will: (1) deliver copies of the eligible bills it has paid between August 1, 2009 and December 31, 2009; (2) verify that these bills have been paid and are eligible for reimbursement; and (3) provide a detailed report of the dog control activities performed by the successful applicant during the referenced 5-month period.

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

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

DENNIS C WOLFF,  
Secretary

[Pa.B. Doc. No. 08-2020. Filed for public inspection November 7, 2008, 9:00 a.m.]

# DEPARTMENT OF BANKING

## Actions on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending October 28, 2008.

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

### BANKING INSTITUTIONS

#### Branch Applications

##### De Novo Branches

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-24-2008	First Priority Bank Malvern Chester County	10 Sentry Parkway Suite 100 Blue Bell Montgomery County	Approved
10-24-2008	The Muncy Bank and Trust Company Muncy Lycoming County	4880 SR 44 Dewart Northumberland County	Approved

#### Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-27-2008	Community Bank and Trust Company Clarks Summit Lackawanna County	<i>To:</i> 74 East Tioga Street Tunkhannock Wyoming County  <i>From:</i> Route 6 West Tunkhannock Wyoming County	Effective

#### Branch Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-27-2008	Community Bank and Trust Company Clarks Summit Lackawanna County	<i>Into:</i> 74 East Tioga Street Tunkhannock Wyoming County  <i>From:</i> Route 29 Tunkhannock Wyoming County	Effective

#### Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-21-2008	Merchants Bank of Bangor Bangor Northampton County	291 West Moorestown Road Nazareth Northampton County	Approved and Effective

Branch office was destroyed in a fire that occurred on June 10, 2008.

### SAVINGS INSTITUTIONS

No activity.

### CREDIT UNIONS

No activity.

The Department's web site at [www.banking.state.pa.us](http://www.banking.state.pa.us) includes public notices for more recently filed applications.

STEVEN KAPLAN,  
*Secretary*

[Pa.B. Doc. No. 08-2021. Filed for public inspection November 7, 2008, 9:00 a.m.]

## DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

### Retention of an Engineering Firm Project Reference No. FDC-500-912

The Department of Conservation and Natural Resources (Department) will retain an engineering firm for an Open-End Contract for bridge design projects located on State park and State forest land in this Commonwealth. The contract will be for a 12 month period with four 12 month extensions possible. Projects will be assigned on an as-needed basis to ensure proper and safe operation of Department infrastructure and facilities. The contract will be for various bridge projects at facilities located throughout the State.

Letters of Interest for this contract will only be accepted from individuals or firms or corporations duly authorized to engage in the practice of engineering. If an individual, firm or corporation not authorized to engage in the practice of engineering desires to submit a letter of interest, said individual, firm or corporation may do so as part of a joint venture with an individual, firm, or corporation which is permitted under State law to engage in the practice of engineering.

The services will generally be civil and structural design efforts associated with bridge designs with the possibility of several different projects being designed under short completion schedules. The anticipated types of projects are bridge replacement and rehabilitation (single and multi-span). Projects may include minimal work on the roadways leading up to the bridge approaches and design work associated with water and sewage systems impacted by the project. Structural evaluations of existing bridges to determine if replacement or rehabilitation is more cost effective may also be necessary.

Typically the engineering firm shall be required to furnish a complete set of contract documents (plans and specifications), suitable for public bid and in accordance with a prescribed Department format and in accordance with applicable State and Federal codes and requirement.

Areas of related environmental study associated with these design projects may include, but are not limited to, wetlands, soil, geology, 25 Pa. Code Chapters 102 and 105 (relating to erosion and sediment control; and dam safety and waterway management) permits and Corps of Engineers 404 permits, Act 537 planning and the Department of Environmental Protection's water quality management requirements. The environmental studies shall be conducted in accordance with accepted analysis techniques and methodologies and may include any or all of the following to ensure a complete environmental investigation has been performed; provide all necessary environmental services, material and equipment necessary to collect, analyze and organize data, assess impacts, prepare reports and design mitigation plans. The reports and other graphic material to be prepared may include, but are not limited to, plans of study, meeting minutes, preparation of permit application documents, mitigation plans and reports and wetland and floodplain findings.

The engineering firm may be required to perform any or all of the following duties: attend site visits; prepare minutes; perform necessary field surveys; plot topography

and cross sections; develop erosion control plans; prepare type, size and location reports; prepare construction drawings, specifications, and estimates; procure core borings; provide soil and foundation engineering reports; investigate utility involvement; evaluate alternatives using benefit/cost analysis; develop other details and narratives; inspect major and unusual structures; develop rehabilitation strategies; and also, review shop drawings, catalog cuts and occasional attendance at construction job conferences may be required.

The dollar amount of the contract shall be at the discretion of the Department for the first year. The extent of the work for the subsequent 4 years of the contract will be dependent on the availability of additional funds and additional projects for those years, also at the discretion of the Department.

The services shall include, but not be limited to, a preliminary meeting in the Bureau of Facility Design and Construction, 8th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA, for this project. The contract shall be based on the hours of service and qualifying expenses not exceeding the contract amount. The design work will be reviewed by the engineering staff of the Bureau of Facility Design and Construction, and when acceptable, approved by same staff.

#### **SPECIAL PROVISIONS CONCERNING DISADVANTAGED BUSINESSES AND ENTERPRISE ZONE BUSINESSES FOR REQUESTS FOR PROPOSALS**

##### **"Disadvantaged Business Information"**

The Commonwealth encourages participation by Small Disadvantaged Businesses as prime contractors, joint ventures, and subcontractors/suppliers, and by Socially Disadvantaged Businesses as prime contractors.

**Small Disadvantaged Businesses are small businesses that are owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages. The term includes: 1) Department of General Services Bureau of Minority & Women Business Opportunities (BMWBO)-certified Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) that qualify as small businesses and 2) United States Small Business Administration (SBA)-certified Small Disadvantaged Businesses (SDBs) or 8(a) small disadvantaged business concerns.**

Small businesses are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 persons, and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

Socially disadvantaged businesses are businesses in the United States that BMWBO determines are owned or controlled by a majority of persons, not limited to members or minority groups, who are subject to racial or ethnic prejudice or cultural bias, but which do not qualify as small businesses. For a business to qualify as "socially disadvantaged," the offeror must include in its proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person's color, ethnic origin or gender.

Questions regarding this Program can be directed to Department of General Services, Bureau of Minority &

Women Business Opportunities, Room 611, North Office Building, Harrisburg, PA 17125, gs-bmwbo@state.pa.us, (717) 787-6708, fax (717) 772-0021.

Program information and a database of BMWBO-certified minority- and women-owned businesses can be accessed at www.dgs.state.pa.us, Keyword: BMWBO. The federal vendor database can be accessed at www.ccr.gov by clicking on Dynamic Small Business Search (certified companies are so indicated).

#### **“Information Concerning Small Businesses in Enterprise Zones”**

The Commonwealth encourages participation by small businesses whose primary headquarters facility is physically located in areas designated by the Commonwealth as Designated Enterprise Zones, as prime contractors, joint ventures and subcontractors/suppliers.

Small businesses are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 persons and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

There is no database or directory of small business located in Designated Enterprise Zones. Information on the location of *Designated Enterprise Zones* can be obtained by contacting Aldona M. Kartorie, Center for Community Building, Department of Community and Economic Development, 4th Floor Keystone Building, 400 North Street, Harrisburg, PA 17120-0225, (717) 720-7409, fax (717) 787-4088, akartorie@state.pa.us.

#### **“Disadvantaged Businesses Information”**

*To receive credit for being a Small Disadvantaged Business or a Socially Disadvantaged Business, entering into a joint venture agreement with a Small Disadvantaged Business, or subcontracting with a Small Disadvantaged Business (including purchasing supplies and/or services through a purchase agreement), a company must include proof of Disadvantaged Business qualification in the Disadvantaged Business submittal of the proposal:*

a) Small Disadvantaged Businesses qualifying as a result of MBE/WBE certification from BMWBO must provide a photocopy of their BMWBO certificate.

b) Disadvantaged Businesses qualifying as a result of certification from the United States. Small Business Administration as an 8(a) or Small Disadvantaged Business must submit proof of Small Business Administration Certification. The owners of such businesses must also submit proof of United States citizenship.

c) Companies claiming Small Disadvantaged Business status, whether as a result of BMWBO certification or Small Business Administration certification as an 8(a) or Small Disadvantaged Business, must attest to the fact that the business has 100 or fewer employees.

d) Companies claiming Small Disadvantaged Business status, whether as a result of BMWBO certification or Small Business Administration certification as an 8(a) or Small Disadvantaged Business, must submit proof that their gross annual revenues are less than \$20,000,000 (\$25,000,000 for those businesses in the information technology sales or service business). This can be accomplished by including a recent tax or audited financial statement.

**Companies claiming status as a Socially Disadvantaged Business must include in the Disadvantaged Business submittal of the proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person’s color, ethnic origin or gender. The submitted evidence of prejudice or bias must:**

a) Be rooted in treatment which the business person has experienced in American society, not in other countries.

b) Show prejudice or bias that is chronic and substantial, not fleeting or insignificant.

c) Indicate that the businessperson’s experience with the racial or ethnic prejudice or cultural bias has negatively impacted on his or her entry into and/or advancement in the business world.

BMWBO shall determine whether the contractor has established that a business is socially disadvantaged by clear and convincing evidence.

In addition to these verifications, this portion of the proposal should include the following information:

- The name and telephone number of your project (contact) person for the Small Disadvantaged Business(es).

- The company name, address, telephone number of the prime contact person for each **specific** Small Disadvantaged Business or Socially Disadvantaged Business included in the proposal. The contractor must specify the Small Disadvantaged Business(es) to which it is making commitments. The contractor will not receive credit by stating it will find a Small Disadvantaged Business after the contract is awarded or by listing several companies and stating it will select one later.

- The specific work, goods or services the Small Disadvantaged Business(es) will perform or provide.

- The location where the Small Disadvantaged Business(es) will perform these services.

- The time frame for the Small Disadvantaged Business(es) to provide or deliver the goods or services.

- The amount of capital, if any, the Small Disadvantaged Business(es) will be expected to provide.

- The form and amount of compensation each Small Disadvantaged Business will receive. In the Disadvantaged Business submittal of the proposal, provide the estimated dollar value of the contract to each Small Disadvantaged Business.

- The percent of the total value of services or products purchased/subcontracted under the proposal that will be provided by the Small Disadvantaged Business(es).

- In the case of a joint venture agreement, a copy of the agreement, signed by all parties, must be included in the Disadvantaged Business portion of the proposal. If subcontracting, a signed subcontract or letter of intent must be included in the Disadvantaged Business portion of the proposal.

- Include in the Disadvantaged Business Submittal any and all information concerning the contractor’s proposed utilization of small businesses located in *Designated Enterprise Zones* as required by [ **Enter Section or Part # of the Enterprise Zone Small Business Utilization Response** ], Enterprise Zone Small Business Utilization Response.



The Disadvantaged Business submittal of the proposal must be clearly identified as Disadvantaged Business information and sealed in an envelope separately from the remainder of the proposal. Only one copy of the Disadvantaged Business section is needed.

The dollar value of the commitment to each Small Disadvantaged Business must be sealed in the same envelope with the Disadvantaged Business submittal of the proposal. The selected contractor's Disadvantaged Business commitment amount, name of the Disadvantaged Business, services to be provided including timeframe for performing services will be included as a contractual obligation when the contract is executed.

Offerors may submit, within the same proposal envelope, alternate proposals for differing utilization of Small Disadvantaged Businesses or Socially Disadvantaged Businesses. For example, a proposal may be submitted by prime contractor with a Small Disadvantaged Business as a subcontractor while an alternate proposal may be submitted by the Small Disadvantaged Business as the prime contractor. If an alternate proposal is offered, it must include separately sealed Technical, Price and Disadvantaged Business submittals for the alternate. The alternate proposal will be scored separately. Only the higher-scored proposal (prime proposal or alternate proposal) will be eligible for participation for Best and Final Offers.

#### **"Enterprise Zone Small Business Utilization Response"**

To receive credit for being an enterprise zone small business or entering into a joint venture agreement with an enterprise zone small business or subcontracting with an enterprise zone small business, a company must include the following information in the Disadvantaged Business submittal of the proposal:

- Proof of the location of the business' headquarters (such as a lease or deed or Department of State corporate registration).
- Confirmation of the enterprise zone in which it is located (obtained from the local enterprise zone office).
- Proof of United States citizenship of the owners of the business.
- Certification that the business employs 100 or fewer employees.
- Proof that the business's gross annual revenues are less than \$20,000,000 (\$25,000,000 for those businesses in the information technology sales or service business). This can be accomplished by including a recent tax or audited financial statement.

In addition to these verifications, this portion of the Submittal should include the following information:

- The company name, address, name and telephone number of the primary contact person for each Enterprise Zone Small Business included in the proposal. The contractor must specify the Enterprise Zone Small Business to which it is making commitments. The contractor will not receive credit by stating that it will find a Enterprise Zone Small Business after the contract is awarded or by listing several companies and stating it will select one later.
- The specific work, goods or services the Enterprise Zone Small Business will perform or provide.
- The location where the Enterprise Zone Small Business will perform these services.

- The time frame for the Enterprise Zone Small Business to provide or deliver the goods or services.
- The amount of capital, if any, the Enterprise Zone Small Business will be expected to provide.
- The form and amount of compensation each Enterprise Zone Small Business will receive. In the Disadvantaged Business portion of the proposal, provide the estimated dollar value of the contract to each Enterprise Zone Small Business.
- The percent of the total value of services or products purchased/subcontracted under the proposal that will be provided by the Enterprise Zone Small Business.
- In the case of a joint venture agreement, a copy of the agreement, signed by all parties, must be included in the Disadvantaged Business Submittal of the proposal. If subcontracting, a signed subcontract or letter of intent must be included in the Disadvantaged Business Submittal of the proposal.

*The dollar value of the commitment to each Enterprise Zone Small Business must be sealed in the same envelope with the Disadvantaged Business Submittal of the proposal. The selected contractor's Enterprise Zone Small Business commitment amount, name of Enterprise Zone Small Business, and services to be provided including time frame for performing services will be included as a contractual obligation when the contract is executed.*

#### **"Disadvantaged Business Participation"**

The following options will be considered as part of the final criteria for selection:

**Priority Rank 1.** Proposals submitted by Small Disadvantaged Businesses.

**Priority Rank 2.** Proposals submitted from a joint venture with a Small Disadvantaged Business as a joint venture partner.

**Priority Rank 3.** Proposals submitted with subcontracting commitments to Small Disadvantaged Businesses.

**Priority Rank 4.** Proposals submitted by Socially Disadvantaged Businesses.

Each proposal will be rated for its approach to enhancing the utilization of Small Disadvantaged Businesses and/or Socially Disadvantaged Businesses. Each approach will be evaluated with Priority Rank 1 receiving the highest score and the succeeding options receiving scores in accordance with the previous-listed priority ranking.

To the extent that a proposal is submitted by a Small Disadvantaged Business or a Socially Disadvantaged Business, the Small Disadvantaged Business or Socially Disadvantaged Business cannot enter into subcontract arrangements for more than 40% of the total estimated dollar amount of the contract. If a Small Disadvantaged Business or a Socially Disadvantaged Business subcontracts more than 40% of the total estimated dollar amount of the contract to other contractors, the Disadvantaged Business Participation scoring shall be proportionally lower for that proposal.

#### **"Enterprise Zone Small Business Participation"**

**The following options will be considered as part of the final criteria for selection:**

**Priority Rank 1.** Proposals submitted by an Enterprise Zone Small Business will receive the highest score.

**Priority Rank 2.** Proposals submitted by a joint venture with an Enterprise Zone Small Business as a joint venture partner will receive the next highest score for this criterion.

**Priority Rank 3.** Proposals submitted with a subcontracting commitment to an Enterprise Zone Small Business will receive the lowest score for this criterion.

**Priority Rank 4.** Proposals with no Enterprise Zone Small Business Utilization shall receive no points under this criterion.

To the extent that a proposal is submitted as a prime contractor by an Enterprise Zone Small Business, the Enterprise Zone Small Business cannot enter into contract or subcontract arrangements for more than 40% of the total estimated dollar amount of the contract.

**“Contract Requirements—Disadvantaged Business Participation and Enterprise Zone Small Business Participation”**

Contracts containing Disadvantaged Business participation must also include a provision requiring the contractor to meet and maintain those commitments made to Disadvantaged Businesses and/or Enterprise Zone Small Businesses at the time of proposal submittal or contract negotiation, unless a change in the commitment is approved by the BMWBO. Contracts containing Disadvantaged Business participation and/or Enterprise Zone Small Business participation must include a provision requiring Small Disadvantaged Business subcontractors, Enterprise Zone Small Business subcontractors, and Small Disadvantaged Businesses or Enterprise Zone Small Businesses in a joint venture to perform at least 50% of the subcontract or Small Disadvantaged Business/Enterprise Zone Small Business portion of the joint venture.

Commitments to Disadvantaged Businesses and/or Enterprise Zone Small Businesses made at the time of proposal submittal or contract negotiation must be maintained throughout the term of the contract. Any proposed change must be submitted to BMWBO which will make a recommendation as to a course of action to the contracting officer.

If a contract is assigned to another contractor, the new contractor must maintain the Disadvantaged Businesses participation and/or Enterprise Zone Small Business participation of the original contract.

The contractor shall complete the Prime Contractor's Quarterly Utilization Report (or similar type document containing the same information) and submit it to the contracting officer of the agency that awarded the contract and BMWBO within 10 workdays at the end of each quarter the contract is in force. If there was no activity, the form must also be completed, stating “No activity in this quarter.” This information will be used to determine the actual dollar amount paid to Small Disadvantaged Business and/or Enterprise Zone Small Business subcontractors and suppliers, and Small Disadvantaged Businesses and/or Enterprise Zone Small Businesses involved in Joint Ventures. Also, it is a record of fulfillment of the commitment your firm made and for which it received Disadvantaged Business and Enterprise Zone Small Business points.

NOTE: EQUAL EMPLOYMENT OPPORTUNITY AND CONTRACT COMPLIANCE STATEMENTS REFERRING TO COMPANY EQUAL EMPLOYMENT OPPORTUNITY POLICIES OR PAST CONTRACT COMPLIANCE PRACTICES DO NOT CONSTITUTE PROOF OF DISADVANTAGED BUSINESS STATUS OR ENTITLE A PROPOSER TO RECEIVE CREDIT FOR DISADVANTAGED BUSINESS UTILIZATION.

*General Requirements and Information*

Firms interested in performing the required services for this project are invited to submit Letters of Interest to Eugene J. Comoss, P. E., Director, Bureau of Facility Design and Construction, Rachel Carson State Office Building, 8th Floor, 400 Market Street, P. O. Box 8451 Harrisburg, PA 17105-8451. Contact Charles Lutter at (717) 783-3318 for general information concerning this request for proposal.

Each Letter of Interest must include the firm's Federal identification number and the project reference number. The Letter of Interest shall also include a description of the firm's three most recently completed projects similar to the project proposed. The description shall include the client, contact person and phone number, the estimated or actual construction cost of the portion of the work which the firm designed, the project manager, and the names of all personnel who made major contributions to the project. The Letter of Interest shall indicate the firm's capability of working on multiple small projects at the same time and understanding of the Department's needs. A standard DGS Form 150-ASP must accompany the Letter of Interest and shall indicate the individual in charge. The Form 150-ASP is available by downloading from DGS Home Page on the Internet at [www.dgs.state.pa.us](http://www.dgs.state.pa.us). Form 150-ASP may also be obtained in hard copy. Written request for hard copy should be addressed to the Selections Committee, Department of General Services, Room 206, 18th and Herr Streets, Harrisburg, PA 17125. In addition, the Form 150-ASP can be obtained by means of e-mail by addressing your request to [pbianchi@state.pa.us](mailto:pbianchi@state.pa.us). Additional information pertinent to the firm's qualifications to do the work of this contract may be included. Direct costs other than payroll, such as travel and subsistence, shall be based on the current state rates. The Department shall reimburse miscellaneous expenses such as copies, prints, sepias, postage and film at cost upon approval.

Direct costs other than payroll, such as travel and subsistence, shall be based on the current state rates. Miscellaneous expenses such as copies, prints, sepias, postage and film shall be reimbursed at cost upon approval by the Department.

The following factors will be considered during the evaluation of the firm's Letter of Interest:

Criteria evaluated by the Technical review will include:

1. Professional's understanding of the problem as demonstrated in Letter of Interest, and as stated in their own interpretation of the tasks to be performed.
2. Qualifications of firm.
3. Professional personnel in firm.
4. Soundness of approach as demonstrated in Letter of Interest, and as stated in their own interpretation of the tasks to be performed.
5. Available manpower to perform the services required.

6. Disadvantaged Businesses participation. (Evaluated by DGS)

7. Equitable distribution of the contracts.

Each proposer shall relate their proposal to the previous criteria.

One copy of the Disadvantaged Business section bound and sealed separately from the remainder of the proposal and six copies of the complete set consisting of the Letter of Interest and the required forms must be received no later than 4 p.m. on December 18, 2008. The six copies shall be submitted in six complete sets that shall be spiral bound or in folders or secured by binder clips. The assignment and services will be made to one of the firms responding to this notice. However, the Department reserves the right to reject all Letters of Interest submitted, cancel the solicitation requested under this notice, and/or re-advertise solicitation for this service.

The Department will not offer a debriefing session to the unsuccessful firms. The Department disclaims any liability whatsoever to its review of the proposal submitted and in formulating a recommendation for selections. Recommendations made by the Department shall be final.

MICHAEL DIBERARDINIS,  
*Secretary*

[Pa.B. Doc. No. 08-2022. Filed for public inspection November 7, 2008, 9:00 a.m.]

### Retention of an Engineering Firm Project Reference No. FDC-500-913

The Department of Conservation and Natural Resources (Department) will retain an engineering firm for an Open-End Contract for various engineering, inspection, and related environmental and geotechnical services for various dam-related and hydraulic projects located on State park and State forest land in this Commonwealth. Each contract will be for a 12 month period with four 12 month extensions possible. Projects will be assigned on an as-needed basis in order to ensure proper and safe operation of Department infrastructure and facilities.

Letters of Interest for this project will only be accepted from individuals or firms or corporations duly authorized to engage in the practice of engineering. If an individual, firm or corporation not authorized to engage in the practice of engineering desires to submit a letter of interest, said individual, firm or corporation may do so as part of a joint venture with an individual, firm or corporation which is permitted under State law to engage in the practice of engineering.

The services may encompass a wide range of civil and structural design efforts with the possibility of several different types of projects being designed under short completion schedules. The anticipated types of projects may include, but are not limited to dam and control structure modification and rehabilitation, slope and stability analysis of concrete and earthen dams, structural analysis of spillways and retaining walls, hydraulic and hydrologic evaluation for existing spillways, inspection of dams and preparation of emergency action plans.

Typically the engineering firm shall be required to furnish a complete set of contract documents (plans and specifications), suitable for public bid and in accordance with a prescribed Department format, and in accordance with applicable State and Federal codes and requirement. A quality assurance program shall be in place by the engineering firm assuring that all documents are acceptable and of the highest quality prior to submission of said documents to the Department.

Areas of related environmental study associated with these design projects may include, but are not limited to, wetlands, soil, geology, 25 Pa. Code Chapter 105 (relating to dam safety and waterway management), and Corps of Engineers 404 permits, Act 537 planning and the Department of Environmental Protection's water quality management requirements. The environmental studies shall be conducted in accordance with accepted analysis techniques and methodologies and may include any or all of the following to ensure a complete environmental investigation has been performed; provide all necessary environmental services, material and equipment necessary to collect, analyze and organize data, assess impacts, prepare reports and design mitigation plans. The reports and other graphic material to be prepared may include, but are not limited to, plans of study, meeting minutes, preparation of permit application documents, mitigation plans and reports, and wetland and floodplain findings.

The engineering firm may be required to perform any or all of the following duties: attend site visits; prepare minutes; perform necessary field surveys; plot topography and cross sections; develop erosion control plans; prepare type, size and location reports; prepare construction drawings, specifications, and estimates; procure core borings; provide soil and foundation engineering reports; investigate utility involvement; evaluate alternatives using benefit/cost analysis; develop other details and narratives; inspect major and unusual structures; develop rehabilitation strategies; and also, review shop drawings, catalog cuts and occasional attendance at construction job conferences may be required.

The number of Open-End Contracts and the dollar amount of each contract shall be at the discretion of the Department for the first year. The extent of the work for the subsequent 4 years of the contract will be dependent on the availability of additional funds and additional projects for those years, also at the discretion of the Department.

The services shall include, but not be limited to, a preliminary meeting in the Bureau of Facility Design and Construction, 8th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA, for this project. The contract shall be based on the hours of service and qualifying expenses not exceeding the contract amount. The design work will be reviewed by the engineering staff of the Bureau of Facility Design and Construction, and when acceptable, approved by same staff.

### **SPECIAL PROVISIONS CONCERNING DISADVANTAGED BUSINESSES AND ENTERPRISE ZONE BUSINESSES FOR REQUESTS FOR PROPOSALS**

#### **"Disadvantaged Business Information"**

The Commonwealth encourages participation by Small Disadvantaged Businesses as prime contractors, joint ventures, and subcontractors/suppliers, and by Socially Disadvantaged Businesses as prime contractors.

**Small Disadvantaged Businesses** are small businesses that are owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages. The term includes: 1) Department of General Services Bureau of Minority & Women Business Opportunities (BMWBO)-certified Minority Business Enterprises (MBEs) and Women Business Enterprises (WBEs) that qualify as small businesses; and 2) United States Small Business Administration (SBA)-certified Small Disadvantaged Businesses (SDBs) or 8(a) small disadvantaged business concerns.

Small businesses are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 persons, and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

Socially disadvantaged businesses are businesses in the United States that BMWBO determines are owned or controlled by a majority of persons, not limited to members or minority groups, who are subject to racial or ethnic prejudice or cultural bias, but which do not qualify as small businesses. For a business to qualify as "socially disadvantaged," the offeror must include in its proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person's color, ethnic origin or gender.

Questions regarding this Program can be directed to Department of General Services, Bureau of Minority & Women Business Opportunities, Room 611, North Office Building, Harrisburg, PA 17125, gs-bmwbo@state.pa.us, (717) 787-6708, fax (717) 772-0021.

Program information and a database of BMWBO-certified minority- and women-owned businesses can be accessed at [www.dgs.state.pa.us](http://www.dgs.state.pa.us), Keyword: BMWBO. The Federal vendor database can be accessed at [www.ccr.gov](http://www.ccr.gov) by clicking on Dynamic Small Business Search (certified companies are so indicated).

#### **"Information Concerning Small Businesses in Enterprise Zones"**

The Commonwealth of Pennsylvania encourages participation by small businesses whose primary headquarters facility is physically located in areas designated by the Commonwealth as Designated Enterprise Zones, as prime contractors, joint ventures and subcontractors/suppliers.

Small businesses are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 persons and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for those businesses in the information technology sales or service business).

There is no database or directory of small business located in Designated Enterprise Zones. Information on the location of *Designated Enterprise Zones* can be obtained by contacting: Aldona M. Kartorie, Center for Community Building, PA Department of Community and Economic Development, 4th Floor Keystone Building, 400 North Street, Harrisburg, PA 17120-0225, (717) 720-7409, fax (717) 787-4088, [akartorie@state.pa.us](mailto:akartorie@state.pa.us).

#### **"Disadvantaged Businesses Information"**

To receive credit for being a Small Disadvantaged Business or a Socially Disadvantaged Business, entering into a joint venture agreement with a Small Disadvantaged Business, or subcontracting with a Small Disadvantaged Business (including purchasing supplies and/or services through a purchase agreement), a company must include proof of Disadvantaged Business qualification in the Disadvantaged Business submittal of the proposal:

a) Small Disadvantaged Businesses qualifying as a result of MBE/WBE certification from BMWBO must provide a photocopy of their BMWBO certificate.

b) Disadvantaged Businesses qualifying as a result of certification from the U.S. Small Business Administration as an 8(a) or Small Disadvantaged Business must submit proof of Small Business Administration Certification. The owners of such businesses must also submit proof of United States citizenship.

c) All companies claiming Small Disadvantaged Business status, whether as a result of BMWBO certification or Small Business Administration certification as an 8(a) or Small Disadvantaged Business, must attest to the fact that the business has 100 or fewer employees.

d) All companies claiming Small Disadvantaged Business status, whether as a result of BMWBO certification or Small Business Administration certification as an 8(a) or Small Disadvantaged Business, must submit proof that their gross annual revenues are less than \$20,000,000 (\$25,000,000 for those businesses in the information technology sales or service business). This can be accomplished by including a recent tax or audited financial statement.

**All companies claiming status as a Socially Disadvantaged Business must include in the Disadvantaged Business submittal of the proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person's color, ethnic origin or gender. The submitted evidence of prejudice or bias must:**

a) Be rooted in treatment which the business person has experienced in American society, not in other countries.

b) Show prejudice or bias that is chronic and substantial, not fleeting or insignificant.

c) Indicate that the businessperson's experience with the racial or ethnic prejudice or cultural bias has negatively impacted on his or her entry into and/or advancement in the business world.

BMWBO shall determine whether the contractor has established that a business is socially disadvantaged by clear and convincing evidence.

In addition to these verifications, this portion of the proposal should include the following information:

- The name and telephone number of your project (contact) person for the Small Disadvantaged Business(es).

- The company name, address, telephone number of the prime contact person for each **specific** Small Disadvantaged Business or Socially Disadvantaged Business included in the proposal. The contractor must specify the Small Disadvantaged Business(es) to which it is making commitments. The contractor will not receive credit by stating it will find a Small Disadvantaged Business after

the contract is awarded or by listing several companies and stating it will select one later.

- The specific work, goods, or services the Small Disadvantaged Business(es) will perform or provide.
- The location where the Small Disadvantaged Business(es) will perform these services.
- The time frame for the Small Disadvantaged Business(es) to provide or deliver the goods or services.
- The amount of capital, if any, the Small Disadvantaged Business(es) will be expected to provide.
- The form and amount of compensation each Small Disadvantaged Business will receive. In the Disadvantaged Business submittal of the proposal, provide the estimated dollar value of the contract to each Small Disadvantaged Business.
- The percent of the total value of services or products purchased/subcontracted under the proposal that will be provided by the Small Disadvantaged Business(es).
- In the case of a joint venture agreement, a copy of the agreement, signed by all parties, must be included in the Disadvantaged Business portion of the proposal. If subcontracting, a signed subcontract or letter of intent must be included in the Disadvantaged Business portion of the proposal.

• Include in the Disadvantaged Business Submittal any and all information concerning the contractor's proposed utilization of small businesses located in *Designated Enterprise Zones* as required by [ **Enter Section or Part # of the Enterprise Zone Small Business Utilization Response** ], Enterprise Zone Small Business Utilization Response.

The Disadvantaged Business submittal of the proposal must be clearly identified as Disadvantaged Business information and sealed in an envelope separately from the remainder of the proposal. Only one copy of the Disadvantaged Business section is needed.

The dollar value of the commitment to each Small Disadvantaged Business must be sealed in the same envelope with the Disadvantaged Business submittal of the proposal. The selected contractor's Disadvantaged Business commitment amount, name of the Disadvantaged Business, services to be provided including time frame for performing services will be included as a contractual obligation when the contract is executed.

Offerors may submit, within the same proposal envelope, alternate proposals for differing utilization of Small Disadvantaged Businesses or Socially Disadvantaged Businesses. For example, a proposal may be submitted by prime contractor with a Small Disadvantaged Business as a subcontractor while an alternate proposal may be submitted by the Small Disadvantaged Business as the prime contractor. If an alternate proposal is offered, it must include separately sealed Technical, Price and Disadvantaged Business submittals for the alternate. The alternate proposal will be scored separately. Only the higher-scored proposal (prime proposal or alternate proposal) will be eligible for participation for Best and Final Offers.

#### **“Enterprise Zone Small Business Utilization Response”**

To receive credit for being an enterprise zone small business or entering into a joint venture agreement with an enterprise zone small business or subcontracting with an enterprise zone small business, a company must

include the following information in the Disadvantaged Business submittal of the proposal:

- Proof of the location of the business' headquarters (such as a lease or deed or Department of State corporate registration).
- Confirmation of the enterprise zone in which it is located (obtained from the local enterprise zone office).
- Proof of United States citizenship of the owners of the business.
- Certification that the business employs 100 or fewer employees.
- Proof that the business's gross annual revenues are less than \$20,000,000 (\$25,000,000 for those businesses in the information technology sales or service business). This can be accomplished by including a recent tax or audited financial statement.

In addition to these verifications, this portion of the Submittal should include the following information:

- The company name, address, name and telephone number of the primary contact person for each Enterprise Zone Small Business included in the proposal. The contractor must specify the Enterprise Zone Small Business to which it is making commitments. The contractor will not receive credit by stating that it will find a Enterprise Zone Small Business after the contract is awarded or by listing several companies and stating it will select one later.
- The specific work, goods or services the Enterprise Zone Small Business will perform or provide.
- The location where the Enterprise Zone Small Business will perform these services.
- The time frame for the Enterprise Zone Small Business to provide or deliver the goods or services.
- The amount of capital, if any, the Enterprise Zone Small Business will be expected to provide.
- The form and amount of compensation each Enterprise Zone Small Business will receive. In the Disadvantaged Business portion of the proposal, provide the estimated dollar value of the contract to each Enterprise Zone Small Business.
- The percent of the total value of services or products purchased/subcontracted under the proposal that will be provided by the Enterprise Zone Small Business.
- In the case of a joint venture agreement, a copy of the agreement, signed by all parties, must be included in the Disadvantaged Business Submittal of the proposal. If subcontracting, a signed subcontract or letter of intent must be included in the Disadvantaged Business Submittal of the proposal.

The dollar value of the commitment to each Enterprise Zone Small Business must be sealed in the same envelope with the Disadvantaged Business Submittal of the proposal. The selected contractor's Enterprise Zone Small Business commitment amount, name of Enterprise Zone Small Business and services to be provided including time frame for performing services will be included as a contractual obligation when the contract is executed.

#### **“Disadvantaged Business Participation”**

The following options will be considered as part of the final criteria for selection:

**Priority Rank 1.** Proposals submitted by Small Disadvantaged Businesses.

**Priority Rank 2.** Proposals submitted from a joint venture with a Small Disadvantaged Business as a joint venture partner.

**Priority Rank 3.** Proposals submitted with subcontracting commitments to Small Disadvantaged Businesses.

**Priority Rank 4.** Proposals submitted by Socially Disadvantaged Businesses.

Each proposal will be rated for its approach to enhancing the utilization of Small Disadvantaged Businesses and/or Socially Disadvantaged Businesses. Each approach will be evaluated with Priority Rank 1 receiving the highest score and the succeeding options receiving scores in accordance with the previously-listed priority ranking.

To the extent that a proposal is submitted by a Small Disadvantaged Business or a Socially Disadvantaged Business, the Small Disadvantaged Business or Socially Disadvantaged Business cannot enter into subcontract arrangements for more than 40% of the total estimated dollar amount of the contract. If a Small Disadvantaged Business or a Socially Disadvantaged Business subcontracts more than 40% of the total estimated dollar amount of the contract to other contractors, the Disadvantaged Business Participation scoring shall be proportionally lower for that proposal.

#### **“Enterprise Zone Small Business Participation”**

**The following options will be considered as part of the final criteria for selection:**

**Priority Rank 1.** Proposals submitted by an Enterprise Zone Small Business will receive the highest score.

**Priority Rank 2.** Proposals submitted by a joint venture with an Enterprise Zone Small Business as a joint venture partner will receive the next highest score for this criterion.

**Priority Rank 3.** Proposals submitted with a subcontracting commitment to an Enterprise Zone Small Business will receive the lowest score for this criterion.

**Priority Rank 4.** Proposals with no Enterprise Zone Small Business Utilization shall receive no points under this criterion.

To the extent that a proposal is submitted as a prime contractor by an Enterprise Zone Small Business, the Enterprise Zone Small Business cannot enter into contract or subcontract arrangements for more than 40% of the total estimated dollar amount of the contract.

#### **“Contract Requirements—Disadvantaged Business Participation and Enterprise Zone Small Business Participation”**

Contracts containing Disadvantaged Business participation must also include a provision requiring the contractor to meet and maintain those commitments made to Disadvantaged Businesses and/or Enterprise Zone Small Businesses at the time of proposal submittal or contract negotiation, unless a change in the commitment is approved by the BMWBO. Contracts containing Disadvantaged Business participation and/or Enterprise Zone Small Business participation must include a provision requiring Small Disadvantaged Business subcontractors, Enterprise Zone Small Business subcontractors, and Small Disadvantaged Businesses or Enterprise Zone

Small Businesses in a joint venture to perform at least 50% of the subcontract or Small Disadvantaged Business/Enterprise Zone Small Business portion of the joint venture.

Commitments to Disadvantaged Businesses and/or Enterprise Zone Small Businesses made at the time of proposal submittal or contract negotiation must be maintained throughout the term of the contract. Any proposed change must be submitted to BMWBO which will make a recommendation as to a course of action to the contracting officer.

If a contract is assigned to another contractor, the new contractor must maintain the Disadvantaged Businesses participation and/or Enterprise Zone Small Business participation of the original contract.

The contractor shall complete the Prime Contractor's Quarterly Utilization Report (or similar type document containing the same information) and submit it to the contracting officer of the agency that awarded the contract and BMWBO within 10 workdays at the end of each quarter the contract is in force. If there was no activity, the form must also be completed, stating “No activity in this quarter.” This information will be used to determine the actual dollar amount paid to Small Disadvantaged Business and/or Enterprise Zone Small Business subcontractors and suppliers, and Small Disadvantaged Businesses and/or Enterprise Zone Small Businesses involved in Joint Ventures. Also, it is a record of fulfillment of the commitment your firm made and for which it received Disadvantaged Business and Enterprise Zone Small Business points.

NOTE: EQUAL EMPLOYMENT OPPORTUNITY AND CONTRACT COMPLIANCE STATEMENTS REFERRING TO COMPANY EQUAL EMPLOYMENT OPPORTUNITY POLICIES OR PAST CONTRACT COMPLIANCE PRACTICES DO NOT CONSTITUTE PROOF OF DISADVANTAGED BUSINESS STATUS OR ENTITLE A PROPOSER TO RECEIVE CREDIT FOR DISADVANTAGED BUSINESS UTILIZATION.

#### *General Requirements and Information*

Firms interested in performing the required services for this project are invited to submit Letters of Interest to Eugene J. Comoss, P. E., Director, Bureau of Facility Design and Construction, Rachel Carson State Office Building, 8th Floor, 400 Market Street, P. O. Box 8451 Harrisburg, PA 17105-8451. Contact Edward Raptosh at (717) 783-3329 for general information concerning this request for proposal.

Each Letter of Interest must include the firm's Federal identification number and the project reference number. The Letter of Interest shall also include a description of the firm's three most recently completed projects similar to the project proposed. The description shall include the client, contact person and phone number, the estimated or actual construction cost of the portion of the work which the firm designed, the project manager, and the names of all personnel who made major contributions to the project. The Letter of Interest shall indicate the firm's capability of working on multiple small projects at the same time and understanding of the Department needs. A standard DGS Form 150-ASP must accompany the Letter of Interest and shall indicate the individual in charge.

The Form 150-ASP is available by downloading from DGS Home Page on the Internet at [www.dgs.state.pa](http://www.dgs.state.pa). Form 150-ASP may also be obtained in hard copy. Written request for hard copy should be addressed to the Selections Committee, Department of General Services, Room 206, 18th and Herr Streets, Harrisburg, PA 17125. In addition, the Form 150-ASP can be obtained by means of e-mail by addressing your request to [pbianchi@state.pa.us](mailto:pbianchi@state.pa.us). Additional information pertinent to the firm's qualifications to do the work of this contract may be included.

Direct costs other than payroll, such as travel and subsistence, shall be based on the current state rates. Miscellaneous expenses such as copies, prints, sepia's, postage and film shall be reimbursed at cost upon approval by the Department.

The following factors will be considered during the evaluation of the firm's Letter of Interest:

Criteria evaluated by the Technical review will include:

1. Professional's understanding of the problem as demonstrated in Letter of Interest, and as stated in their own interpretation of the tasks to be performed.
2. Qualifications of firm.
3. Professional personnel in firm.
4. Soundness of approach as demonstrated in Letter of Interest, and as stated in their own interpretation of the tasks to be performed.
5. Available manpower to perform the services required.
6. Disadvantaged Businesses participation. (Evaluated by DGS)
7. Equitable distribution of the contracts.

Each proposer shall relate their proposal to the previous criteria.

One copy of the Disadvantaged Business section bound and sealed separately from the remainder of the proposal and six copies of the complete set consisting of the Letter of Interest and the required forms must be received no later than 4 p.m. on December 18, 2008. The six copies shall be submitted in six complete sets that shall be spiral bound or in folders or secured by binder clips. The assignment and services will be made to one of the firms responding to this notice. However, the Department reserves the right to reject all Letters of Interest submitted, cancel the solicitation requested under this notice, and/or re-advertise solicitation for this service.

The Department will not offer a debriefing session to the unsuccessful firms. The Department disclaims any liability whatsoever to its review of the proposal submitted and in formulating a recommendation for selections. Recommendations made by the Department shall be final.

MICHAEL DIBERARDINIS,  
*Secretary*

[Pa.B. Doc. No. 08-2023. Filed for public inspection November 7, 2008, 9:00 a.m.]

## DEPARTMENT OF EDUCATION

### Notice of Hearing Regarding Cyber Charter School Application

Notice is given that the Department of Education (Department) has scheduled a public hearing regarding the two cyber charter school applications that it received on October 1, 2008. The hearing will be held on Wednesday, December 10, 2008, in Heritage B on the lobby level at 333 Market Street, Harrisburg, PA beginning at 10 a.m. The hearing pertains to applicants seeking to operate cyber charter schools beginning in the 2009-2010 school year: the IDEA Cyber Charter School and the Aspira Bilingual Cyber Charter School. The purpose of the hearing is to receive information from the applicants about the proposed cyber charter schools and to receive comments from interested persons regarding the applications. The applications can be viewed on the Department's web site at [www.pde.state.pa.us](http://www.pde.state.pa.us).

The charter applicant will have 30 minutes to present information about the proposed cyber charter school. Individuals who wish to provide comments at the hearing must send the Department and the applicant a copy of the comments on or before November 21, 2008. Failure to comply with this deadline will preclude the respective individual from providing verbal comments at the hearing. Verbal comments may be limited based on the number of individuals requesting time to provide comments, and may also be limited if the comments are duplicative or repetitive of other individual's comments. A panel of individuals who have reviewed the applications will conduct the hearing. The panel members may question the applicants regarding issues identified during their review, as well as issues raised in the written comments filed before the hearing date. Panel members may also question individuals who offer verbal comments. Commentators will not be permitted to question either the applicants or the panel members. Individuals who are unable to attend the hearing may also provide the Department and the respective applicant with written comments on or before December 3, 2008. Any written comments provided to the Department by this deadline will become part of the certified record.

Comments sent to the Department should be addressed to Gregg Spadafore, Bureau of Community and Student Services, 333 Market Street, 5th Floor, Harrisburg, PA 17126-0333. An agenda will be prepared after December 3, 2008, when the Department is aware of the number of individuals who wish to provide verbal comments at the hearing. That agenda will provide the order of presentation, as well as specify the amount of time allotted to each commentator. Individuals wanting a copy of the agenda should call Gregg Spadafore at (717) 705-2881.

GERALD L. ZAHORCHAK, D. Ed.,  
*Secretary*

[Pa.B. Doc. No. 08-2024. Filed for public inspection November 7, 2008, 9:00 a.m.]

# DEPARTMENT OF ENVIRONMENTAL PROTECTION

## Applications, Actions and Special Notices

### APPLICATIONS

#### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

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

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

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

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

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

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

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

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

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

#### I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0057339	Brian and Cheryl Davidson 209 Poplar Road Honeybrook, PA 19344	Chester County Honeybrook Township	West Branch Brandywine Township	Y



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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0060852 (Minor Sewage)	St. Michael's School P. O. Box 370 Tunkhannock, PA 18657-0370	Falls Township Wyoming County	Susquehanna River 04G	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0061689 (Minor Sewage)	Foster Township Ag-Mar Estates 1000 Wyoming Avenue Freeland, PA 18224	Luzerne County Foster Township	UNT to the Lehigh River 02A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0083038 (SEW)	Jack and Betty Waybrant Waybrant Office Building 814 East Keller Street Hernando, FL 34442	Adams County Mount Joy Township	Rock Creek 13-D	Y
PA0247243 (SEW)	Foremost Industries, Inc. 2375 Buchanan Trail West Greencastle, PA 17225	Franklin County Montgomery and Peters Townships	UNT West Branch Conocheague Creek 13-C	Y
PA0247201 (IW)	City of Lancaster Bureau of Water 120 North Duke Street Lancaster, PA 17608	Lancaster County West Hempfield Township	Strickler Run 7-J	Y
PA0043443 (SEW)	Alexandria Borough Porter Township Joint Sewer Authority P. O. Box 113 Alexandria, PA 16611-0113	Huntingdon County Porter Township	Frankstown Branch Juniata River 11-A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0221643	Sligo Borough Authority P. O. Box 241 Sligo, PA 16255-0241	Sligo Borough Clarion County	Mineral Run 17-B	Y
PA0103969	Varischetti and Sons 219 Park Brockway, PA 15824	Washington Township Jefferson County	UNT to Wolf Run 17-C	Y
PA0033936	Denny Ridge MHP 14842 Nickelson Drive Meadville, PA 16335	Hayfield Township Crawford County	UNT to Cussewago Creek 16-D	Y

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

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

**Application No. PA 0261190**, Sewage, **Tiger Properties (c/o Suzanne Diehl)**, Four East High Street, Carlisle, PA 17013. This facility is located in North Middleton Township, **Cumberland County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated sewage.

The receiving stream, Conodoguinet Creek, is in Watershed 7-B, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Carlisle Borough is located on the Conodoguinet Creek, approximately 5.7 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.004 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60
Total Residual Chlorine	Report		
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a Geometric Average	
(10-1 to 4-30)		2,000/100 ml as a Geometric Average	

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

The EPA waiver is in effect.

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

**PA0240061**, Sewage, **Country Acres Personal Care Home**, 2017 Meadville Road, Titusville, PA 16354. This proposed facility is located in Cherrytree Township, **Venango County**.

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

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the General Authority of Franklin intake on French Creek is located in Franklin, PA and is approximately 25.0 miles below point of discharge. No requirements are necessary.

The receiving stream, the UNT to Prather Creek, is in Watershed 16-D and classified for: CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.002 mgd.

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60
NH <sub>3</sub> -N			
(5-1 to 10-31)	22		44
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a Geometric Average	
(10-1 to 4-30)		2,000/100 ml as a Geometric Average	
Total Residual Chlorine	0.5		1.2
pH		6.0 to 9.0 Standard Units at all times	

XX—Monitor and report on monthly DMRs.

The EPA waiver is in effect.

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

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

**WQM Permit No. 3608406**, Sewerage, **Leacock Township Sewer Authority**, P. O. Box 558, 3545 West Newport Road, Intercourse, PA 17534. This proposed facility is located in Leacock Township, **Lancaster County**.

Description of Proposed Action/Activity: Seeking approval for the construction/expansion of the existing sewage facility.

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

**WQM Permit No. 2608402**, Sewerage, **Masontown Borough**, 2 Court Avenue, Masontown, PA 15461-1841. This proposed facility is located in Masontown Borough, **Fayette County**.

Description of Proposed Action/Activity: Permit application for the construction and operation of a pump station.

**WQM Permit No. 0208407**, Sewerage, **RIDC—Southwestern PA Growth Fund**, 425 Sixth Avenue, Suite 500, Pittsburgh, PA 15219. This proposed facility is located in the City of Duquesne, **Allegheny County**.

Description of Proposed Action/Activity: Permit application for the construction and operation of a pump station.

**WQM Permit No. 0288436-A4**, Sewerage, **Municipality of Penn Hills**, 12245 Frankstown Road, Pittsburgh, PA 15235. This existing facility is located in Penn Hills, **Allegheny County**.

Description of Proposed Action/Activity: Permit amendment application for replacement of belt press with centrifuge and UV chlorine disinfection.

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


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


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


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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024808018	Phillips and Phillips Blaine Phillips P. O. Box 160 Bath, PA 18014	Northampton	East Allen Township	Monocacy Creek HQ-CWF

*Wyoming County Conservation District: One Hollowcrest Complex, Tunkhannock, PA 18657, (570) 836-2589.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI026608001	Kevin Davis BP Alternative Energy 310 4th Street NE Charlottesville, VA 22902	Wyoming	Mehoopany, Forkston, Eaton, Noxen and Washington Townships	Stone Run HQ-CWF Kasson Brook HQ-CWF SB Roaring Run CWF Roaring Run CWF Newton Run HQ-CWF Sugar Hollow Creek HQ-CWF Bowman Creek HQ-CWF Hettesheimer Run HQ-CWF York Run HQ-CWF Bowman Hollow HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI-0306-08-017	Carl E. Zettlemoyer 460 Albright Road Kutztown, PA 19530	Berks	Maxatawny Township	Little Lehigh Creek HQ

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

*Beaver County Conservation District, 156 Cowpath Road, Aliquippa, PA 15001, (724) 378-1701.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI050408003	Castlebrook Development Group, LLC 2393 Wexford Bayne Road Suite 201 Sewickley, PA 15143	Beaver	Ambridge Borough	Ohio River WWF, N
PAI050408004	Beaver County Airport 13 Piper Street Beaver Falls, PA 15010	Beaver	Chippewa Township	UNT To North For, Little Beaver Creek HQ-CWF

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

Butler County Conservation District: 122 McCune Drive, Butler, PA 16001-6501, (724) 284-5270.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI061008002	Thorn Run Dam Anthony M. Nokovich 852 Wesley Drive Mechanicsburg, PA 17055	Butler	Oakland Township	Thorn Creek HQ-WWF to Thorn Run Dam WWF to Connoquenessing Creek

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

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

**STATE CONSERVATION COMMISSION**

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

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

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

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

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

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

**NUTRIENT MANAGEMENT PLAN—PUBLIC NOTICE SPREADSHEET—APPLICATIONS**

Agricultural Operation Name and Address	County	Total Acres	Animal Equivalent Units	Animal Type	Special Protection Waters (HQ or EV or NA)	Renewal/New
Ken Gebhart Blue Berry Hill Farms 2950 Centennial Road Hanover, PA 17331	Adams	592.8 acres	520.81	Swine	N/A	Renewal

**PUBLIC WATER SUPPLY (PWS) PERMIT**

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

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the

writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

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

The permit application and any related documents are on file at the office listed before the application and are

available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

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

### SAFE DRINKING WATER

#### Applications Received under the Pennsylvania Safe Drinking Water Act

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

**Permit No. 1508506**, Public Water Supply.

Applicant **London Grove Township Authority**  
372 Rose Hill Road  
West Grove, PA 19390

Township London Grove  
County **Chester**  
Type of Facility PWS  
Consulting Engineer Keystone Engineering Group  
967 Swedesford Road  
Suite 300  
Exton, PA 19341

Permit to Construct Issued April 10, 2008

**Permit No. 4608506**, Public Water Supply.

Applicant **Superior Water Company**  
1885 Swamp Pike  
Suite 109  
Gilbertsville, PA 19525

Township New Hanover  
County **Montgomery**  
Type of Facility PWS  
Consulting Engineer Ebert Engineering  
P. O. Box 540  
4092 Skippack, PA 19471

Permit to Construct Issued December 27, 2007

**Permit No. 0908512**, Public Water Supply.

Applicant **Richland Township Water Authority**  
1328 California Road  
Suite D  
Quakertown, PA 18951

Township Richland  
County **Bucks**  
Type of Facility PWS  
Consulting Engineer Van Cleef Engineering  
50 East Court Street  
Doylestown, PA 18901

Permit to Construct Issued October 8, 2008

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

**Permit No. 3608517**, Public Water Supply.

Applicant **Elizabethtown Area Water Authority**  
Municipality Elizabethtown Borough  
County **Lancaster**  
Responsible Official John M. Caldwell  
Authority Manager  
5 Municipal Drive  
Elizabethtown, PA 17022

Type of Facility Public Water Supply  
Consulting Engineer Peter Lusardi, P. E.  
CET Engineering Services  
1240 North Mountain Road  
Harrisburg, PA 17112

Application Received September 11, 2008  
Description of Action Construction of a new Pall membrane filtration plant.

**Permit No. 2208507**, Public Water Supply.

Applicant **Tulpehocken Spring Water, Inc.**  
Municipality Gratz Borough  
County **Dauphin**  
Responsible Official Joseph Malloy, President  
750 Point Township Drive  
Northumberland, PA 17857

Type of Facility Public Water Supply  
Consulting Engineer Thomas G. Pullar, P. E.  
EarthRes Group, Inc.  
P. O. Box 468  
Pipersville, PA 18947

Application Received September 22, 2008  
Description of Action Reconstruction of the spring source.

**Permit No. 3608519**, Public Water Supply.

Applicant **King's River Haven MHP and Campsite**  
Municipality Conoy Township  
County **Lancaster**  
Responsible Official Larry W. King, Owner  
2379 River Road  
Bainbridge, PA 17502

Type of Facility Public Water Supply  
Consulting Engineer Stephen R. Morse, P. E.  
Skelly and Loy, Inc.  
2601 North Front Street  
Harrisburg, PA 17110-1185

Application Received October 3, 2008  
Description of Action Change in disinfection from iodine to sodium hypochlorite.

**Permit No. 0108513**, Public Water Supply.

Applicant **York Springs Municipal Authority**  
Municipality Huntingdon Township  
County **Adams**

Responsible Official	Roy M. Williams, Jr. Chairperson P. O. Box 222 York Springs, PA 17372	Type of Facility	Residential care facility
Type of Facility	Public Water Supply	Consulting Engineer	Gibson-Thomas Engineering Co., Inc. 1004 Ligonier Street P. O. Box 853 Latrobe, PA 15650
Consulting Engineer	Janet R. McNally, P. E. William F. Hill & Assoc., Inc. 207 Baltimore Street Gettysburg, PA 17325	Application Received Date	October 8, 2008
Application Received	October 17, 2008	Description of Action	Construction of a water system that includes an interconnection of three wells, new well source, disinfection, water treatment storage and distribution.
Description of Action	Installation of a 300,000-gallon raw water storage tank.		
	<b>Permit No. 3608521</b> , Public Water Supply.		
Applicant	<b>Black Rock Association</b>	<b>Permit No. 6308501</b> , Public Water Supply.	
Municipality	Colerain Township	Applicant	<b>Authority of the Borough of Charleroi</b> 3 McKean Avenue P. O. Box 211 Charleroi, PA 15022
County	<b>Lancaster</b>	Township or Borough	Speers Borough
Responsible Official	John Hollinger Facilities Manager 1345 Kirkwood Pike Quarryville, PA 17566	Responsible Official	Edward Golanka Authority Manager Authority of the Borough of Charleroi 3 McKean Avenue P. O. Box 211 Charleroi, PA 15022
Type of Facility	Public Water Supply	Type of Facility	Speers pump station
Consulting Engineer	Thomas J. Whitehill, P. E. Whitehill Consulting Engineers 763 Conowingo Road Quarryville, PA 17566	Consulting Engineer	Chester Engineers 260 Airside Drive Moon Township, PA 15108
Application Received	October 21, 2008	Application Received Date	October 23, 2008
Description of Action	Installation of nitrate treatment.	Description of Action	Addition of sodium hypochlorite for disinfection (rechlorination) at the Speers pump station.
	<b>Permit No. 3608522</b> , Public Water Supply.		
Applicant	<b>Elizabethtown Area Water Authority</b>	<b>Permit No. 2690502A1</b> , Public Water Supply.	
Municipality	Mount Joy Borough	Applicant	<b>Pennsylvania American Water Company</b> 800 West Hersheypark Drive P. O. Box 888 Hershey, PA 17033
County	<b>Lancaster</b>	Township or Borough	Luzerne Township
Responsible Official	John M. Caldwell Authority Manager 5 Municipal Drive Elizabethtown, PA 17022	Responsible Official	David Kaufman Vice President-Engineering Pennsylvania American Water Company 800 West Hersheypark Drive P. O. Box 888 Hershey, PA 17033
Type of Facility	Public Water Supply	Type of Facility	Hiller Reservoir
Consulting Engineer	Peter Lusardi, P. E. CET Engineering Services 1240 North Mountain Road Harrisburg, PA 17112	Consulting Engineer	Bankson Engineers, Inc. 267 Blue Run Road P. O. Box 200 Indianola, PA 15051
Application Received	October 21, 2008	Application Received Date	October 14, 2008
Description of Action	Installation of a chlorine booster station.	Description of Action	Replacement of the liner and floating cover at the Hiller Reservoir.
	<i>Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222- 4745.</i>		
	<b>Permit No. 3208504</b> , Public Water Supply.		
Applicant	<b>Eastern Orthodox Foundation</b> P. O. Box 432 Indiana, PA 15701		
Township or Borough	Cherry Hill Township		
Responsible Official	Michael Lawer Board Chairperson Eastern Orthodox Foundation P. O. Box 432 Indiana, PA 15701		

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

**Application No. 2408503, Public Water Supply.**

Applicant **Jay Township Water Authority**  
 Township or Borough Jay Township  
**Elk County**  
 Responsible Official Nadine Pirazzi  
 Board Chairperson  
 Consulting Engineer Peter Buss, Project Engineer  
 Gibson-Thomas Engineering Co.,  
 Inc.  
 1004 Ligonier Street  
 P. O. Box 853  
 Latrobe PA 15650  
 Application Received Date October 27, 2008  
 Description of Action Permitting and connection of a new well to serve as the emergency back up supply.

**MINOR AMENDMENT**

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

**Application No. 4807507MA, Minor Amendment, Public Water Supply.**

Applicant **Walnutport Authority**  
 Lehigh Township  
**Northampton County**  
 Responsible Official Dennis Green, Chairperson  
 Walnutport Authority  
 417 Lincoln Avenue  
 Walnutport, PA 18088  
 Type of Facility Community Water System  
 Consulting Engineer Larry S. Turoscy, P. E.  
 Lehigh Engineering Associates,  
 Inc.  
 499 Riverview Drive  
 P. O. Box 68  
 Walnutport, PA 18088  
 (610) 767-8545  
 Application Received Date September 2, 2007  
 Description of Action Application for amendment of PWS permit No. 4807507, issued August 7, 2008, to allow for construction of a different water storage tank than originally approved.

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

**Application No. 0208515MA, Minor Amendment.**

Applicant **Pennsylvania American Water Company**  
 800 West Hersheypark Drive  
 P. O. Box 888  
 Hershey, PA 17033  
 Township or Borough Mount Pleasant Township

Responsible Official David Kaufman  
 Vice-President Engineer  
 Pennsylvania American Water Company  
 800 West Hersheypark Drive  
 P. O. Box 888  
 Hershey, PA 17033  
 Type of Facility Water storage tank  
 Consulting Engineer Bankson Engineers, Inc.  
 267 Blue Run Road  
 P. O. Box 200  
 Indianola, PA 15051  
 Application Received Date October 22, 2008  
 Description of Action Construction of a 0.35 million gallon water storage tank.

**Application No. 2608506MA, Minor Amendment.**

Applicant **Nemacolin Woodlands, Inc.**  
 1001 LaFayette Drive  
 Farmington, PA 15330  
 Township or Borough Wharton Township  
 Responsible Official Matt Delman  
 Director of Engineering  
 Nemacolin Woodlands, Inc.  
 1001 LaFayette Drive  
 Farmington, PA 15330  
 Type of Facility Interconnection  
 Consulting Engineer McMillen Engineering  
 115 Wayland Smith Drive  
 Uniontown, PA 15401  
 Application Received Date September 8, 2008  
 Description of Action Interconnection with the National Pike Water Authority.

**Application No. 0208516MA, Minor Amendment.**

Applicant **Pennsylvania American Water Company**  
 800 West Hersheypark Drive  
 P. O. Box 888  
 Hershey, PA 17033  
 Township or Borough Bethel Park  
 Responsible Official Paul Zielinski, Sr.  
 Director WQ and Environmental Compliance  
 Pennsylvania American Water Company  
 800 West Hersheypark Drive  
 P. O. Box 888  
 Hershey, PA 17033  
 Type of Facility Water storage tank  
 Consulting Engineer  
 Application Received Date October 16, 2008  
 Description of Action Blasting and painting of the interior and exterior of the 5,900,000 gallon Rocky Ridge Tank No. 3.

**Application No. 0208517MA, Minor Amendment.**

Applicant	<b>Pennsylvania American Water Company</b> 800 West Hersheypark Drive P. O. Box 888 Hershey, PA 17033
Township or Borough	Monongahela Borough
Responsible Official	Paul Zielinski, Sr. Director WQ and Environmental Compliance Pennsylvania American Water Company 800 West Hersheypark Drive P. O. Box 888 Hershey, PA 17033
Type of Facility	Water storage tank
Consulting Engineer	
Application Received Date	October 16, 2008
Description of Action	Blasting and painting of the interior and exterior of the 1,000,000 gallon Main Street Tank.

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

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

**WA2-1013, Water Allocations. Reserve Township Municipal Waterworks**, 33 Lonsdale Street, Pittsburgh, PA 15212, **Allegheny County**. The applicant is requesting the right to purchase 600,000 gallons of water per day from the Pittsburgh Water and Sewer Authority.

**WA30-587G, Water Allocations. Southwestern Pennsylvania Water Authority**, P. O. Box 187, 1442 Jefferson Road, Jefferson, PA 15344, **Greene County**. The applicant is requesting the right to withdraw 10 million gallons of water per day, peak month, from the Monongahela River.

**WA2-1013, Water Allocations. Pennsylvania American Water Company**, 800 West Hersheypark Drive, P. O. Box 888, Hershey, PA 17033, **Washington County**. The applicant is requesting a service area expansion to include the former Claysville-Donnegal Joint Municipal Water System into their PAWC-Pittsburgh System.

**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:

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

**Former J. C. Ehrlich Site**, City of Williamsport, **Lycoming County**. Molesevich Environmental, LLC, P. O. Box 654, Lewisburg, PA 17837 behalf of Victor Hammel, JCE Real Estate, LLC, 500 Spring Road Drive, Wyomissing, PA 19601 has submitted a Notice of Intent to Remediate soil contaminated with No. 2 fuel oil and gasoline. The applicant proposes to remediate the site to meet Site-Specific Standard. The future use of the property will remain commercial with a residential apartment on the second floor.

**James Estate Farm**, Turbot Township, **Northumberland County**. Molesevich Environmental, LLC, P. O. Box 654, Lewisburg, PA 17837 on behalf of Century 21 Mertz



& Assoc. Real Estate has submitted a Notice of Intent to Remediate soil contaminated with gasoline. The applicant proposes to remediate the site to meet the Statewide Health Standard. The future use of the site is will remain a farm and residential property.

## 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, Ray Kempa, New Source Review Chief, (570) 826-2507.*

**40-317-032A: Mission Foods** (15 Elmwood Avenue, Mountaintop, PA 18707) for modification of their existing thermal oxidizer at their facility in Wright Township, **Luzerne County**.

**48-399-060: Steel Management Systems, LLC** (3045 Bath Pike, Nazareth, PA 18064) for operation of a shot blast machine at their facility in Upper Nazareth Township, **Northampton County**.

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

**32-00398A: Western Allegheny Energy, LLC** (301 Market Street, Kittanning, PA 16201) for construction of Coal Processing Plant at the Knob Creek Mine in Young Township, **Indiana County**.

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

**42-178C: Glenn O. Hawbaker, Inc.** (711 East College Avenue, Bellefonte, PA 16823) for modification of a plan approval to add a RAP crusher, replace the mixing drum, install a screen, use waste asphalt shingles in the hot mix asphalt and permit three portable plants to crush and screen materials as needed at Glenn O. Hawbaker, Inc. Plant No. 7—Turtlepoint Asphalt in Annin Township, **McKean County**.

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**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.**

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

**54-313-088: Air Products & Chemicals** (357 Marion Avenue, Tamaqua, PA 18252) for modification to their existing Flourine Operation to include a new scrubber at their facility in Rush Township, **Schuylkill County**. The company shall comply with 123.31 for malodorous emissions. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system. 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.

**54-322-008: UGI Development Co.** (1 Meridian Boulevard, Suite 2C01, Wyomissing, PA 19610) for construction and operation of a ground flare at Commonwealth Environmental Systems Landfill in Foster Township, **Schuylkill County**. This facility is not a Title V facility. The company will install the ground flare to control emission from the off-gas from the siloxane removal system. The plan approval will include NSPS (40 CFR 60, Subpart WWW), NESHAP (40 CFR 63, Subpart AAAA), and all appropriate testing, monitoring, recordkeeping and reporting requirements designed to keep the operations within all applicable air quality requirements.

**48-316-005: TreeCycle, LLC** (2026 Route 31, Suite 6, Glen Gardner, NJ 08826) for construction and operation of a wood pelletizing facility in Plainfield Township, **Northampton County**. This facility is not a Title V facility. The company will install wood pelletizing equipment with cyclones and air filters to control emission into the atmosphere. The facilities main emissions are PM (78 tpy), NOx (86 tpy) and VOC (36 tpy). The allowable emissions are 100 tpy for PM, and NOx and 50 tpy for VOC. The plan approval will include all appropriate testing, monitoring, recordkeeping and reporting requirements designed to keep the operations within all applicable air quality requirements.

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

**38-05020B: G & H Fortyniners, Inc., d/b/a Keystone Protein Co.** (P. O. Box 37, Fredericksburg, PA 17026) for modification to rendering operations with a new cooker controlled by existing scrubber and a 600 hp boiler in **Lebanon County**. The primary emissions are NOx, which will be kept at less than 100 tpy for the facility. This plan approval will be incorporated into facility's synthetic minor operating permit No. 38-05020. The plan approval and permit will contain monitoring, recordkeeping and reporting designed to keep the facility operating within all applicable air quality requirements.

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

**49-00029A: Clark's Feed Mill, Inc.** (Route 61 North, P. O. Box W, Shamokin, PA 17872) for construction and operation of a pellet cooling operation (Source ID P109) consisting of one pellet cooler, one pellet mill and associated material handling equipment at their Feed Mill in Ralpho Township, **Northumberland County**. The pellet cooler's emissions will be controlled by a high efficiency dual cyclone (ID C109). The pellet mill and associated material handling equipment will be fully enclosed and gasketed to control emissions.

The Department of Environmental Protection's (Department) review of the information contained in the application submitted by Clark's Feed Mill, Inc. indicates that the proposed pellet cooling operation and associated high efficiency dual cyclone system will comply with all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the fugitive air contaminant emission requirement of 25 Pa. Code § 123.1 and the visible air contaminant emission requirement of 25 Pa. Code § 123.41. The plan approval, if issued, will subsequently be incorporated in an operating permit by means of an administrative amendment in accordance with 25 Pa. Code § 127.450 at a later date.

Based upon this finding, the Department intends to issue a plan approval for the proposed project. 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 regulatory requirements:

1. Source ID P109 is a pellet cooling operation consisting of the following sources:

- (a) Milpro manufactured counter current pellet cooler.
- (b) CPM series 6000 Pellet mill.
- (c) High efficiency dual cyclone.

- (d) 2-way diverter valve.
- (e) RB drag conveyor.
- (f) Rotary distributor/turnhead.
- (g) Six pellet mash bins.
- (h) Pelleting feed screw.
- (i) Pelleting conditioner.
- (j) RB drag conveyor.
- (k) Bucket elevator.
- (l) RB drag conveyor.
- (m) Rotary distributor/turnhead.
- (n) RB drag conveyor.

The PM/PM10 emissions from the pellet cooler of Source ID P109 shall be controlled by an Aircon manufactured model 2H47 high efficiency dual cyclone (ID C109).

2. Under BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the PM/PM10 emissions from the exhaust of ID C109 associated with the pellet cooler of Source ID P109 shall not exceed 0.02 gr/dscf of effluent gas volume at any time.

3. Under BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the operating hours of the pellet cooler of Source ID P109 shall not exceed 5,400 hours in any 12-consecutive month period.

4. Under BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the visible air contaminants emissions from the exhaust of the cyclone (ID C109) associated with the pellet cooler of Source ID P109 shall not exhibit equal to or greater than 10% opacity at any time. Compliance with this requirement assures compliance with the opacity requirements of 25 Pa. Code § 123.41.

5. Under BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the pellet mill and all material handling equipment of Source ID P109 except pellet cooler shall be fully enclosed and gasketed to control the fugitive emissions.

6. The permittee shall perform PM stack testing on the exhaust of cyclone (ID C109) used to control PM/PM10 emissions from the pellet cooler of Source ID P109 should the Department determine that testing is needed to determine compliance with the applicable PM emission limit.

7. Under BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the cyclone (ID C109) shall be equipped with instrumentation to monitor the differential pressure across the collector on a continuous basis.

8. Under BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the PM collected in the hopper of the cyclone (ID C109) shall only be removed by means of an enclosed system.

9. Under BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the cyclone (ID C109) associated with Source ID P109 shall be operated all the times that the pellet cooler is in operation.

10. This plan approval does not authorize the construction, installation or operation of any gasoline, natural gas, propane or diesel-fired stationary engines, generators or engine-generator sets.

11. The permittee shall keep records of the operating hours of the pellet cooler of Source ID P109 operated on a monthly basis to verify compliance with the operating hours limitation. The permittee shall keep these records for a minimum of 5 years and shall be presented to the Department upon request.

12. The permittee shall record the pressure drops across ID C109 at least once per day that Source ID P109 operates. The permittee shall keep these records for a minimum of 5 years and shall be presented to the Department upon request.

13. The cyclone (ID C109) associated with Source ID P109 shall be constructed, operated and maintained in accordance with the manufacturer's instructions and recommendations.

A copy of the plan approval application is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at (570) 327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Manager, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

**18-00001A: Columbia Gas Transmission, Corp.** (1700 MacCorkle Avenue SE, Charleston, WV 25314-1518), for the proposed reactivation and operation of the existing Cooper-Bessemer GMV-8TF, 880 hp, 2-stroke, lean burn, natural gas-fired, reciprocating internal combustion engine (RICE) No. 3 (Source ID P103) at their Renovo Compressor Station facility located in Chapman Township, **Clinton County**.

The Department of Environmental Protection's (Department) review of the information contained in the application submitted by Columbia indicates that the engine will comply with all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including BAT Requirements of 25 Pa. Code §§ 127.1 and 127.12. Based on these findings, the Department intends to issue a plan approval for the reactivation of the existing Cooper-Bessemer GMV-8TF, 880 hp, 2-stroke, lean burn, natural gas-fired, reciprocating internal combustion engine (RICE) No. 3 (Source ID P103). Additionally, if the Department determines that the respective engine is operating in compliance with all plan approval conditions, the conditions established in the plan approval will be incorporated into Title V operating permit 18-00001 by means of an administrative amendment under 25 Pa. Code § 127.450.

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

1. Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12, the PM emissions from the exhaust of Source ID P103 shall not exceed 0.01 gr/dscf.

2. Under 25 Pa. Code § 123.21, no person may permit the emission of the SO<sub>x</sub> expressed as SO<sub>2</sub>, into the outdoor atmosphere from Source ID P103 in a manner that the concentration in the effluent gas exceeds 500 parts per million, by volume, dry basis.

3. Compliance with the requirement specified in this streamlined permit condition assures compliance with the provision in 25 Pa. Code § 129.91.

Under the BAT requirements of 25 Pa. Code §§ 127.1 and 127.12:

(a) The NO<sub>x</sub> emissions, expressed as NO<sub>2</sub>, from Source ID P103 shall not exceed 1.8 grams/horsepower-hour, at full load, full speed operating conditions and shall not exceed 3.6 grams/horsepower-hour, under any other operating conditions.

(b) The CO emissions from Source ID P103 shall not exceed 2.0 grams/horsepower-hour and shall not exceed 16.98 tons in any 12-consecutive month period, under any operating conditions.

(c) The VOC emissions from Source ID P103 shall not exceed 1.0 grams/horsepower-hour, under any operating conditions.

Additional authority for this permit condition is also derived from 25 Pa. Code § 129.91:

(a) The NO<sub>x</sub> emissions, expressed as NO<sub>2</sub>, from Source ID P103 shall not exceed the following:

(1) 2.0 grams/horsepower-hour, at full load, full speed operating conditions.

(2) 4.0 grams/horsepower-hour, under any other operating conditions.

(b) Source IDs P101, P102 and P103, may not emit a combined total of the following pollutants in excess of the maximum limitations listed:

(1) CO—50.98 tons in any 12-consecutive month period.

(2) VOCs—25.5 tons in any 12-consecutive month period.

4. Under the BAT requirements of 25 Pa. Code §§ 127.1, 127.12 and 129.91, the permittee shall use only pipeline quality natural gas as fuel for Source ID P103.

5. Within 120 days of reactivation of the engine (Source ID P103), the permittee shall perform Environmental Protection Agency (EPA) reference method stack testing upon Source ID P103 for CO, NO<sub>x</sub>, expressed as NO<sub>2</sub>, and VOCs to verify compliance with the CO, NO<sub>x</sub>, and VOC emission limitations for Source ID P103.

(a) The performance test shall consist of three separate test runs and each run shall last at least 1 hour in duration.

(b) The testing is to be done using reference method test procedures acceptable to the Department and all testing is to be performed while Source ID P103 is operating at +/- 10% of full load.

6. Every 5 years after the completion of the first stack testing, the permittee shall perform EPA reference method stack testing upon Source ID P103 for CO, NO<sub>x</sub>, and VOCs to verify compliance with the CO, NO<sub>x</sub>, and VOC emission limitations for Source ID P103.

7. (a) The permittee shall maintain comprehensive and accurate records of the following information for Source ID P103:

(1) The number of hours that Source ID P103 is operated on a monthly basis.

(2) Stack Test Reports for Source ID P103.

(3) The supporting calculations used to verify compliance with the PM and SO<sub>x</sub> emission limitations.

(4) The supporting calculations used to verify compliance with the CO, NO<sub>x</sub> and VOC emission limitations in any 12-consecutive month period.

(b) These records shall be maintained for a minimum of 5 years and shall be made available to the Department upon request.

8. (a) The permittee shall submit to the Department on a semi-annual basis records of the supporting calculations used to verify compliance with the CO, NO<sub>x</sub> and VOC emissions limitations in any 12-consecutive month period.

(b) The semi-annual reports shall be submitted to the Department by no later than September 1 (July 1 of the previous year through June 30 of the concurrent year) and March 1 (January 1 through December 31 of the previous year) for the 12-consecutive month period.

9. Source ID P103 is an 880 hp, natural gas fired, Cooper Bessemer model GMV-8TF, 2 cycle, lean burn engine (Engine No. 3).

10. The conditions contained in Title V operating permit (TVOP) 18-00001 remain in effect unless superseded or amended by conditions contained herein. If there is a conflict between a condition or requirement contained in this plan approval and a condition contained in TVOP 18-00001, the permittee shall comply with the condition or requirement contained in this plan approval rather than the conflicting condition or requirement contained in TVOP 18-00001.

A copy of the plan approval application and the Department's review is available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling the Department at (570) 327-3693. Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Manager, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

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

**30-00177: Coresco, LLC.** (308 Dents Run Road, Morgantown, WV 26501) for construction of a coal transport facility consisting of belt lines, stockpile and haul road and other supporting equipment for the purpose of transporting coal across the state line into WV at the Dooley Run Terminal, in Dunkard Township, **Greene County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.45, the Department of Environmental Protection (Department) intends to issue a Plan Approval PA-30-00177 to allow the construction of a coal transport facility consisting of belt lines, stockpile and haul road and other supporting equipment for the purpose of transporting coal across the state line into West Virginia at the Dooley Run Terminal, located in Dunkard Township, Greene County.

Emissions from the facility are estimated to be 43.99 tons of PM per year and 12.85 tons of PM under 10 microns (PM<sub>10</sub>) per year. The proposed facility is subject to the applicable requirements of 25 Pa. Code Chapter 127, related to construction, modification, reactivation and operation of sources. The Department believes that the facility will meet these requirements by complying with the following Plan Approval conditions:

### *Special Conditions*

1. This Plan Approval authorizes the construction of a new onground stockpiling, underground reclaim and transfer system for the purpose of transporting coal across the state line into West Virginia. The facility will be located at Coresco, LLC's Dooley Run Terminal in Dunkard Township, Greene County. This Plan Approval authorizes the owner/operator the allowable throughput of 3,000,000 tpy through this facility.

2. Per 25 Pa. Code § 123.1(a), there shall be no visible fugitive emissions from this facility at any time, except those that are a direct result of stockpiling or use of roads. Per 25 Pa. Code § 123.1(c), permittee shall take all reasonable actions to prevent PM arising from stockpiling or use of roads from becoming airborne. Per 25 Pa. Code § 123.2, visible fugitive emissions shall not cross permittee's property line at any time.

3. The Owner/Operator shall maintain the coal moisture content at or above 5% and will monitor to assure that the moisture content is maintained.

4. A road sweeper and/or a pressurized water truck shall be available to the site and shall be used for dust suppression purposes. Inplant roads and areas of vehicle traffic shall be watered, as needed on a preventative basis, and earth or other material transported from the site shall be removed promptly such that visible fugitive emissions do not cross the property line in accordance with 25 Pa. Code §§ 123.1 and 123.2. Other methods of dust control shall be used when weather conditions make inplant road watering hazardous, as necessary, to prevent visible fugitive emissions from crossing the property line in accordance with 25 Pa. Code §§ 123.1 and 123.2.

5. All conveying equipment and front-end loaders used to stockpile, transfer and load coal shall maintain a minimal amount of drop height at all times so as to prevent fugitive emissions. The use of heavy equipment (such as, high-lifts, bulldozers, and the like) to move coal shall be limited to clean up around the underground feeders.

6. All coal transfer points and conveyors shall be fully or partially enclosed.

7. Water sprays shall be installed on all transfer points, and stockpile and be operated as needed when the facility is in operation. The plant shall not be operated in the event that the dust suppression systems are incapable of operation, unless coal moisture content makes operation of water sprays unnecessary.

8. The Owner/Operator shall use existing or manmade wind barriers, where possible, to prevent fugitive emissions from crossing the property line.

9. The first 500 feet inplant roads shall be paved and maintained so as to prevent fugitive emissions from crossing the property line.

10. The Owner/Operator shall post the following:

a. A speed limit of 15 mph or less on all inplant roads.

b. A requirement stating, "All loaded trucks entering or exiting the plant property shall be properly tarpaulin covered."

11. Coal stockpiling operations shall occur in those areas delineated in the site plan from which coal can be reclaimed through the underground feeders and which are within the effective range of the fixed water spray heads.

12. The Department may require additional controls and/or practices based on evaluation of the operation after startup.

13. A person may not permit the emission into the outdoor atmosphere of any malodorous air contaminants from any source in such a manner that the malodors are detectable outside the property of the person on whose land the source is being operated.

14. Owner/operator shall perform a daily inspection of the facility for the presence of fugitive or malodorous emissions. If such emissions are noted, immediate actions shall be taken to correct them. (25 Pa. Code § 127.12b)

15. Owner/operator shall maintain records of all fugitive and malodor inspections performed, and records of all dust control and road maintenance activities. Records shall include date, time, area of operation, hours or mileage of the water truck, and descriptions of any roadway maintenance activities.

16. The Owner/Operator shall maintain records of the 12-month rolling total or the following:

- a. Tons of coal delivered to the Facility.
- b. Tons of coal shipped from the Facility.

17. All records shall be maintained onsite for a minimum of 5 years, and shall be made available to the Department upon request.

18. The permittee shall report each malfunction that may result in an emissions increase to the Department. For purposes of this condition a malfunction is defined as any sudden, infrequent and not reasonably preventable failure of air pollution control or process equipment; or, operating in a nonpermitted manner.

a. When the malfunction poses an imminent and substantial danger to the public's health and safety or potential harm to the environment, the permittee shall report the incident to the Department within 1 hour.

- b. The report shall describe the:
  1. Name and location of the facility;
  2. Nature and cause of the malfunction;
  3. Time when the malfunction or breakdown was first observed;
  4. Expected duration of excess emissions; and
  5. Estimated rate of emissions.

c. The owner or operator shall notify the Department immediately when corrective measures have been accomplished.

d. Unless otherwise required by specific reporting requirements, any malfunction that is not subject to the notice requirements of paragraph a. of this permit condition, shall be reported to the Department within 24-hours (or the next business day) by telephone and within 5 days by mail of discovery. The report shall contain the same information required by subsection b.1—5.

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

20. Upon completion of Initial Operating Permit Inspection and determination by the Department that the sources covered by this Plan Approval are in compliance with all conditions of the Plan Approval the Owner/

Operator shall submit a State-only Operating Permit application at least 60 days prior to the expiration date of the Plan Approval.

#### *General Conditions*

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

22. The issuance of this plan approval does not prevent the future adoption by the Department of any rules, regulations or standards, or the issuance of orders necessary to comply with the requirements of the Federal Clean Air Act (CAA) or the APCA, or to achieve or maintain ambient air quality standards. The issuance of this plan approval shall not be construed to limit the Department's enforcement authority.

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

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

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

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

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

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

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

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

a. Upon cause shown by the permittee that the records, reports or information or a particular portion thereof, but not emission data, to which the Department has access under the act, if made public, would divulge production or sales figures or methods, processes or production unique to that person or would otherwise tend to affect adversely the competitive position of that person by revealing trade secrets, including intellectual property rights, the Department will consider the record, report or information, or particular portion thereof confidential in the administration of the act. The Department will implement this section consistent with sections 112(d) and 114(c) of the CAA (42 U.S.C.A. §§ 7412(d) and 7414(c)). Nothing in this section prevents disclosure of the report, record or information to Federal, State or local representatives as necessary for purposes of administration of Federal, State or local air pollution control laws, or when relevant in a proceeding under the act.

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

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

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

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

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

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

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

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

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

a. The permittee shall also allow the Department to have access at reasonable times to said sources and associated air cleaning devices with such measuring and recording equipment, including equipment recording visual observations, as the Department deems necessary and proper for performing its duties and for the effective enforcement of the APCA and regulations adopted under the act.

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

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

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

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

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

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

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

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

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

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

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

Those who wish to provide the Department with additional written information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to Noor Nahar, Department of

Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222. Each written comment must contain the following:

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

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

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

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

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

**AMS 08211: Kinder Morgan** (3300 North Delaware Avenue, Philadelphia, PA 19137) for the following: (1) Acceptance of a 150,000,000 gallon per rolling 12-month period facility tank truck loading throughput limit for fuel grade ethanol; (2) Removal of vapor control loading capability from Racks X and B; and (3) Modification of Loading Rack F to increase fuel grade ethanol loading capability in the City of Philadelphia, **Philadelphia County**. After the limitation acceptance and modification, there will be a potential annual fuel grade ethanol emission of 2.93 tons from tank truck loading operations. HAPs emissions from the facility is limited to less than 10 tons per rolling 12-month period for each individual HAP and less than 25 tons per rolling 12-month period for combined HAPs. The plan approval will contain operating, monitoring, recordkeeping and reporting requirements to ensure operation within all applicable requirements.

**AMS 0832: Pearl Pressman Liberty** (7625 Suffolk Avenue, Philadelphia, PA 19153) for installation of five nonheatset sheet-fed lithographic printing presses and three 360,000 Btu/hr space heaters fired by natural gas. After installation of the presses and space heaters, there will be a potential annual increase of 1 ton of NOx, 23 tons of VOCs; and 5 tons of HAPs from the facility. The facility will be limited to less than 25 tons per rolling 12-month period of VOCs, 10 tons per rolling 12-month period of individual HAPs, and 25 tons per rolling 12-month period of combined HAPs. The plan approval will contain operating, monitoring and recordkeeping requirements to ensure operation within all applicable requirements.

#### OPERATING PERMITS

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

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

**01-05029: Reliant Energy Wholesale Generation, LLC** (121 Champion Way, Suite 200, Canonsburg, PA 15317) for operation of a combustion turbine power generation facility in Straban Township, **Adams County**. The facility's major source of emissions include three combined cycle combustion turbines with duct burners and three simple cycle turbines. The primary pollutants are NOx, CO, VOCs, SO<sub>2</sub> and PM. The operating permit will include monitoring, recordkeeping, work practice and reporting requirements designed to keep the source operating with all applicable air quality requirements.

**06-05036: Cryovac, Inc.** (P. O. Box 295, Reading, PA 19603-0295) for operation of an expanded polystyrene foam products manufacturing facility in Muhlenberg Township, **Berks County**. This action is a renewal of the Title V operating permit issued in 2004.

#### **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.*

**46-00158: Colorcon** (415 Moyer Boulevard, West Point, PA 19486-0024) for the manufacturing of colorants and specialty coatings for the food and pharmaceutical industries in Upper Gwynedd Township, **Montgomery County**. This action is a renewal of the original State-only Operating Permit (Natural Minor), which was issued on October 14, 2003, and was amended on June 22, 2007. Several typographical changes have been made to the permit. Otherwise, there have been no other changes made to the permit since it was last amended on June 22, 2007. The permit includes monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**09-00080: Milford Enterprises, Inc.** (450 Commerce Drive, Quakertown, PA 18951) for the renewal of a Non-Title V Facility, State-only, Synthetic Minor Permit in Milford Township, **Bucks County**. Milford Enterprises manufactures custom display cases for commercial, architectural and other professional applications. The main emissions from this facility are VOCs from spray coating operations, manual coating operations, adhesive applications, clean-up operations, graphic arts printing and a parts washer. This facility has an emission limit of 24.5 tons of VOCs per year on a 12-month rolling basis for all the sources combined, and all sources, except the parts washer, have applicable limits on VOCs. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

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

**01-05024: McDermitt, Inc.** (83 Hunterstown Road, Gettysburg, PA 17325) for operation of batch asphalt and concrete plants at their facility in Straban Township, **Adams County**. This is a renewal of the State-only operating permit issued in 2003.

**06-05083: Williams Metal Finishing, Inc.** (P. O. Box 2029, Sinking Spring, PA 19608) for operation of a metal finishing facility in Sinking Spring Borough, **Berks County**. Some of the sources are subject to 40 CFR Part 63, Subpart T, National Emission Standards for HAPs from Halogenated Solvent Cleaning. This action is a renewal of the State-only operating permit issued in 2002.

**36-03063: Kearney A. Snyder Funeral Home, Inc.** (141 East Orange Street, Lancaster, PA 17602) for operation of a cremation chamber in the City of Lancaster, **Lancaster County**. This is a renewal of the State-only operating permit issued in 2004.

**67-03007: Cooper Industries, Ltd.** (3990 East Market Street, York, PA 17402) for operation of a steel chain manufacturing facility in Springettsbury Township, **York County**. This is a renewal of the State-only operating permit issued in 2003.

**67-03117: FES Systems, Inc.** (3475 Board Road, York, PA 17406) for operation of two coating booths in Manchester Township, **York County**. This is a renewal of the State-only operating permit issued in 2003.

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

**18-00021: Avery Dennison Performance Polymers** (171 Draketown Road, Mill Hall, PA 17751) for operation of a polymer products manufacturing facility in Bald Eagle Township, **Clinton County**.

The facility incorporates various pieces of chemical process equipment (batch reactors, tanks, and the like) as well as 15 small natural gas-fired boilers, heaters, and the like (with a total combined heat input of 25.6 mmBtu/hr) and two 235 hp diesel fuel-fired fire pump engines. Most of the VOC and VHAP emissions from the facility's chemical process equipment are controlled by two thermal fume oxidizers.

The air contaminant emissions from the facility are not expected to exceed 13.4 tons of NO<sub>x</sub>, 11.3 tons of CO, 4.7 tons of HAPs, 3.8 tons of VOCs, 1.2 tons of PM/PM<sub>10</sub> and .2 ton of SO<sub>x</sub> per year.

The facility is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection (Department) proposes to incorporate into the operating permit to be issued conditions requiring compliance with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants as well as conditions contained in Operating Permit 18-313-018B, issued on October 26, 1998 (and subsequently amended on April 19, 2004), conditions contained in the General Plan Approval and General Operating Permit for Storage Tanks for Volatile Organic Liquids (BAQ-GPA/GP-2) and conditions established as requirements of a number of plan approval exemption determinations made for the facility.

The conditions previously contained in Operating Permit 18-313-018B include:

1. A condition requiring the facility's batch reactors and numerous other pieces of chemical process equipment to be covered at all times while in use and vented to atmosphere only through the facility's two thermal fume oxidizers, except as allowed under condition 5 herein.

2. A condition prohibiting more than 40 cubic feet per minute from being vented to either of the two thermal fume oxidizers.

3. A condition requiring the two thermal fume oxidizers to be operated such that the oxidizer exit gas temperature is at least 1,600° F at all times, except as allowed under condition 5 herein.

4. Conditions requiring the two thermal fume oxidizers to be equipped with instrumentation to continuously monitor and record the oxidizer's outlet temperatures and requiring retention of the records generated by this instrumentation.

5. Conditions allowing the two thermal fume oxidizers to be bypassed or operated at a temperature of less than 1,600° F for up to 30 minutes per month, during which time the batch reactors and other pieces of chemical process equipment ducted to the thermal fume oxidizers may continue to operate, and requiring the maintenance of records of these occurrences.

6. A condition prohibiting the use of any substances identified as HAPs in any batch reactor or other piece of chemical process equipment ducted to the two thermal fume oxidizers, other than those identified in a plan approval application, unless prior written approval has been obtained from the Department.

7. Conditions limiting the products produced in the facility's R-600 and R-800 batch reactors to water-based polymer or copolymer products used as adhesives, coatings or resins, manufactured from a monomer mixture containing no more than 37% vinyl acetate by weight (measured as a percentage of total monomer content), containing no monomer with a vapor pressure higher than that of vinyl acetate and containing no halogenated solvents.

8. A condition limiting the products produced in the facility's R-700 batch reactor to either: (1) water-based polymer or copolymer products used as adhesives, coatings or resins, manufactured from a monomer mixture containing no more than 37% vinyl acetate by weight (measured as a percentage of total monomer content), containing no monomer with a vapor pressure higher than that of vinyl acetate and containing no halogenated solvents; or (2) solvent-based polymer or copolymer products used as adhesives, coatings or resins, as described in the application and supplemental materials submitted for Plan Approval 18-313-018C.

9. Conditions prohibiting the production of more than 876 batches per calendar year in each of batch reactors R-600, R-700 and R-800.

The conditions previously contained in the BAQ-GPA/GP-2 include:

10. A condition limiting the respective storage tank (a 50,000 gallon capacity storage tank identified as T-20) to the storage of organic liquids with a vapor pressure equal to or less than .75 psi under actual storage conditions.

11. A condition requiring the maintenance of records of the identity and vapor pressure of the organic liquid stored in the respective storage tank (T-20).

The conditions previously established as conditions of plan approval exemption determinations include:

12. Conditions limiting specified storage tanks to the storage of specified materials and requiring the maintenance of records of the identity of the materials stored in each tank.

13. Conditions requiring storage tanks T-3 (old), T-3 (new), T-4 (new), T-5—T-7, T-12—T-14 to each be equipped with a pressure relief valve set to release at no less than .5 psig of pressure and .3 psig of vacuum, storage tank T-15 to equipped with a pressure relief valve set to release at no less than .7 psig of pressure and .3 psig of vacuum, and storage tanks T-2, T-4 (old), T-8—T-11, T-16—T-19 to each be equipped with a pressure relief valve.

14. Conditions requiring storage tanks T-2, T-3 (old), T-3 (new), T-4 (old), T-4 (new), T-5—T-19 to be equipped with vapor return systems which eliminate working losses of solvent vapor upon each occasion material is loaded into the tanks.

15. A condition allowing storage tank T-19 to be used for the storage of vinyl acetate provided the tank is equipped with an 8 ounce, or greater, pressure relief valve and is not vented to atmosphere other than through this valve.



16. A condition limiting the materials handled in charging tanks T-U5 and T-U6 to n-dodecyl mercaptan and glycidyl methacrylate and the amount of these materials processed through the respective charging tanks to 112,480 pounds and 40,458 pounds, respectively, in any 12-consecutive month period.

17. Conditions limiting the operation of the facility's two fire pump engines to no more than 100 hours each in any 12-consecutive month period and requiring the maintenance of records of the number of hours each engine operates each month.

The new conditions the Department proposes to incorporate into the operating permit to be issued include:

18. Conditions limiting the total combined facility-wide emission of VOCs to less than 50 tons in any 12-consecutive month period, the total combined facility-wide emission of any single HAP to less than 10 tons in any 12-consecutive month period and the total combined facility-wide emission of all HAPs to less than 25 tons in any 12-consecutive month period and requiring the maintenance of such records as are necessary to determine compliance with these limitations.

19. Conditions limiting the fuel used in the facility's 15 small natural gas-fired boilers, heaters, and the like to natural gas and the fuel used in the facility's fire pump engines to virgin diesel fuel to which no reclaimed/reprocessed oil, waste oil or other waste materials have been added.

20. A condition requiring the annual submission of the records maintained of the number of hours each of the facility's fire pump engines operates each month.

21. Conditions requiring the performance of stack testing on the facility's two thermal fume oxidizers within 12 months of operating permit issuance to determine the oxidizers' VOC/HAP destruction efficiencies and outlet VOC emission rates.

22. Conditions requiring the maintenance of records of the identity of the products produced in each batch reactor system each month, a description of each product produced in each batch reactor system (including product type, vinyl acetate content of monomer mixture, identity and vapor pressure of each monomer used and identity of any solvent used), the number of batches processed each month in batch reactor systems R-600—R-800 and the amount of n-dodecyl mercaptan and glycidyl methacrylate processed through charging tanks T-U5 and T-U6 each month and requiring the annual submission of these records as well as the records maintained of the date, time and duration of each occurrence that the thermal fume oxidizers were bypassed or operated at a temperature of less than 1,600° F.

23. A condition requiring the permittee to contact the Department at least 7 days prior to any change in the materials stored in storage tank T-20.

24. Conditions requiring the maintenance of records of the vapor pressure of the materials stored in each of the facility's storage tanks and up-to-date Certified Product Data Sheets for each material and requiring the annual submission of the vapor pressure records as well as the records maintained of the identity of the material stored in each storage tank.

**49-00028: Wildwood Cemetery Co.** (1151 Cemetery Street, Williamsport, PA 17701) for renewal of a State-only operating permit for operation of a human remains crematory facility at Pomfret Manor Cemetery in the City of Sunbury, **Northumberland County**.

The facility incorporates two crematory incinerators used to cremate human remains. The air contaminant emissions from the facility are not expected to exceed 3.0 tons of NO<sub>x</sub>, 1.5 tons of CO, 1.6 tons of PM/PM<sub>10</sub>, .1 ton of VOCs and .05 ton of SO<sub>x</sub> per year.

The facility is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection (Department) proposes to renew State-only Operating Permit 49-00028. The Department intends to incorporate into the renewal all conditions currently contained in State-only Operating Permit 49-00028 except for these changes:

1. A condition requiring the maintenance of records of monthly inspections performed to detect the presence of visible air contaminant emissions, visible fugitive air contaminant emissions and malodorous air contaminant emissions has been modified to require the maintenance of records of any action taken to eliminate or reduce the level of observed air contaminant emissions.

2. A condition requiring malfunctions to be reported to the Department has been modified to exclude the reporting of malfunctions which do not result in, or potentially result in, air contaminant emissions in excess of an applicable air contaminant emission limitation and/or do not result in, or potentially result in, noncompliance with any operating permit condition.

3. A condition requiring the secondary combustion chamber temperature of one of the facility's crematory incinerators to be recorded at least once per week has been modified to require the temperature to be recorded at least once during each incineration cycle.

4. A condition has been added to the permit to clarify that the secondary combustion chamber burners incorporated in both of the facility's crematory incinerators are to be operated prior to charging the incinerators (to preheat the secondary combustion chambers) and at the end of any period of incinerator use (to control emissions from any smoldering residue).

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

**20-00130: Meadville Forging Co.** (15309 Baldwin Street Extension, P. O. Box 459, Meadville, PA 16335), for issuance of a Natural Minor Operating Permit to operate a facility that manufactures closed die forged products in West Mead Township, **Crawford County**. The facility's primary emission sources include 13 forging presses, 16 heat treating furnaces, welding stations, natural gas fired heaters, five parts washers, three shot blasters, two natural gas fired emergency generators and four production saws.

## COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam

Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated above each application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for the certification.

Written comments or objections, or requests for an informal conference, or a public hearing, as applicable, on a mining permit application may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the address of the district mining office indicated above each application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—34.

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

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

Where a National Pollutant Discharge Elimination System (NPDES) number is listed, the mining activity permit application was accompanied by an application for an individual NPDES permit. The Department has made a tentative determination to issue the NPDES permit in conjunction with the mining activity permit, but the issuance of the NPDES permit is contingent upon the approval of the associated mining activity permit.

For coal mining activities, NPDES permits, when issued, will contain effluent limits that do not exceed the technology-based effluent limitations. The proposed limits are listed in Table 1.

For noncoal mining activities, the proposed limits are found in Table 2. Discharges from noncoal mines located

in some geologic settings (for example, in the coal fields) may require additional effluent limits. If additional effluent limits are needed for an NPDES permit associated with a noncoal mining permit, then the permit description below specifies the parameters. The limits will be in the ranges specified in Table 1.

More restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining that may occur, will be incorporated into an NPDES permit when necessary for compliance with water quality standards and antidegradation requirements (in accordance with 25 Pa. Code Chapters 91—96).

The procedures for determining the final effluent limits, using a mass-balance equation or model, are found in Technical Guidance Document 362-0600-001, NPDES Program Implementation—Memorandum of Understanding Concerning Water Quality Management, NPDES Program Implementation and Related Matters. Other specific factors to be considered include public comments and Total Maximum Daily Loads (TMDLs).

Persons wishing to comment on an NPDES permit application should submit a statement to the Department at the address of the district mining office indicated previously each application within 30 days of this public notice. Comments received within the comment period will be considered in the final determinations regarding the NPDES permit applications. Comments must include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests or petitions for a public hearing on NPDES permit applications, as provided in 25 Pa. Code § 92.61. The request or petition for a public hearing shall be filed within 30 days of this public notice and shall contain the name, address, telephone number and the interest of the party filing the request, and shall state the reasons why a hearing is warranted. A public hearing may be held if the Department considers the public interest significant. If a hearing is scheduled, a notice of the hearing on the NPDES permit application will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. In the case where a public hearing is held, the Department will consider comments from the public hearing in the final determination on the NPDES permit application.

*Coal Applications Received*

*Effluent Limits*—The following range of effluent limits will apply to NPDES permits issued in conjunction with the associated coal mining activity permit and, in some cases, noncoal mining permits:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (Total)	1.5 to 3.0 mg/l	3.0 to 6.0 mg/l	3.5 to 7.0 mg/l
Manganese (Total)	1.0 to 2.0 mg/l	2.0 to 4.0 mg/l	2.5 to 5.0 mg/l
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Aluminum (Total)	0.75 to 2.0 mg/l	1.5 to 4.0 mg/l	2.0 to 5.0 mg/l
pH <sup>1</sup>		greater than 6.0; less than 9.0	
Alkalinity greater than acidity <sup>1</sup>			

<sup>1</sup>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) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

*California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.*

**17031701 and NPDES Permit No. PA0235504, Lady Jane Collieries, Inc.**, (2 North Ninth Street, Allentown, PA 18101), to renew the permit for the Horning Run Passive Treatment in Huston Township, **Clearfield County** and related NPDES permit. No additional discharges. Application received September 5, 2008.

**30921601 and NPDES Permit No. PA0214060, River Processing Corporation**, (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to revise the permit for the Freeport Surface Facilities in Jefferson Township, **Greene County** and related NPDES permit to add surface coal preparation and support activity area site acres and one new discharge point. The operation name is changed from Monongahela Resources Tipple. Surface Acres Proposed 188.0. Receiving streams: Tributary to Rush Run and Monongahela River, both classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is Tri-County Joint Municipal Authority and intake: Monongahela River. Application received May 30 2008.

**32011301 and NPDES Permit No. PA0235636, AMFIRE Mining Company, LLC**, (One Energy Place, Latrobe, PA 15650), to revise the permit for the Palmerton Mine in Burrell Township, **Indiana County** to add surface acreage to construct an access road. Surface Acres Proposed 4.5. No additional discharges. Application received September 4, 2008.

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

**32990103 and NPDES Permit No. PA0212687. TLH Coal Company**, 4401 Pollock Road, Marion Center, PA 15759, permit revision-land use change on Murray Mumau and Paul Wanchisn properties from Wildlife Habitat and Forest to Pasture and unmanaged natural habitat in Grant Township, **Indiana County**, affecting 30 acres. Receiving streams: UNTs to/and East Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received October 16, 2008.

**32970105 and NPDES Permit No. PA0234427. TLH Coal Company**, 4401 Pollock Road, Marion Center, PA 15759, permit revision-land use change on Murray Mumau and Paul Wanchisn properties from Wildlife Habitat to Pasture or land occasionally cut for hay in Grant Township, **Indiana County**, affecting 42 acres. Receiving streams: UNTs to/and East Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received October 16, 2008.

**32030103 and NPDES No. PA0249416. Britt Energies, Inc.**, 2450 Philadelphia Street, Indiana, PA 15701, permit renewal for reclamation only of a bituminous surface and auger mine in Center Township, **Indiana County**, affecting 175.6 acres. Receiving streams: Tearing

Run to Two Lick Creek to Blacklick Creek to Conemaugh River classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received October 16, 2008.

**56030102 and NPDES No. PA0249424. Mountaineer Mining Corporation**, 1010 Garrett Shortcut Road, Berlin, PA 15530, permit renewal for reclamation only of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 29.6 acres. Receiving streams: UNTs to/and Hays Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received October 21, 2008.

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

**03900109 and NPDES Permit No. PA0200476. Thomas J. Smith, Inc.** (2340 Smith Road, Shelocta, PA 15774). Application received for transfer of permit currently issued to Short Brothers, Inc., for continued operation and reclamation of a bituminous surface mining site located in Kittanning Township, **Armstrong County**, affecting 92.5 acres. Receiving streams: Campbell Run to Crooked Creek to Allegheny River, classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is greater than 10 miles from the site. Transfer application received October 14, 2008.

**03060104 and NPDES Permit No. PA0250996. Thomas J. Smith, Inc.** (2340 Smith Road, Shelocta, PA 15774). Application received for transfer of permit currently issued to Short Brothers, Inc., for continued operation and reclamation of a bituminous surface mining site located in Manor and Kittanning Townships, **Armstrong County**, affecting 85.4 acres. Receiving streams: UNTs to Campbell Run to Crooked Creek to Allegheny River, classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is greater than 10 miles from the site. Transfer application received October 14, 2008.

**03020109 and NPDES Permit No. PA0250228. Thomas J. Smith, Inc.** (2340 Smith Road, Shelocta, PA 15774). Renewal application for reclamation only of a bituminous surface mine, located in Plumcreek Township, **Armstrong County**, affecting 181 acres. Receiving streams: Cherry Run and a UNT to Cherry Run, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received October 17, 2008.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**33080108 and NPDES Permit No. PA0258679. P. and N. Coal Co., Inc.** (P. O. Box 332, Punxsutawney, PA 15767). Commencement, operation and restoration of a bituminous surface strip and auger operation in Porter Township, **Jefferson County** affecting 427.0 acres. Receiving streams: Sugarcamp Run, Hamilton Run and UNTs to Hamilton Run, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received October 14, 2008.

**1192-33080108-E-1. P. and N. Coal Co., Inc.** (P. O. Box 332, Punxsutawney, PA 15767). Application for a stream encroachment to conduct surface mining activities within 100 feet of the east side of Hamilton Run in Porter Township, **Jefferson County**. Receiving streams: Sugarcamp Run, Hamilton Run and UNTs to Hamilton Run, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received October 14, 2008.

**33920109 and NPDES Permit No. PA0211427. Sky Haven Coal, Inc.** (5510 State Park Road, Penfield, PA 15849). Renewal of an existing bituminous surface strip and auger operation in Winslow Township, **Jefferson County** affecting 315.0 acres. Receiving streams: UNTs to Trout Run, McCreight Run and Soldier Run (CWF) to Sandy Lick Creek (TSF). The first downstream potable water supply intake from the point of discharge is Reynoldsville Water Authority. Application for reclamation only. Application received October 20, 2008.

**33-07-11 and NPDES Permit No. PA0258458. RES Coal, LLC** (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920). Proposal to enter into a Government Financed Reclamation Construction Contract on a 11.2 acre site in Winslow Township, **Jefferson County**. The proposal includes total reclamation of 4.9 acres of abandoned mine lands as well as 4.9 acres of coal removal incidental and necessary to the reclamation activities. Receiving streams: UNT No. 2 to Soldier Run. Application received October 19, 2007. Contract Issued October 22, 2008.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**17080113 and NPDES No. PA0256943. Rob Holland Enterprises** (52 Holland Lane, Curwensville, PA 16833), commencement, operation and restoration of a bituminous surface mine in Bloom Township, **Clearfield County**, affecting 6.0 acres. Receiving streams: UNTs to Anderson

Creek and Little Anderson Creek, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received October 3, 2008.

**17813093 and NPDES No. PA0609609. AMFIRE Mining Co., LLC** (One Energy Place, Latrobe, PA 15650). Permit renewal for the continued operation and restoration of a bituminous surface, auger, refuse disposal, noncoal (shale) mining and preparation plant mine in Lawrence Township, **Clearfield County**, affecting 112.5 acres. Receiving stream: Wolf Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received October 9, 2008.

**17020101 and NPDES No. PA0243205. 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 61.0 acres. Receiving stream: UNT to Moshannon Creek, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received October 16, 2008.

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

**54030103R and NPDES Permit No. PA0224367. Jett Contracting Company,** (P. O. Box 243, Brockton, PA 17925), renewal of an existing anthracite surface mine operation and NPDES Permit for discharge of treated mine drainage in Blythe Township, **Schuylkill County** affecting 116.0 acres, receiving stream: Morgan's Run, classified for the following use: CWF. Application received October 23, 2008.

*Noncoal Applications Received*

*Effluent Limits*—The following effluent limits will apply to NPDES permits issued in conjunction with a noncoal mining permit:

Parameter	Table 2		
	30-day Average	Daily Maximum	Instantaneous Maximum
Suspended solids	10 to 35 mg/l	20 to 70 mg/l	25 to 90 mg/l
Alkalinity exceeding acidity* pH*		greater than 6.0; less than 9.0	

\* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

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

**58022803. Custom Stoneworks, Inc.,** (2213 Long Creek Road, Apalachin, NY 13732), Stages I and II bond release of a quarry operation in Choconut Township, **Susquehanna County** affecting 5.0 acres on property owned by Jeffrey and Pamela Benthin. Application received October 20, 2008.

**7974SM3C12. New Hope Crushed Stone & Lime Co.,** (P. O. Box 248, New Hope, PA 18938), depth correction to an existing quarry to advance the pit floor to a

–170 feet MSL in Solebury Township, **Bucks County** affecting 145.0 acres, receiving stream: Primrose Creek, classified for the following use: TSF. Application received October 21, 2008.

**40060801. Piacenti Trucking & Excavating, Inc.,** (Rear 538 Putnam Street, West Hazleton, PA 18202), Stage I and II bond release of a quarry operation in Butler Township, **Luzerne County** affecting 5.0 acres on property owned by Donald and Mary Cook. Application received October 21, 2008.

**66980302C2 and NPDES Permit No. PA0223956. Joseph Keller,** (159 Anderson Road, Tunkhannock, PA 18657), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Lemon Township, **Wyoming County**, receiving stream: UNT to Tunkhannock Creek, classified for the following use: CWF. Application received October 24, 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.*

**E45-534. Hamilton F.C. Associates, LP**, 633 West Germantown Pike, Suite 200, Plymouth Meeting, PA 19462, in Hamilton and Stroud Townships, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain three outfall structures to a UNT to Pocono Creek (HQ-CWF). The first outfall consists of a 24-inch HDPE pipe with a concrete headwall and R-3 riprap. The second outfall consists of a 48-inch HDPE pipe with a concrete headwall and R-4 riprap. The third outfall consists of a 24-inch HDPE pipe with a concrete headwall and R-5 riprap. The project is located at the intersection of SR 0611 and SR 0033 (Mount Pocono, PA Quadrangle Latitude: 41° 00' 01"; Longitude: 75° 16' 25").

**E54-337. Schoeneman Realty Company**, P. O. Box 600, Route 61 North, Pottsville, PA 17901, in East Norwegian Township, **Schuylkill County**, United States Army Corps of Engineers, Philadelphia District.

To fill 0.16 acre of PEM Wetlands for the purpose of providing improved access off Tunnel Road to existing commercial business. The project is located near the intersection of SR 0061 and Tunnel Road (T-750), approximately 5.22 miles southeast of the intersection of SR 0081 and SR 0061 (Pottsville, PA Quadrangle Latitude: 40° 42' 14"; Longitude: 76° 11' 11").

**E39-488. Department of Transportation, Engineering District 5-0**, 1002 Hamilton Street, Allentown, PA 18103-1013, in Upper Saucon Township, **Lehigh County**, United States Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain a single span prestressed, spread box beam bridge having a normal span of 60 feet and an underclearance of 5 feet over South Branch Saucon Creek (HQ-CWF). The proposed bridge will be located approximately 32 feet downstream of the current bridge location; the project is located along SR 2047 (Landis Mill Road), Segment 0020, Offset 1959, approximately 0.4 mile east of the SR 2006/SR 0384 intersection (Allentown East, PA Quadrangle Latitude: 40° 32' 46"; Longitude: 75° 23' 16").

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

**E34-125. SR 0850, Section A06, Laurel Run Bridges, Department of Transportation, Engineering District 2-0**, P. O. Box 342, Clearfield, PA 16830, Tuscarora Township, **Juniata County**, United States Army Corps of Engineers, Baltimore District.

To: (1) raze the existing SR 0850 bridge having two spans, a width of 35.0 feet, a total span of 52.0 feet, and an underclearance of 6.3 feet over Laurel Run (CWF) (McCoysville, PA Quadrangle Latitude: 40° 24' 5.5"; Longitude: 77° 33' 6.3", N: 4.6 inches; W: 7.1 inches); (2) raze the existing T-311 bridge having a single span, a width of 27.0 feet, a total span of 33.0 feet, and an underclearance of 5.0 feet over Laurel Run (CWF) (McCoysville, PA Quadrangle Latitude: 40° 24' 7.0"; Longitude: 77° 33' 8.9", N: 4.7 inches; W: 7.2 inches); (3) to raze the existing SR 0075 bridge having two spans, a width of 23.4 feet, a total span of 37.3 feet skewed 75°, and an underclearance of 6.7 feet over Laurel Run (CWF) (McCoysville, PA Quadrangle Latitude: 40° 24' 7.4"; Longitude: 77° 33' 9.7", N: 4.8 inches; W: 7.3 inches); (4) construct and maintain a single span prestressed concrete spread box bridge having a width of 36.5 feet, a clear span of 39.0 feet skewed 75°, and a minimum underclearance of 5.11 feet carrying SR 0075 over Laurel Run (CWF) (McCoysville, PA Quadrangle Latitude: 40° 24' 7.4"; Longitude: 77° 33' 9.7", N: 4.8 inches; W: 7.3 inches); (5) construct and maintain a 58-inch by 91-inch concrete elliptical pipe having a length of 78.0 feet carrying SR 0850 over a UNT to Laurel Run (CWF) (McCoysville, PA Quadrangle Latitude: 40° 24' 5.5"; Longitude: 77° 33' 6.3", N: 4.6 inches; W: 7.1 inches); and (6) construct and maintain a 24-inch RCP pipe having a length of 115.0 feet carrying SR 0850 over a UNT to Laurel Run (CWF) (McCoysville, PA Quadrangle Latitude: 40° 24' 7.0"; Longitude: 77° 33' 8.9", N: 4.7 inches; W: 7.2 inches), all for the purpose of replacing the SR 0075 bridge over Laurel Run (CWF) and re-aligning SR 0850 in Tuscarora Township, Juniata County.

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

**E53-422. Coudersport Borough**, 201 South West Street, Coudersport, PA 16915. Fourth and Seventh Streets Bridge Replacement, in Coudersport Borough, **Potter County**, United States Army Corps of Engineers, Pittsburgh District (Coudersport, PA Quadrangle N: 41° 46' 45"; W: 78° 01' 09").

The proposed project involves the construction and maintenance of multiple bridge structure replacements over the concrete lined section of the Allegheny River, located within Coudersport Borough, **Potter County**. The existing structures, located at Fourth and Seventh Streets, will be removed. The historic bridge removed from Seventh Street will be moved to the Fourth Street location and used as a pedestrian crossing. The historic bridge is a single span steel Pratt through truss/arch structure with a clear span of 70.7 ft., an underclearance of 11.03 ft., and a skew of 90°. The proposed Seventh Street structure is a single span prestressed concrete spread box beam bridge with a clear span of 55.98 ft., an underclearance of 10.78 ft., and a skew of 84°. There is no anticipated stream disturbance, as no bridge construction work will take place within the concrete lined channel. The stream is classified as a CWF. There are no wetlands present within the project area.

**E59-484. AES Armenia Mountain Wind, LLC**. 4300 Wilson Boulevard, Arlington, VA 22203. Water Obstruction and Encroachment Joint Permit Amendment, Armenia Mountain Wind Project, in Richmond, Sullivan and Ward Townships, **Tioga County** and Armenia Township, **Bradford County**, United States Army Corps of Engineers, Baltimore District (Roseville, PA Quadrangle N: 41° 45' 33"; W: 76° 54' 43").

Permit amendment has been submitted to include the construction, operation and maintenance of a temporary access road impacting a total of 34 linear feet for two intermittent streams along an existing farm access road and the addition of a 115 KV transmission line corridor that will decrease the forested wetland conversion by 2.5 acres, resulting in a total forested wetland conversion for 0.91 acre for the entire project. All existing permit conditions will remain in effect.

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

**E63-610. Department of Transportation, District 12-0**, 825 North Gallatin Avenue Extension, Uniontown, PA 15401. To replace a bridge between Chartiers and South Strabane Townships, **Washington County**, United States Army Corps of Engineers, Pittsburgh District (Washington West, PA Quadrangle N: 14.7 inches; W: 1.15 inches, Latitude: 40° 12' 21"; Longitude: 80° 15' 29"). The applicant proposes to remove the existing SR 4049, two lane, single 56.66 ft. span, 27.5 ft. width, steel thru girder bridge having an underclearance of 11 ft. over Chartiers Creek (WWF); and to construct and maintain an adjacent, upstream and to the west a two lane, single 82.6 ft. span, 43.4 ft. width, replacement concrete box beam bridge, with an underclearance of 11.2 ft. The project extends between Chartiers and South Strabane Townships.

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

**E20-574, Tim Donut U.S. Limited, Inc.**, 4455 Transit Road, Suite 2B, Williamsville, NY 14221. Tim Hortons, in the City of Meadville, **Crawford County**, United States Army Corps of Engineers, Pittsburgh District (Meadville, PA Quadrangle N: 41° 37' 48"; W: 80° 9' 14").

The applicant proposes to remove existing structures and construct and maintain a 1,630 square foot building, stormwater management facilities, and a parking area within the FEMA floodway of French Creek approximately 350 feet NE of the intersection of Park Avenue and Linden Street eliminating approximately 139 feet of existing north-side frontage and constructing approximately 70 feet of new northside building frontage. French Creek is a perennial stream classified as a WWF.

**E20-573, Sharon Rice**, 24448 Willow Street, Union City, PA 16438. Sharon Rice Dock, in Bloomfield Township, **Crawford County**, United States Army Corps of Engineers, Pittsburgh District (Canadohta Lake, PA Quadrangle N: 41° 49' 00"; W: 79° 50' 3.45").

The applicant proposes to construct and maintain a 65 ft. long by 32 in. wide walking deck connected to a 20 ft. by 4 ft. private boat dock on Canadohta Lake, across the street from 24448 Willow Street, Bloomfield Township, **Crawford County**, approximately 100 ft. south of the intersection of Willow Street and Lakeview Drive in Bloomfield Township. The deck and dock will be raised approximately 2 ft. above normal summer lake pool elevation. Canadohta Lake is classified as a WWF.

#### ENVIRONMENTAL ASSESSMENTS

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

**EA02-010. Polo Club Apartments**, 916 Beaver Grade Road, Moon Township, PA 15108. A UNT of Montour Run Restoration Plan in Moon Township, **Allegheny County**, United States Army Corps of Engineers, Pittsburgh District (Ambridge, PA Quadrangle N: 1.8 inches; W: 12.8 inches, Latitude: 40° 30' 35"; Longitude: 80° 13' 02"). The applicant proposes to remove debris and rip rap covering a 24 inch corrugated metal pipe then lift the pipe out of the stream to restore the stream to its' original channel. No grading or landscaping is planned within the stream.

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.*

**D47-003EA. Borough of Danville**, 239 Mill Street, Danville, PA 17821-1983. Danville Borough, **Montour County**, United States Army Corps of Engineers, Baltimore District.

Project proposes to breach and remove Service Water Dam across Mahoning Creek (WWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 2,700 feet of stream channel. The dam is located approximately 1,700 feet south of the intersection of SR 54 and US 11 (Danville, PA Quadrangle Latitude: 40° 58' 09"; Longitude: 76° 37' 03").

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**ACTIONS**


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**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.

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**I. NPDES Renewal Permit Actions**


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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0115207 Sewerage	Borough of Orangeville P. O. Box 176 Orangeville, PA 17859	Orangeville Borough Columbia County	Fishing Creek 5C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0023698 Sewage	Vanport Township Municipal Authority 285 River Avenue Vanport, PA 1500	Beaver County Vanport Township	Twomile Run	N

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0210030	Knox Township Municipal Authority P. O. Box 130 Knoxdale, PA 15847	Knox Township Jefferson County	Indiancam Run 17-C	Y
PA0238988	Greene Meadows Subdivision 9485 Old Waterford Road Erie, PA 16509	Greene Township Erie County	UNT to the East Branch of LeBoeuf Creek 16A	Y

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

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

**NPDES Permit No. PA0011681**, Industrial Waste, **PECO Energy Company**, 300 Front Street, West Conshohocken, PA 19428. This proposed facility is located in West Conshohocken Borough, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge from the facility into Gulph Creek and the Schuylkill River in Watershed 3F.

**NPDES Permit No. PA0244422-A1**, IW, **Norfolk Southern Railway Company**, 110 Franklin Road SE, P. O. Box 13, Roanoke, VA 24042-0013, Upper Merion Township, **Montgomery County**.

The following notice reflects changes to the notice published at 38 Pa.B. 4534 (August 16, 2008):

Amendment of the permit issued September 25, 2008, deleting stormwater sampling requirements for Outfall 002. Instead, the permit includes a narrative requirement that no visible oil, sheen or discoloration of stormwater runoff is permitted for the area of the site draining to Crow Creek.

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

**NPDES Permit No. PA0070289-A1**, Sewage, **Schuylkill County Municipal Authority**, 221 South Centre Street, Pottsville, PA 17901. This existing facility is located in West Brunswick Township, **Schuylkill County**.

Description of Proposed Action/Activity: Transfer and amendment of NPDES Permit for the Pinebrook II Wastewater Treatment Facility.

## II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Non-Waived Permit Actions

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

**NPDES Permit No. PA0103101**, Sewage, **Wesley Woods Christian Education Center**, 1001 Fiddlers Green Road, Grand Valley, PA 16420. This proposed facility is located in Eldred, **Warren County**.

Description of Proposed Action/Activity: Renewal of a NPDES Permit for an existing discharge of treated sewage.

**NPDES Permit No. PA0024805**, Sewage, **Linesville Municipal Authority**, 103 West Erie Street, Box 145, Linesville, PA 16424. This proposed facility is located in Linesville Borough, **Crawford County**.

Description of Proposed Action/Activity: New permit for an existing discharge of treated sewage.

**NPDES Permit No. PA0222283**, Sewage, **Corsica Borough**, P. O. Box 176, Corsica, PA 15829-0176. This proposed facility is located in Borsica Borough, **Jefferson County**.

Description of Proposed Action/Activity: A new NPDES permit for an existing discharge of treated sewage.

## 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. 2103406, Transfer No. 1**, Sewage, **Michael Lee Esh**, 1135 Enola Road, Newburg, PA 17240. This proposed facility is located in Upper Mifflin Township, **Cumberland County**.

Description of Proposed Action/Activity: Transfer of Permit.

**WQM Permit No. 2179410, Amendment 08-1**, Sewage, **North Middleton Authority**, 240 Clearwater Drive, Carlisle, PA 17013. This proposed facility is located in North Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Amendment approves the operation of sewerage facilities consisting of: Rerating of treatment plant to an annual average flow of 1.3 mgd.

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

**WQM Permit No. 0208406**, Sewerage, **Marshall Township Municipal Sanitary Authority**, P. O. Box 2063, Warrendale, PA 15068. This proposed facility is located in Marshall Township, **Allegheny County**.

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



**WQM Permit No. WQG016165**, Sewerage, **George J. Timko**, 101 Matheny Lane, Aliquippa, PA 15001. This proposed facility is located in Raccoon Township, **Beaver County**.

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

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

**WQM Permit No. WQG018648**, Sewerage, **Daniel J. Seth**, 10525 Pebble Creek Drive, McKean, PA 16426. This proposed facility is located in McKean Township, **Erie County**.

Description of Proposed Action/Activity: A single-residence Sewage Treatment Plant.

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

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

#### IV. NPDES Stormwater Discharges from MS4 Permit Actions

#### V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024007005	T.G. Development, Inc. 1298 Valley of Lakes Hazleton, PA 18202	Luzerne	White Haven Borough	Linesville Creek HQ-CWF
PAI023508003	Robert K. Latzanich 611 Belmont Avenue Mount Pocono, PA 18344	Lackawanna	Covington Township	Meadow Brook HQ-CWF Tamarack Creek HQ-CWF Lehigh River HQ-CWF

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

*Somerset County Conservation District, Somerset County Agricultural Center, 6024 Glades Pike, Suite 103, Somerset, PA 15501, (814) 445-4652.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI055608002	Seven Springs Mountain Resort 777 Waterwheel Drive Champion, PA 15622	Somerset	Middlecreek Township Somerset County Saltlick Township Fayette County	UNT to Blue Hole Creek EV

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

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

#### List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated Groundwater Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest, or a Land Reclamation Site

PAG-9 (SSN)	Site Suitability Notice for Land Application Under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

*General Permit Type—PAG-2**Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Hampden Township Cumberland County	PAG2002108023	Richard E. Jordan Smith Land and Improvement Corp. 2010 State Road Camp Hill, PA 17011	Private Quarry N/A	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 (717) 240-7812
West Hanover Township Dauphin County	PAG2002208038	Richard E. Yingst Yingst Homes, Inc. 4712 Smith Street Harrisburg, PA 17109	Beaver Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Lower Paxton Township Dauphin County	PAG2002208033	Lower Paxton Township 425 Prince Street Harrisburg, PA 17109	Paxton Creek Beaver Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Camp Hill Borough Cumberland County	PAG2002107014	Terry Cain Fulton Bank—Fulton Financial Corporation One Penn Square Lancaster, PA 17602	Cedar Run CWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 (717) 240-7812
Huntingdon Township Adams County	PAG2000108019	Gerald McCauslin York Spring United Methodist Church 840 Trolley Road York Springs, PA 17372	Latimore Creek CWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325-3404 (717) 334-0636
Walker Township Huntingdon County	PAG2003108009	Ed Dezich Valley Rural Electric Cooperative P. O. Box 477 Huntingdon, PA 16652	Crooked Creek WWF	Huntingdon County Conservation District 10605 Raystown Road Suite A Huntingdon, PA 16652-9603 (814) 627-1627
Logan Township Blair County	PAR100730-2-R	AVR Altoona, LP One Executive Boulevard Yonkers, NY 10701	UNT to Brush Run WWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Taylor and North Woodbury Township Blair County	PAG2000703023-R	Joseph Hines 516 Landis Store Road Boyertown, PA 15912	Plum Creek WWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Jackson Township York County	PAG2006708044	A. Richard Astheimer FR Independence Property Holding, LP 707 Eagleview Boulevard Suite 110 Exton, PA 19341	Little Conewago Creek TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430

*Facility Location:  
Municipality &  
County*

<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
PAG2005608002	Laurel View Village 2000 Cambridge Drive Davidsville, PA 15928	UNT to Stonycreek River CWF	Somerset County Conservation District (814) 445-4652
PAG2006308019	Pleroma Partners 1904 Gina Drive West Mifflin, PA 15122 Trinity Contracting, Inc. P. O. Box 217 602 East Main Street West Newton, PA 15089	Sawmill Run Tributary to Pigeon Creek WWF	Washington County Conservation District (724) 228-6774
PAG2006308020	Pennsylvania-American Water Company 300 Galley Road McMurray, PA 15317	Chartiers Run and Raccoon Creek UNTs to Chartiers Run Raccoon Creek and Georges Run WWF	Washington County Conservation District (724) 228-6774
PAG2002507019	Universal Development, Inc. Ronald Anderson Cherry Hill Village Subdivision 1607 Motor Inn Drive Girard, OH 44420	Walnut Creek and UNT Walnut Creek CWF	Erie County Conservation District (814) 825-6403

*General Permit Type—PAG-3*

*Facility Location:  
Municipality &  
County*

<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
PAR802258	Waste Management of PA Apex Waste Services 13 Peggy Parkway Dunmore, PA 18512	UNT of Lackawanna River by means of unnamed drainage ditch	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
PAR122205	The Lion Brewery, Inc. 700 North Pennsylvania Avenue Wilkes-Barre, PA 18705-2451	Mill Creek CWF	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
PAR202224	Sandvik Materials Technology 982 Griffin Pond Road Clarks Summit, PA 18411	UNTs to Leggett's Creek CWF	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
PAR112223	Koehler-Bright Star, Inc. 380 Stewart Road Hanover Township, PA 18706	Sugar Notch Run CWF	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511

*General Permit Type—PAG-4**Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Springfield Township Bucks County	PAG040008	Robert G. Fitton 3260 Mink Road Kintnersville, PA 18930	UNT to Haycock Creek 2D Three Mile Run	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Cumberland County Upper Mifflin Township	PAG043713 Amendment No. 1	Michael Lee Esh 1135 Enola Road Newburg, PA 17240	UNT Bore Mill Run WWF 7B	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
McKean Township Erie County	PAG049461	Daniel J. Seth 10525 Pebble Creek Drive McKean, PA 16426	UNT to Lamson Run 15-EC	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Glade Township Warren County	PAG049453	Mark E. Donnicks and Todd Hefren 1030 East Fifth Avenue Warren, PA 16365	UNT to Quaker Run 16-B	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-5**Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Summit Hill Borough Carbon County	PAG052223	Slusser Brothers, Inc. 125 North Warren Street West Hazleton, PA 18202-2183	Panther Creek Little Schuylkill River	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511
Adams Township Butler County	PAG058384	Handee Marts, Inc. 714 Warrendale Road Gibsonia, PA 15044	Breakneck Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-8**Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
Nazareth Borough Northampton County	PAG08-2205	Nazareth Borough Municipal Authority Wastewater Treatment Plant 872 Tatamy Road Nazareth, PA 18064	Nazareth Borough Municipal Authority Wastewater Treatment Plant 872 Tatamy Road Nazareth, PA 18064	DEP—NERO 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511

## PUBLIC WATER SUPPLY (PWS) PERMITS

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

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing

Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

### SAFE DRINKING WATER

#### Actions taken under the Pennsylvania Safe Drinking Water Act

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

**Permit No. 4608506**, Public Water Supply.

Applicant	<b>Superior Water Company</b> 1885 Swamp Pike Suite 109 Gilbertsville, PA 19525
Township	New Hanover
County	<b>Montgomery</b>
Type of Facility	PWS
Consulting Engineer	Entech Engineering 4 South Fourth Street P. O. Box 32 Reading, PA 19603
Permit to Construct Issued	March 24, 2008

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

**Permit No. 4807502MA**, Public Water Supply.

Applicant	<b>Pennsylvania American Water</b> 800 West Hersheypark Drive Hershey, PA 17033 Pen Argyl Borough
County	<b>Northampton</b>
Type of Facility	PWS
Consulting Engineer	Daniel G. Rickard, P. E. Pennsylvania American Water 100 North Pennsylvania Avenue Wilkes-Barre, PA 18701
Permit to Construct Issued	October 22, 2008

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

**Permit No. 4407502 MA, Minor Amendment**, Public Water Supply.

Applicant	<b>Municipal Authority of the Borough of Lewistown</b>
Municipality	Armagh Township
County	<b>Mifflin</b>
Type of Facility	Permit approves the use of Poly Clear C-2425 as an additional coagulation chemical at the existing treatment building.
Consulting Engineer	John T. Mazich, P. E. Uni-Tec Consulting Engineers, Inc. 2007 Cato Avenue State College, PA 16801

Permit to Construct Issued October 20, 2008

**Permit No. 6708505 MA, Minor Amendment**, Public Water Supply.

Applicant	<b>Dillsburg Area Authority</b>
Municipality	Franklin Township
County	<b>York</b>
Type of Facility	Apple Blossom Estates Sherewood Heights Water Tank

Consulting Engineer	Eric Johnston, P. E. Johnston and Associates, Inc. 2386 Taxville Road York, PA 17408
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Permit to Construct Issued October 23, 2008

**Operations Permit** issued to **Borough of Kutztown**, 3060041, Kutztown Borough, **Berks County** on October 20, 2008, for the operation of facilities approved under Construction Permit No. 0605510.

**Operations Permit** issued to **Columbia Water Company**, 7360123, Columbia Borough, **Lancaster County** on October 27, 2008, for the operation of facilities approved under Construction Permit No. 3608502 MA.

**Operations Permit** issued to **Gretna Springs**, 7380045, West Cornwall Township, **Lebanon County** on October 22, 2008, for the operation of facilities approved under Construction Permit No. 3808501.

**Operations Permit** issued to **Mama's Pizza**, 7220375, East Hanover Township, **Dauphin County** on October 10, 2008, for the operation of facilities approved under Construction Permit No. 2208501.

**Operations Permit** issued to **Mama's Pizza**, 7220375, East Hanover Township, **Dauphin County** on October 1, 2008 for the operation of facilities approved under Construction Permit No. 2208504 MA.

**Operations Permit** issued to **Warriors Mark General Authority**, 4310031, Warriors Mark Township, **Huntingdon County** on October 10, 2008, for the operation of facilities approved under Construction Permit No. 3108504 E.

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

**Permit No. MA—1400502-T1—Operation**, Public Water Supply.

Applicant	<b>Haines Aaronsburg Municipal Authority</b>
Township or Borough	Haines Township
County	<b>Centre</b>
Responsible Official	Gardner Wagner Haines Aaronsburg Municipal Authority P. O. Box 254 Aaronsburg, PA 16820
Type of Facility	Public Water Supply—Operation

Consulting Engineer Tracey Olexa  
Herbert, Rowland & Grubic, Inc.  
474 Windmere Drive  
Suite 100  
State College, PA 16801

Permit Issued Date October 23, 2008

Description of Action Operation of liquid sodium hypochlorite.

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

**Permit No. 0208511**, Public Water Supply.

Applicant **Municipal Authority of Westmoreland County**  
124 Park and Pool Road  
New Stanton, PA 15672

Borough or Township City of McKeesport

County **Allegheny**

Type of Facility Addition of polymer feed system

Consulting Engineer KLH Engineers, Inc.  
5173 Campbells Run Road  
Pittsburgh, PA 15205

Permit to Construct Issued October 24, 2008

**Permit No. 0208507**, Public Water Supply.

Applicant **Pennsylvania American Water Company**  
800 West Hersheypark Drive  
P. O. Box 888  
Hershey, PA 17033

Borough or Township City of Pittsburgh and Baldwin Borough

County **Allegheny**

Type of Facility 60 mgd raw water pump station, intake, intake chamber/pipes, discharge mains and connection to transmission mains.

Consulting Engineer Gannett Fleming, Inc.  
207 Senate Avenue  
Camp Hill, PA 17011-2316

Permit to Construct Issued October 28, 2008

**Permit No. 1100502T1, Minor Amendment**, Public Water Supply.

Applicant **Highland Sewer and Water Authority**  
120 Tank Drive  
Johnstown, PA 15904

Borough or Township Adams Township

County **Cambria**

Type of Facility Krayn Water Cooperative distribution system

Consulting Engineer

Permit to Operate Issued October 24, 2008

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

**Operations Permit** issued to **Borough of Wattsburg**, PWSID No. 6250094, Wattsburg Borough, **Erie County**,

on October 22, 2008, for the operation of the arsenic treatment system, per specifications approved by construction permit 2507502, issued January 24, 2008.

**SEWAGE FACILITIES ACT PLAN APPROVAL**

**Plan Approvals Granted under section 5 of the Pennsylvania Sewage Facilities Act (35 P. S. § 750.5)**

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

*Plan Location:*

Borough or Township	Borough or Township Address	County
Straban Township	1745 Granite Station Road Gettysburg, PA 17325	Adams

*Plan Description:* The plan was approved following an extended review period and provides for the implementation of an onlot management ordinance. The name of the project is The Official Act 537 Sewage Facilities Plan for Straban Township and the Department of Environmental Protection's (Department) code number is E1-01929-ACT. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality, authority or owner as appropriate.

*Plan Location:*

Borough or Township	Borough or Township Address	County
New Oxford Borough	124 North Peters Street New Oxford, PA 17350	Adams

*Plan Description:* New Oxford Borough's sewage treatment plant will be retrofitted to satisfy the nutrient reduction requirements of the Chesapeake Bay Tributary Strategy. The Plan proposes to convert the existing aeration unit/clarifier into a large aerated basin, construct a new clarifier and improve preliminary treatment, solids handling, dewatering and disinfection capabilities. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Plan Location:*

Borough or Township	Borough or Township Address	County
Clay Township	870 Durlach Road Stevens, PA 17578	Lancaster

*Plan Description:* The approved plan provides for extension of sewer service to 91 lots with 89 residential units which will connect to the Ephrata Borough sewage collection and treatment system. A pump station is proposed which will be dedicated to the Ephrata Borough Authority to convey sewage from the development to the existing sewer system. Total sewage flow is 21,146 gpd. Two lots will be for nonbuilding purposes including open space, stormwater facilities and a pump station. The ID number for this minor plan revision is A3-36917-215-3 and the APS number is 653031. The name of the subdivision is "Bethany Gardens." The Department of Environmental Protection's review of the sewage facilities plan revision

has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Armstrong Township	Armstrong Township Supervisors 977 Parkwood Road Indiana, PA 15701	Indiana

*Plan Description:* The approved plan provides for a 44 lot single-family residential subdivision on a 34.1 acre parcel of land located between Anthony Run Road (SR 3039) and South Ridge Road (TR-362) in Armstrong Township, Indiana County, PA. The Department of Environmental Protection's review of the sewage facilities revision has not identified any significant impacts resulting from this proposal.

The Development is expected to generate an average of 12,980 gpd of sewage.

Extension of sewer mains from the existing Shelocta Sewage Treatment Plant will be built to accept this new sewage flow.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Borough of Blairsville	203 East Market Street Blairsville, PA 15717	Indiana
Burrell Township	P. O. Box 483 Black Lick, PA 15716	Indiana

*Plan Description:* The approved plan provides for a 450,000 gpd expansion to the Blairsville Municipal Authority Sewage Treatment Plan located in Burrell Township, Indiana County. Improvements to the sewage collection system main pump station and elimination of four combined sewer overflow will also be completed. The Department of Environmental Protection's review of the sewage facilities revision has not identified any significant impacts resulting from this proposal.

## HAZARDOUS SITES CLEANUP UNDER THE ACT OF OCTOBER 18, 1988

### Proposed Interim Response

#### Everglade Junkyard Site Surface Soils and Waste

#### Hempfield Township, Westmoreland County

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA), (35 P. S. §§ 6020.101—6020.1305) is proposing a response action for the surface soils and waste at the Everglade Junkyard Site (Site). The Site is located on Everglade Road about 1 mile south of Route 30 in Hempfield Township, Westmoreland County. The Site is the location of the former Everglade Iron and Steel Company. Contaminants at this Site include PCBs, lead and VOCs. These contaminants exceed Statewide Health Standards under the Land Recycling and Environmental Remediation Standards Act.

The following alternatives were evaluated: (1) no action; (2) construct fence around the Site; (3) excavate and dispose of waste, debris and all contaminated surface soil; and (4) remove and dispose of waste, large debris and PCB hotspots; cover remaining contaminated material with clean soil. The selected alternative is number four. This alternative was chosen because it complies with the applicable, relevant and appropriate requirements and is the most cost effective.

This proposed response consists of removal of waste, large debris and soil contaminated with elevated levels of PCBs. Impacted areas would then be covered with clean soil and revegetated. A soil management plan and deed restrictions would be used to ensure that the cap remains intact and the contaminated material is handled properly if disturbed.

This notice is being provided under section 506(b) of HSCA. The administrative record which contains the information that forms the basis and documents the selection of this response action is available for public review and comment. The administrative record is located at 400 Waterfront Drive, Pittsburgh, PA 15222 and is available for review Monday through Friday from 8 a.m. to 4 p.m.

The administrative record will be open for comment from November 8, 2008, until February 6, 2009. Person may submit written comments to the administrative record during this time by sending them to Dawna Saunders at 400 Waterfront Drive, Pittsburgh, PA 15222 or by delivering them to this office in person.

In addition persons may present oral comments, for inclusion in the administrative record at a public hearing. The Department has scheduled the hearing on December 9, 2008, at 6 p.m. at the Hempfield Township Municipal Building. Persons wishing to present comments for inclusion in the Administrative Record may do so at this time.

Persons with a disability who wish to attend the hearing and require auxiliary aid, service or other accommodations to participate in the proceedings should call Helen Humphreys at (412) 442-4000 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 2

**The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation

performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

**Schmoyer Trust Property**, Boyertown Borough, **Berks County**. Spotts, Stevens and McCoy, Inc., 1047 North Park Road, Reading, PA 19610-0307, on behalf of Barbara Schmoyer, 129 Sunset Lane, Boyertown, PA 19512 and Thrivent Financial Bank, 122 East College Avenue, Suite 1E, Appleton, WI 54911-5741, submitted a Final Report concerning remediation of site soils and groundwater contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a

Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If 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:

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

**Allentown Junction Release Site**, South Whitehall Township, **Lehigh County**. David J. Demko, P. G., Groundwater & Environmental Services, Inc., 440 Creamery Way, Suite 500, Exton, PA 19341 submitted a Final Report (on behalf of his client, Buckeye Pipe Line Transportation, LLC, 9999 Hamilton Boulevard, Five TEK Park, Breinigsville, PA 18031), concerning the remediation of soils found to have been impacted by unleaded gasoline as a result of a valve failure. The report documented attainment of the Statewide Health Standard for soil and was approved on October 22, 2008.

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

**Former Lancaster Brickyard Site**, Manheim Township, **Lancaster County**. ARM Group, Inc., P. O. Box 797, Hershey, PA 17033-0797, on behalf of Lancaster County Solid Waste Management Authority, P. O. Box 4425, Lancaster, PA 17604 and Franklin and Marshall College, P. O. Box 3003, Lancaster, PA 17604-3003, submitted a remedial investigation report and cleanup plan concerning remediation of site soils, nonmedia solids and groundwater impacted by petroleum products, solvents, plasticizers, synthetic lubricants and metals. The site will be remediated to a combination of Statewide Health and Site-Specific Standards. The remedial investigation report and cleanup plan were approved October 3, 2008.

**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 cleanup plan concerning the remediation of site soils and groundwater contaminated with VOCs and SVOCs. The applicant is seeking to remediate the site to the Site-Specific Standard. The cleanup plan was approved by the Department of Environmental Protection on October 22, 2008.

**Bedford Valley Petroleum McConnellsborg Petroleum Bulk Plant**, Ayr Township, **Fulton County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, on behalf of Bedford Valley Petroleum, 10228 Lincoln Highway, Everett, PA 15537, submitted a Final Report concerning remediation of site soils contaminated with unleaded gasoline. The Final Report demonstrated attainment of the Residential Statewide Health Standard and was approved by the Department of Environmental Protection on October 24, 2008.

#### RESIDUAL WASTE GENERAL PERMITS

**Permit Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.**

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

**General Permit Application No. WMGR109-NWR03. Eagle Bio Diesel**, 13 Gillis Avenue, Ridgway, PA 15853, Borough of Ridgway, **Elk County**. The general permit registration was for used restaurant oil, yellow grease, grease trap waste, oils and animal fat from food processing or rendering plants, waste from ethanol production, soybean soap stock, float grease (from wastewater treatment plants) and off-specification vegetable oils for use as biofuel and biodiesel. The permit was issued by the Northwest Regional Office on September 26, 2008.

#### DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

**Determination of Applicability for General Permit Approved 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.**

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

**General Permit No. WMGR028SE004A. Highway Materials Inc.**, (TDPS Asphalt Plant) located at 3870 North 2nd Street, Philadelphia, PA 19140, City of Philadelphia, **Philadelphia County**. This application is for a determination of applicability under the beneficial use of baghouse fines and/or scrubber pond precipitates, generated by hot-mix asphalt plant as an aggregate in roadway construction, an ingredient or component in cement or asphalt products, a soil additive or a soil conditioner. The application for determination of applicability was approved by the Southeast Regional Office on September 23, 2008.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

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

**Permit No. 100148. Waste Management Disposal Service of Pennsylvania Inc.**, 1000 New Ford Mill Road, Morrisville, PA 19067, the GROWS Landfill, located in Falls Township, **Bucks County**. This application is for the installation of a concrete bottom in place of a steel bottom in Tank T-6 at the GROWS Landfill. The permit was issued by the Southeast Regional Office on October 23, 2003.

#### AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

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

**GP3-09-0082: Naceville Materials** (P.O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on October 28, 2008, to operate a portable nonmetallic mineral in Plumstead Township, **Bucks County**.

**GP9-09-0012: Naceville Materials** (P.O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on October 28, 2008, to operate a diesel/No. 2 fuel-fired internal in Plumstead Township, **Bucks County**.

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

**13-310-014GP3: Haines & Kibblehouse** (P.O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on October 14, 2008, to construct and operation of a Portable Crushing Operation with watersprays at the site located in Penn Forest Township, **Carbon County**.

**13-310-015GP3: Haines & Kibblehouse** (P.O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on October 15, 2008, to construct and operate a Portable Crushing Operation with watersprays at their site in Penn Forest Township, **Carbon County**.

**13-329-001GP9: Haines & Kibblehouse** (P.O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on October 14, 2008, to install and operate a Diesel I/C Engine at their site in Penn Forest Township, **Carbon County**.

**13-329-002GP9: Haines & Kibblehouse** (P.O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on October 14, 2008, to install and operate a Diesel I/C Engine at their site in Penn Forest Township, **Carbon County**.

**39-310-011GP3: Eastern Industries, Inc.** (4401 Camp Meeting Road, Center Valley, PA 18034) on October 16, 2008, to construct and operate a Portable Crushing Operation with watersprays at their site in North Whitehall Township, **Lehigh County**.

**39-302-194GP1: Coca-Cola Co.—Lehigh Valley Plant** (7551 Schantz Road, Allentown, PA 18106) on October 14, 2008, to construct and operate two boilers at their site in Upper Macungie Township, **Lehigh County**.

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

**GP3-06-03144A: Haines & Kibblehouse, Inc.** (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on October 23, 2008, for Portable Nonmetallic Mineral Processing Plants under GP3 in Tilden Township, **Berks County**.

**GP3-06-03144B: Haines & Kibblehouse, Inc.** (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on October 23, 2008, for Portable Nonmetallic Mineral Processing Plants under GP3 in Tilden Township, **Berks County**.

**GP9-06-03144A: Haines & Kibblehouse, Inc.** (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on October 23, 2008, for Diesel or No. 2 Fuel-fired Internal Combustion Engines under GP9 in Tilden Township, **Berks County**.

**GP9-06-03144B: Haines & Kibblehouse, Inc.** (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on October 23, 2008, for Diesel or No. 2 Fuel-fired Internal Combustion Engines under GP9 in Tilden Township, **Berks County**.

**GP9-21-05021A: Arnold Fuel Oil, Inc.** (P. O. Box 2621, Harrisburg, PA 17105-2621) on October 24, 2008, for Diesel or No. 2 fuel-fired Internal Combustion Engines under GP9 in Silver Spring Township, **Cumberland County**.

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

**GP24-49-00007-1: Cherokee Pharmaceuticals, LLC** (100 Avenue C, P. O. Box 367, Riverside, PA 17868 ) on October 20, 2008, to authorize the construction and operation of point sources that handle/process pharmaceutical products under the General Plan Approval for Pharmaceutical and Specialty Chemical Production (BAQ-GPA-24) located in Riverside Borough, **Northumberland County**.

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

**GP-24-163A: Seneca Resources Corp.—Wilson Run Station** (Fire Tower Road, Brookville, PA 15825) on October 27, 2008, to operate a natural gas fired compressor engine (BAQ-GPA/GP-5) in Horton Township, **Elk County**.

**GP-33-177A: Seneca Resources Corp.—Brookville South Station** (Pump Station Road, Brookville, PA 15825) on October 24, 2008, to operate natural gas fired compressor engines (BAQ-GPA/GP-5) in Knox Township, **Jefferson County**.

**GP-42-210A: Seneca Resources Corp.—Halsey Pipe Yard Station** (SR 219, Kane, PA 16735) on October 27, 2008, to operate natural gas fired compressor engines (BAQ-GPA/GP-5) in Sergeant Township, **McKean County**.

**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

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

**09-0003B: Superpac, Inc.** (1220 Industrial Boulevard, Southampton, PA 18966) on October 23, 2008, to install a flexographic printing press at their Superpac facility in Upper Southampton Township, **Bucks County**. The facility is a manufacturing-commercial printing processor, which operates other flexographic printing presses, numerous space heaters and various miscellaneous sources associated with printing and manufacturing. Superpac is a Title V Facility, currently operating under TVOP-09-00003. The new source is an 8-station, 41-inch web width, central-impression flexographic printing press manufactured by Paper Converting Machine Company. The source is designated as Source ID 132 Flexo Printing Press CI-16. The plan approval will include monitoring, testing, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**15-0090B: National Service Industries** (303 Eagleview Boulevard, Exton, PA 19341) on October 27, 2008, to install flexographic printing heads on an existing flexographic printing press at an envelope manufacturing and printing facility in Uwchlan Township, **Chester County**. The plan approval is for a non-Title V (State-only) facility. The process will potentially increase VOC emissions by 3.0 tons per annum. The plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**23-0109A: Catalyst International, Inc.** (1050 Ashland Avenue, Folcroft, PA 19032) on October 27, 2008, to incorporate Standards of Performance for New Stationary Sources (NSPS) for existing laminating operation at an existing facility at 1050 Ashland Avenue, Folcroft, PA 19032, Folcroft Borough, **Delaware County**. The Plan Approval will contain the requirements of 40 CFR Part 60, Subpart FFF—Standards of Performance for Flexible Vinyl and Urethane Coating and Printing. The Plan Approval will contain additional monitoring, recordkeeping, reporting and operating restrictions designed to keep the facility operating within all applicable air quality requirements including the NSPS.

**23-0111A: Centocor Research and Development, Inc.** (145 King of Prussia Road, Radnor, PA 19087) on October 27, 2008, to modify two Diesel or No. 2 Fuel-Fired Internal Combustion Engines that powers two Peak Shaving Electric Generators rated at 2,000 kW and 1,500 kW (diesel electric generators) at their Centocor Pharmaceutical Research and Development facility at 145 King of Prussia Road, Radnor Township, **Delaware County**. The modification of the two diesel electric generators may result in the emissions of: 17.72 tpy of NO<sub>x</sub>; 2.0 tpy of CO; 0.48 tpy of VOCs; 0.44 tpy of SO<sub>x</sub>; 0.23 tpy of PM/PM<sub>10</sub> micrometer or smaller; 0.02 tpy of HAPs and 0.02 tpy of Formaldehyde. The 2,000 kW generator shall be limited to the annual fuel usage of 69,450 gallons and the 1,500 kW generator shall be limited to the annual fuel usage of 52,400 gallons, which is equivalent to 500 hours of operation for each generator per year at 100%

load. The Plan Approval and Operating Permit will contain recordkeeping and operating restrictions designed to keep the sources operating within all applicable air quality requirements.

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

**21-05002B: PPG Industries, Inc.** (400 Park Drive, Carlisle, PA 17013-9271) on October 21, 2008, to install an electrostatic precipitator and selective catalytic reduction system at their flat glass manufacturing plant in South Middleton Township, **Cumberland County**.

**34-03005C: Energex American, Inc.** (R. R. 5, Box 343, Mifflintown, PA 17059-9576) on October 23, 2008, to install a wood pellet mill system with fabric filter and a pellet mill cooler system with fabric filter at their plant in Walker Township, **Juniata County**.

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

**24-009F: Domtar Paper Co., LLC** (100 Center Street, Johnsonburg, PA 15845) on October 17, 2008, to install and operate an 87.3 mmBtu natural gas-fired boiler at their facility in Johnsonburg Borough, **Elk County**. This is a Title V facility.

**25-095G: Lord Corp.—Erie Plant** (1635 West 12th Street, Erie, PA 16514) on October 21, 2008, to replace an existing Wheelabrator Dust Collector (C06) that controls Sources 114, 152—155 with a new American Air Filter Dust Collector (C06A) in Erie City, **Erie County**. This is a State-only facility.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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

**06-05079D: United Corrstack, LLC** (720 Laurel Street, Reading, PA 19602-2718) on December 1, 2008, to construct a 482 mmBtu/hr circulating fluidized bed boiler and a 30 MW steam turbine adjacent to the company's existing plant in the City of Reading, **Berks County**. This plan approval was extended.

**04-00725A: Pennsylvania Biodiesel, Inc.** (759 Northgate Circle, Northgate Industrial Park, New Castle, PA 16105) on October 27, 2008, for construction and temporary operation of a biodiesel manufacturing plant in Potter Township, **Beaver County**. This plan approval has been extended.

**Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.*

**23-00017: Exelon Generation Co.—Eddystone Generating Station** (One Industrial Highway, Eddystone, PA 19022) on October 23, 2008, for a renewal of their Title V Operating Permit in Eddystone Borough, **Delaware County**. The initial permit was issued on December 31, 2001. The facility is primarily used for providing electric

cal energy from two fossil-fuel steam generating units. As a result of potential emissions of NO<sub>x</sub>, SO<sub>x</sub> and PM, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments and is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The proposed Title V Operating Permit Renewal does not reflect any change in air emissions from the facility. The facility is subject to Compliance Assurance Monitoring under 40 CFR Part 64 for PM for Sources 031 and 032 and this has been addressed in the renewal permit. The renewal permit contains all applicable requirements including monitoring, recordkeeping and reporting.

**ORIS Number 3161: Exelon Generation Co.—Eddystone Generating Station** (1 Industrial Highway, Eddystone, PA 19022) on October 22, 2008, the acid rain permit establishes SO<sub>x</sub> allowances for Units Nos. 1—4 in Eddystone Borough, **Delaware County**.

**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.*

**15-00088: Kidde-Fenwal, Inc.—d/b/a Kidde Fire Fighting** (350 East Union Street, West Chester, PA 19382) on October 22, 2008, to operate their chemical preparation facility in West Chester Borough, **Chester County**. The permit is for a non-Title V (State-only) facility. Major sources of air emissions include a protein-based firefighting chemical manufacturing facility and associated control devices. This renewal also addresses a change of ownership for the facility. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**09-00178: Lockheed Martin Space System Co.** (100 Campus Drive, Newtown, PA 18940-1784) on October 23, 2008, for an initial Non-Title V Facility, State-only, Synthetic Minor Permit in Newtown Township, **Bucks County**. Lockheed Martin is a radio and TV communication equipment manufacturing facility. The facility has taken site level restriction limits of 25 tpy for NO<sub>x</sub> and 100 tpy for SO<sub>x</sub>. The restrictions will ensure that Lockheed Martin remains under the emission thresholds. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

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

**01-03012: TIN, Inc.** (136 East York Street, P. O. Box 808, Biglerville, PA 17307) on October 20, 2008, to operate a corrugated box manufacturing facility in Biglerville Borough, **Adams County**. This is a renewal of the State-only operating permit.

**06-03004: Metropolitan Edison Co.** (2800 Pottsville Pike, P. O. Box 16001) on October 23, 2008, to operate an office complex with five diesel fire emergency generators in Muhlenberg Township, **Berks County**. This is a renewal of the State-only operating permit.

**06-05096: Reading Hospital and Medical Center** (P. O. Box 16052, Reading, PA 19612) on October 21, 2008, to operate Generators and Boilers in West Reading Borough, **Berks County**. This is a renewal of the State-only operating permit.

**28-03021: Martin's Famous Pastry Shoppe** (1000 Potato Roll Lane, Chambersburg, PA 17201-8897) on October 21, 2008, to operate their bakery in Antrim Township, **Franklin County**. This is a renewal of the State-only operating permit.

**28-05011: Martin's Famous Pastry Shoppe** (1000 Potato Roll Lane, Chambersburg, PA 17201-8897) on October 21, 2008, to operate their bakery in Guilford Township, **Franklin County**. This is a renewal of the State-only operating permit.

**36-05131: Keystone Quality Products, LLC** (83 South Groffdale Road, Leola, PA 17540) on October 23, 2008, to operate a surface coating facility for the painting of wood cabinets and furniture in Upper Leacock Township, **Lancaster County**. This is a renewal of the State-only operating permit.

**38-03020: Tech Cast, Inc.** (640 South Cherry Street, Myerstown, PA 17067-1511) on October 21, 2008, to operate a foundry in Myerstown Borough, **Lebanon County**.

**50-03002: Pennsy Supply, Inc.** (P. O. Box 3331, 1001 Paxton Street, Harrisburg, PA 17105-3331) on October 21, 2008, to operate the Newport Plant limestone crushing operations in Oliver Township, **Perry County**. This is a renewal of the State-only operating permit.

**67-05056: Conagra Foods, Inc.** (2800 Black Bridge Road, York, PA 17406-9703) on October 24, 2008, to operate a flour mill at their plant in Manchester Township, **York County**. This is a renewal of the State-only operating permit.

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

**24-00001: Buehler Lumber Co.** (260 West Main Street, Ridgway, PA 15853-1611) on October 21, 2008, to issue a Natural Minor Operating Permit to operate a facility that processes logs into lumber is in Ridgeway Borough, **Elk County**. The facility's primary emission sources include a wood fired boiler, miscellaneous wood-working operations, fuel (sawdust) stockpiling and a lumber grading operation.

**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

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

**04-00432: Commonwealth Medical Center, Inc.** (2500 Hospital Drive, Aliquippa, PA 15001-2123) on October 24, 2008, the non-Title V Operating Permit was administratively amended to incorporate the changes of ownership and the facility's responsible official for operation of their Aliquippa Community Hospital in Aliquippa City, **Beaver County**.

**30-00087: Emerald Coal Resources, LP** (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370-3020) on October 21, 2008, the State-only operating permit was administratively amended to change the facility's responsible official to operate the Emerald Mine Prep Plant in Franklin Township, **Greene County**.

**De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.**

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

**32-00101: Halliburton Energy Services, Inc.** (P. O. Box 42810, Houston, TX 77242-2810). Per 25 Pa. Code § 127.449(i), on October 23, 2008, a de minimis emission increase of less than 0.002 tpy of PM/PM10 resulting from the installation of one 2,560 cubic foot cement storage tank, the increase in throughput of the Cement/Flyash Storage Plant to 12,000 tpy for cement and the increase in throughput of the Cement/Flyash Storage Plant to 1,000 tpy for flyash at the Halliburton Energy Services, Inc., Indiana Plant, located in Homer City Borough, **Indiana County**.

## ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).**

### Coal Permits Actions

*California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.*

**03801302 and NPDES Permit No. PA0235385, Keystone Coal Mining Corporation.** (400 Overview Drive, P. O. Box 219, Shelocta, PA 15774), to renew the permit for the Margaret No. 7 Water Treatment Plant in Plumcreek and Cowanshannock Townships, **Armstrong County** and related NPDES permit for water treatment. No additional discharges. Application received June 5, 2006. Permit issued October 24, 2008.

**30841316 and NPDES Permit No. PA0213535, Consol Pennsylvania Coal Company, LLC.** (1800 Washington Road, Pittsburgh, PA 15241), to revise the permit for the Bailey Mine and Prep Plant in Richhill Township, **Greene County** to add surface acreage to install two dewatering boreholes and one ventilation borehole for the Bailey Mine. Surface Acres Proposed 13.51. No additional discharges. Application received August 8, 2008. Permit issued October 27, 2008.

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

**56070103. PBS Coals, Inc.**, 1576 Stoystown Road, P. O. Box 260, Friedens, PA 15541, revision of an existing bituminous surface mine to add augering and coal refuse removal and to add 5.8 acres to the existing permit. Total SMP acres goes from 338.3 to 344.1, in Stonycreek Township, **Somerset County**. Receiving streams: Schrock Run and UNTs to Schrock Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 26, 2008. Permit issued October 22, 2008.

**32030110. Fossil Fuel, Inc.**, 690 Weaver Road, Marion Center, PA 15759, permit renewal for the continued operation and restoration of a bituminous surface and auger mine in East Mahoning and Grant Townships, **Indiana County**, affecting 43.0 acres. Receiving streams: UNTs to Crooked Run to Little Mahoning Creek classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received July 23, 2008. Permit issued October 20, 2008.

**07920101 and NPDES No. PA0599581. E. P. Bender Coal Company, Inc.**, P. O. Box 594, Carrolltown, PA 15722, permit renewal for the continued operation and restoration of a bituminous surface mine in Allegheny Township, **Blair County**, affecting 474.0 acres. Receiving streams: UNTs to/and Sugar Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 15, 2008. Permit issued October 21, 2008.

**32080101 and NPDES No. PA0262561. Beth Contracting, Inc.**, 815 Rock Run Road, Glen Campbell, PA 15742, commencement, operation and restoration of a bituminous surface mine in Banks Township, **Indiana County**, affecting 8.2 acres. Receiving streams: UNTs to Cush Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. The application includes a stream encroachment to conduct surface mining activities within the barrier area of a UNT to Cush Creek. Application received January 14, 2008. Permit issued October 21, 2008.

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

**30980101 and NPDES Permit No. PA0202304. CORESCO, LLC** (308 Dents Run Road, Morgantown, WV 26501). Renewal permit for reclamation only to an existing bituminous surface mine, located in Dunkard Township, **Greene County**, affecting 148.4 acres. Receiving streams: UNT to Dunkard Creek. Renewal application received August 15, 2008. Renewal permit issued October 21, 2008.

**03030103 and NPDES Permit No. PA0250384. AMFIRE Mining Co., LLC** (One Energy Place, Latrobe, PA 15650). Renewal permit issued for continued reclamation only of an existing bituminous surface mining site located in Sugarcreek Township, **Armstrong County**, affecting 130.2 acres. Receiving streams: UNTs to Huling Run. Application received August 25, 2008. Renewal issued October 22, 2008.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**17020110 and NPDES No. PA0243311. RAMM Coal, Inc.** (1092 Spruce Hill Road, Rockton, PA 15856). Permit renewal for the continued operation and restoration of a

bituminous surface and auger mine in Sandy and Brady Townships, **Clearfield County**, affecting 145.3 acres. Receiving streams: UNT to LaBorde Branch and LaBorde Branch, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 29, 2007. Permit issued October 16, 2008.

**17070101 and NPDES No. PA0256471. RES Coal, LLC** (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920). Transfer of an existing bituminous surface mine from Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849), located in Morris Township, **Clearfield County**, affecting 112.1 acres. Receiving stream: UNT to Moshannon Creek, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 30, 2008. Permit issued October 16, 2008.

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

**40840206T2. Jeddo-Highland Coal Company**, (46 Public Square, Suite 600, Wilkes-Barre, PA 18701), transfer of an existing anthracite coal refuse reprocessing operation in Plains Township, **Luzerne County** affecting 126.9 acres, receiving stream: none. Application received April 11, 2008. Transfer issued October 23, 2008.

**54803011R5. EOJ, Inc.**, (2401 Summer Valley Road, New Ringgold, PA 17960), renewal of an existing anthracite surface mine operation for reclamation activities only in Blythe Township, **Schuylkill County** affecting 344.9 acres, receiving stream: None. Application received April 14, 2008. Renewal issued October 24, 2008.

#### *Noncoal Permits Actions*

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

**50960801. Roy E. and Scott D. Hall**, 1013 Sandy Hollow Road, New Bloomfield, PA 17068, bond release on a small noncoal (industrial minerals) operation in Carroll Township, **Perry County**, affecting 2.0 acres. Receiving streams: UNT to Perry Furnace Run. Application received July 16, 2008. Bond Release issued October 16, 2008.

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

**26072801. Bullsken Stone & Lime, LLC** (1350 Route 30, P. O. Box 223, Laughlintown, PA 15655). Permit for commencement, operation and reclamation to a small noncoal surface mine, located in Bullsken Township, **Fayette County**, affecting 5 acres. Receiving stream: UNT to Latta Run. Application received November 16, 2007. Permit issued October 21, 2008.

**26920401 and NPDES Permit No. PA0203441. Coolspring Mining, Inc.** (P. O. Box 1328, Uniontown, PA 15401). Permit renewal issued for continued reclamation only of a large noncoal surface mining site located in North Union Township, **Fayette County**, affecting 60.6 acres. Receiving streams: UNT to Coolspring Run to Shute Run to Cove Run to Redstone Creek to Monongahela River. Application received August 15, 2008. Renewal permit issued October 22, 2008.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**25082802. Hull Excavating** (12135 Ashton Road, Wattsburg, PA 16442). Commencement, operation and restoration of a small noncoal gravel operation in Greenfield Township, **Erie County** affecting 5.0 acres.

Receiving streams: West Branch French Creek. Application received July 11, 2008. Permit issued October 21, 2008.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**08080806. Richard J. Fly** (R. R. 2, Box 183A, Wyalusing, PA 18853). Commencement, operation and restoration of a small bluestone operation in Terry Township, **Bradford County**, affecting 2.0 acres. Receiving streams: UNT, tributary to Susquehanna River. Application received June 12, 2008. Permit issued October 15, 2008.

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

**58080837. Kenneth R. Ely**, (P. O. Box 23, Dimock, PA 18816), commencement, operation and restoration of a quarry operation in Dimock Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received June 16, 2008. Permit issued October 22, 2008.

**38082801. Sensenig Excavating**, (1330 Fonderwhite Road, Lebanon, PA 17042), commencement, operation and restoration of a quarry operation in Jackson Township, **Lebanon County** affecting 5.0 acres, receiving stream: none. Application received January 18, 2008. Permit issued October 27, 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*

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

**63084009. Shallenberger Construction** (2611 Memorial Avenue, Connellsville, PA 15425). Blasting activity permit for construction of the Cowden 48 Atlas Well Site, located in Cross Creek Township, **Washington County**. The expected duration of blasting is 180 days. Permit issued October 21, 2008.

**63084010. Shallenberger Construction** (2611 Memorial Avenue, Connellsville, PA 15425). Blasting activity permit for construction of the Cowden 53 Atlas Well Site, located in Cross Creek Township, **Washington County**. The expected duration of blasting is 180 days. Permit issued October 21, 2008.

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

**06084129. J. Roy's, Inc.**, (Box 125, Bowmansville, PA 17507), construction blasting for Wyomissing Sewer Interceptor in Wyomissing and West Reading Boroughs, **Berks County** with an expiration date of October 21, 2009. Permit issued October 23, 2008.

**22084113. Douglas Explosives, Inc.**, (P. O. Box 77, Philipsburg, PA 16866), construction blasting for High Pointe Development in Susquehanna Township, **Dauphin County** with an expiration date of October 30, 2009. Permit issued October 23, 2008.

**38084128. Warren's Excavating & Drilling, Inc.**, (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Fox Ridge in South Lebanon Township, **Lebanon County** with an expiration date of October 1, 2009. Permit issued October 23, 2008.

**39084120. Warren's Excavating & Drilling, Inc.**, (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for Wacker Chemical in Upper Macungie Township, **Lehigh County** with an expiration date of October 16, 2009. Permit issued October 23, 2008.

**46084122. Rock Work, Inc.**, (1257 DeKalb Pike, Blue Bell, PA 19422), construction blasting for The Village at Valley Forge in Upper Merion Township, **Montgomery County** with an expiration date of October 31, 2009. Permit issued October 23, 2008.

**48084111. Schlouch, Inc.**, (P. O. Box 69, Blandon, PA 19510), construction blasting for Arcadia in East Allen Township, **Northampton County** with an expiration date of October 15, 2009. Permit issued October 23, 2008.

**64084115. Holbert Explosives, Inc.**, (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for Golf Park in Salem Township, **Wayne County** with an expiration date of October 30, 2009. Permit issued October 23, 2008.

**67084127. Ed Wean Drilling & Blasting, Inc.**, (112 Ravine Road, Stewartsville, NJ 08886), construction blasting for Conectiv Delta Power Plant in Peach Bottom Township, **York County** with an expiration date of October 20, 2009. Permit issued October 23, 2008.

**67084128. M & J Explosives, Inc.**, (P. O. Box 608, Carlisle, PA 17013), construction blasting for Rutters Farm Stone No. 4 in Hellam Township, **York County** with an expiration date of October 31, 2009. Permit issued October 23, 2008.

**67084129. Dyno-Nobel, Inc.**, (567 Main Street, Tremont, PA 17981), construction blasting for Leader Heights Sewer Extension in York Township, **York County** with an expiration date of October 30, 2009. Permit issued October 23, 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*

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

**E57-112. Melvin Lewis, Dwight Lewis Lumber Co., Inc.**, P. O. Box A, Route 87, Hillsgrove, PA 16819-0901. Loyalsock Creek Floodway Fill, in Hillsgrove Township, **Sullivan County**, United States Army Corps of Engi-

neers, Baltimore District (Hillsgrove, PA Quadrangle N: 41° 26' 22"; W: 76° 42' 47").

Construct and maintain a 30 ft by 50 ft by 6 ft deep floodway fill on the Loyalsock Creek. The fill will be clean stone used to fill in a scoured area of an overflow channel of the Loyalsock Creek. The fill will be placed in order to stabilize the area and prevent erosion and sedimentation. This project proposes no permanent impact to Loyalsock Creek, which is, designated an Exceptional Value CWF and does not propose to impact any jurisdictional wetlands. This permit was issued under section 105.13(e) "Small Projects."

**ENVIRONMENTAL ASSESSMENT**

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

**EA17-006. Emigh Run/Lakeside Watershed Association, Inc.**, P. O. Box 204, Morrisdale, PA 16858. Acid mine drainage abatement project on Hubler Run in Graham Township, **Clearfield County**, United States Army Corps of Engineers, Baltimore District.

The applicant is authorized through a restoration waiver to rehabilitate and improve an existing AMD abatement project. The original Hubler Run 1 AMD Treatment System was authorized in 2000 through EA17-002NC. Primary modifications include two new limestone cells and associated settling ponds. Improvements to the Hubler Run 1 AMD Treatment System will result in 3.5 acres of disturbance and 0.03 acre of PEM wetland impact. Wetland replacement by the permittee will not be required as the wetland impacts are de minimis. The designated use for Hubler Run is CWF (Frenchville Quadrangle Latitude: N 41° 0' 59"; Longitude: W 78° 13' 27").

**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 &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
08-61-007	Heath Oil, Inc. P. O. Box 1128 Oil City, PA 16301 Attn: Richard Fisher	Venango	Barkeyville Borough	One existing AST to regulated use storing gasoline	24,000 gallons

**SPECIAL NOTICES**

**Walnut Creek**

The Department of Environmental Protection (Department), Northwest Regional Watershed Management Program announces the draft *Walnut Creek Watershed Protection and Restoration Plan*, (Erie County) is available for public comment. This document outlines the commitments of time, energy and resources that the Department will invest in the protection and restoration of this important watershed. A copy of the plan is available for review at the regional office, or the plan can be viewed by accessing the "Community Involvement" link at the De-

partment's Northwest Regional web site: [www.depweb.state.pa.us/northwestregion/site/default.asp](http://www.depweb.state.pa.us/northwestregion/site/default.asp).

Written comments should be submitted to the Department's Northwest Regional Office postmarked no later than December 8, 2008. Comments received within the comment period will be considered in the development of the final plan. Comments should include the name, address and telephone number of the writer.

Department of Environmental Protection  
Northwest Regional Office  
Watershed Management Program  
230 Chestnut Street  
Meadville, PA 16335

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

**Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Load (TMDL) for the Hazle, Quakake and Black Creek Watersheds in Carbon and Luzerne Counties**

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901.*

The Department of Environmental Protection (Department) is holding a public meeting on December 4, 2008, beginning at 10 a.m. at the Pottsville District Office in Pottsville, PA to discuss and accept comments on a proposed TMDL. The proposed TMDL was established in accordance with the requirements of the 1996 section 303(d) of The Clean Water Act. The Hazle, Quakake and Black Creek Watersheds have been identified as impaired on the 1996 Pennsylvania 303(d) list due to high concentrations of metals.

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron and manganese) and pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0 to 9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the 19th and 20th centuries. The effects of this are still present. The TMDL consists of load allocations, which are made to nonpoint sources of pollution and waste load allocations, which are made to permitted point sources.

The TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a dataset based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals, sediment and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data between 2006 and 2008.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact James Andrews at (570) 621-3118 between 8 a.m. and 4 p.m., Monday through Friday, at Pottsville District Mining Office, 5 West Laurel Boulevard, Pottsville, PA 17901. E-mail will be received at jameandrew@state.pa.us. Directions to the meeting place can also be obtained through this contact.

The TMDL can be viewed and printed by accessing the Department's web site at [www.dep.state.pa.us](http://www.dep.state.pa.us) (PA Keyword: TMDL).

Written comments will be accepted at the previous address and must be postmarked by December 26, 2008. Persons who plan to make a presentation at the public meeting should notify the Department no later than 4

p.m. Wednesday, November 26, 2008. The Department will consider all comments in developing the final TMDL, which will be submitted to the Environmental Protection Agency for approval.

[Pa.B. Doc. No. 08-2025. Filed for public inspection November 7, 2008, 9:00 a.m.]

### Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) web site at [www.depweb.state.pa.us](http://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.

#### *Interim Final Technical Guidance:*

DEP ID: 254-2212-504. Title: Guidelines for the Development and Implementation of County Municipal Waste Management Plan Revisions. Description: This technical guidance document provides the Department regional staff and county recycling coordinators with updated information to aid in their development and review of county waste management plans. In response to recent court decisions, the guidance was updated to include revised instructions for the development of waste management plans that include waste flow control provisions, including supplemental considerations that must now be evaluated for flow control involving publicly-owned or publicly-controlled facilities. The procedures to classify revisions to county waste management plans as either substantial or nonsubstantial have also been modified in the guidance document to clarify the responsibilities of the county in each situation. The appendix to the guidance document was also updated to include the most current court decisions impacting county waste management. Written Comments: Interested persons may submit written comments on the substantive revisions to the interim final technical guidance document by December 8, 2008. The Department will accept comments submitted by e-mail, but comments submitted by facsimile will not be accepted. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Sally Lohman, Department of Environmen-



tal Protection, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7382, slohman@state.pa.us. Contact: Sally Lohman, Department of Environmental Protection, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7382, slohman@state.pa.us. Interim Final Effective Date: November 8, 2008.

*Draft Technical Guidance—Substantive Revision:*

DEP ID: 391-2000-017. Title: Implementation Guidance Temperature Criteria. Description: Updates were made to this technical guidance document to clarify procedures applicable to 316(a) demonstrations, including consideration of situations where there is an incomplete mix between the discharge flow and the receiving water. The screening criterion included in the guidance document was also updated to clarify when thermal limits should be applied. In addition, temperature issues regarding POTW discharges to High Quality (HW)/Exceptional Value (EV) and Cold Water Fishes (CWF) streams are also addressed in the guidance. Finally, the guidance was modified to expand recommended thermal monitoring frequencies and to provide for guidance to address the maximum 2° F per hour delta requirement in 25 Pa. Code Chapter 93 (relating to water quality standards). Written Comments: Interested persons may submit written comments on the substantive revisions to this technical guidance document by January 7, 2009. The Department will accept comments submitted by e-mail, but comments submitted by facsimile will not be accepted. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Thomas Starosta, Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, Division of Planning and Permits, P. O. Box 8774, Harrisburg, PA 17105-8774, tstarosta@state.pa.us. Contact: Questions regarding the technical guidance document should be directed to Thomas Starosta at (717) 787-4317, tstarosta@state.pa.us. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

DEP ID: 383-2127-103. Title: Permitting of Bulk Water Hauling Systems. Description: The Pennsylvania Safe Drinking Water Regulations (25 Pa. Code Chapter 109 (relating to safe drinking water)) define a bulk water hauling system as a public water system which provides water piped into a carrier vehicle and withdrawn by a similar means into the user's storage facility or vessel. The term includes, but is not limited to, the sources of water, treatment, storage or distribution facilities. The term does not include a public water system which provides only a source of water supply for a bulk water hauling system. All systems that meet the definition of a bulk water hauling system are required to obtain a public water supply permit as outlined in § 109.1005(d) (relating to permit requirements). This guidance document includes substantive revisions to provide a clearer description of systems which are bulk water hauling systems. The revised guidance also clarifies when systems are required to obtain a permit and what information should be included in a complete permit application. The guidance document also specifies those situations where a permit may be rescinded or amended. Written Comments: Interested persons may submit written comments on this draft technical guidance document by December 8, 2008. The Department will accept comments submitted by e-mail, but comments submitted by facsimile will not be accepted. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Godfrey C. Maduka, Bureau of Water Standards and Facility Regulation, P. O. Box 8774, Harris-

burg, PA 17105-8774, gomaduks@state.pa.us. Contact: Questions regarding the draft technical guidance document should be directed to Godfrey C. Maduka at (717) 787-8184, gomaduka@state.pa.us. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*.

*Notice to Rescind Technical Guidance:*

DEP ID: 291-3350-001. Title: Monitoring and Reporting Methodology for Individuals Occupationally Exposed to Medical X-rays While Wearing Protective Apparel. Description: On 37 Pa.B. 473 (January 27, 2007), the Department published notice of the availability of draft document No. 291-3350-001 for public comment. The document was intended to provide guidance concerning the reporting of occupational exposure resulting from diagnostic X-ray procedures and included alternate ways to determine doses to individuals who receive exposure from medical X-ray radiation, while wearing protective apparel. Since the document was issued as draft, the Department received Agreement State status from the United States Nuclear Regulatory Commission (NRC). The Department has incorporated the regulations of the NRC, as well as its guidance to ensure program compatibility and regulatory consistency. Since the NRC has preexisting guidance covering the same issues covered by the draft technical guidance, the Department has decided to rescind draft technical guidance document No. 291-3350-001 and will use the NRC's guidance which is contained in Regulatory Information Summary (RIS) 2002-06 "Evaluating Occupational Dose for Individuals Exposed to NRC-Licensed Material and Medical X-rays." Contact: Dave Allard, Director, Department of Environmental Protection, Bureau of Radiation Protection, P. O. Box 8469, Harrisburg, PA 17105-8469, (717) 787-2480, djallard@state.pa.us. Effective Date: November 8, 2008.

JOHN HANGER,  
*Acting Secretary*

[Pa.B. Doc. No. 08-2026. Filed for public inspection November 7, 2008, 9:00 a.m.]

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**Bid Opportunity**

**OSM 10(3787)101.1, Abandoned Mine Reclamation Project, Greece City, Concord Township, Butler County.** The principal items of work and approximate quantities include 57,000 cubic yards of grading, 310 square yards of erosion matting, 240 square yards of rock lining, 500 linear feet of subsurface drains with cleanouts, 2 pounds of wetland seed mix, 9 acres of seeding and 340 trees of tree planting. This project issues on November 7, 2008, and bids will be opened on December 4, 2008, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. This project is financed by the Federal Government under the authority given it by Pub. L. No. 95-87 dated August 3, 1977, The Surface Mining Control and Reclamation Act of 1977, and is subject to that law, and to the Federal grant for this project. Contact the Construction Contracts Section at (717) 787-7820 or joelmiller@state.pa.us for more information on this bid.

JOHN HANGER,  
*Acting Secretary*

[Pa.B. Doc. No. 08-2027. Filed for public inspection November 7, 2008, 9:00 a.m.]

## DEPARTMENT OF GENERAL SERVICES

### Real Estate for Sale Montgomery County

The Department of General Services (Department) will accept bids for the purchase of .29 acre of land and building formerly known as the Pottstown National Guard Armory located at 261 King Street, Borough of Pottstown, Montgomery County. Bids are due Thursday, December 11, 2008. Interested parties wishing to receive a copy of Solicitation No. 94256 should view the Department's web site at [www.dgs.state.pa.us](http://www.dgs.state.pa.us) or call Lisa Kettering at (717) 787-1321.

JAMES P. CREEDON,  
*Secretary*

[Pa.B. Doc. No. 08-2028. Filed for public inspection November 7, 2008, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### 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 standards contained in this publication: 2.1.3.1 (relating to treatment room space), 2.2.6.2 (relating to minimum corridor width), 2.1-5.5.10.2 (relating to patient toilet) and 2.1-5.5.10.3 (relating to patient dressing room).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, [ra-paexcept@state.pa.us](mailto: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).

A. EVERETTE JAMES,  
*Acting Secretary*

[Pa.B. Doc. No. 08-2029. Filed for public inspection November 7, 2008, 9:00 a.m.]

### Application of Tyler Memorial Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Tyler Memorial Hospital has requested an exception to the requirements of 28 Pa. Code § 51.6 (relating to identification of personnel).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, [paexcept@health.state.pa.us](mailto: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.

A. EVERETTE JAMES,  
*Acting Secretary*

[Pa.B. Doc. No. 08-2030. Filed for public inspection November 7, 2008, 9:00 a.m.]

### Long-Term Care Nursing Facilities; Request for Exception

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.3 (relating to definitions).

Lutheran Community at Telford  
Healthcare Center, Inc.  
235 North Washington Street  
Telford, PA 18969

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building).

Briarleaf Nursing and Convalescent Center  
252 Belmont Avenue  
Doylestown, PA 18901

Laurel Care Nursing and Rehabilitation Center  
6375 Chambersburg Road  
Fayetteville, PA 17222

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.28(a) and (b) (relating to nurses' station).

Cross Keys Village-The Brethren Home Community  
P. O. Box 128  
2990 Carlisle Pike  
New Oxford, PA 17350

The following long-term care nursing facility is seeking an exception to 28 Pa. Code §§ 205.10(a), 205.36(g) and 205.38(b) (relating to doors; bathing facilities; and toilet facilities).

Fox Subacute Center at Mechanicsburg  
120 South Filbert Street  
Mechanicsburg, PA 17055

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who desire to comment in an alternative format (for example, large print, audiotope, Braille) should contact the Division of Nursing Care Facilities at the address listed previously or for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

A. EVERETTE JAMES,  
*Acting Secretary*

[Pa.B. Doc. No. 08-2031. Filed for public inspection November 7, 2008, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Request for Bids

#### Property Demolition, Snyder County

The Department of Transportation (Department), 715 Jordan Avenue, Montoursville, PA 17745-0218, will be accepting sealed bids for the demolition and removal of property located in Monroe Township, Snyder County, having the following addresses.

Claim No. 5400086000, Parcel 55, 1142 Stetler Avenue, Selinsgrove, PA 17870, with the following directions. South on Route 15 to intersection 11 and 15, 1.4 miles south, turn right on Stetler Avenue, (by Hampton Inn) go approximately 1.2 miles, Tan and Green Ranch on right, 26 x 44 w/car port and 24 x 24 garage.

Claim No. 5400076000, Parcel 45, 678 Attig Road, Selinsgrove, PA 17870, with the following directions, South on Route 11/15, right on Park, left on App Road, right on Attig Road approximately 0.7 mile grey Ranch on right, 26 x 52 with integral garage.

Claim No. 5400075000, Parcel 44, 704 Attig Road, same directions as previously only light yellow Ranch on right, 24 x 52 w/two car integral garage.

Bids will be accepted until Monday, December 15, 2008, at 9:30 a.m. Bids will be opened in Conference Room A on December 15, 2008, at 9:30 a.m. An inspection of the properties will be held on November 24, 2008, between 11 a.m. and 1 p.m. Inquires should be directed to Lenny P.

Confer (570) 368-4337, Thomas E. Hall (570) 368-4336 or Eugene McGill (570) 368-4315.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 08-2032. Filed for public inspection November 7, 2008, 9:00 a.m.]

### Request for Bids

#### Property Demolition, Snyder County

The Department of Transportation (Department), 715 Jordan Avenue, Montoursville, PA 17745-0218, will be accepting sealed bids for the demolition and removal of property located in Monroe Township, Snyder County, having the following addresses.

Claim No. 5900077000, Parcel 23, 850 Mulls Hollow Road, Selinsgrove, PA 17870, with the following directions. South on Route 15 to intersection 15 and 304, take first left (TR 364-Seven Kitchens Road), go approximately 0.5 mile turn left on to Mulls Hollow Road, go approximately 0.5 mile Mobile home on right side of road, 20 x 50 with 2 additional sheds.

Claim No. 5900076000 Parcel 22, 2564 County Line Road, Selinsgrove, PA 17870, with the following directions, South on Route 15, at intersection of 304, 1.8 miles left on County Line Road, first house on left 2 story farm, 22 x 29, 19 x 21 garage, 12 x 14 smokehouse and 2 additional outbuildings.

Bids will be accepted until Monday, February 10, 2009, at 10 a.m. Bids will be opened in Conference Room A on February 10, 2009, at 10 a.m. An inspection of the properties will be held on January 22, 2009, between 11 a.m. and 1 p.m. Inquires should be directed to Lenny P. Confer (570) 368-4337, Thomas E. Hall (570) 368-4336 or Eugene McGill (570) 368-4315.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 08-2033. Filed for public inspection November 7, 2008, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### Designations and Redesignations of Waters Subject to Special Fishing Regulations 2009

The Fish and Boat Commission (Commission) designated, redesignated or removed the following streams, stream sections and lakes as waters subject to 58 Pa. Code Chapter 65 (relating to special fishing regulations), effective January 1, 2009:

*58 Pa. Code § 65.6. Delayed Harvest Artificial Lures Only (DHALO) Areas*

The Commission removed the following water as a DHALO Area:

<i>County</i>	<i>Water on which located</i>	<i>Description</i>
Wayne	Butternut Creek	From Butternut Road (SR 3002) downstream to mouth, a distance of 2.1 miles

*58 Pa. Code § 65.9. Big Bass Special Regulations*

The Commission added the following waters to its list of "Big Bass Regulation" waters:

<i>County</i>	<i>Water</i>
Monroe	Bradys Lake
Monroe	Gouldsboro Lake

*58 Pa. Code § 65.11. Panfish Enhancement Special Regulations*

The Commission added the following waters to its list of "Panfish Enhancement Special Regulation" waters:

<i>County</i>	<i>Water</i>	<i>Species</i>
Monroe	Bradys Lake	Yellow perch, crappie and sunfish (bluegill/pumpkinseed)
Monroe	Gouldsboro Lake	Yellow perch, crappie and sunfish (bluegill/pumpkinseed)

*58 Pa. Code § 65.19. Approved Trout Waters Open to Year-Round Fishing*

The Commission designated the following waters as part of the Approved Trout Waters Open to Year-Round Fishing Program:

<i>County</i>	<i>Water</i>
Armstrong	Mahoning Creek (from Mahoning Creek Dam outflow downstream to the confluence of Pine Run)
Bedford	Koon Lake
Berks	Tulpehocken Creek (from covered bridge at T-921 downstream to the mouth)
Berks	Kaercher Creek Dam
Bradford	Mountain Lake
Bradford	Sugar Run
Cameron	West Creek
Clearfield	Laurel Run (Parker Dam State Park)
Cumberland	Mountain Creek (from Adams County line downstream to the backwaters of Laurel Lake)
Dauphin/ Lebanon	Stony Creek (from .4-mile upstream of Cold Spring Road downstream to State Game Lands No. 211 gate)
Elk	West Creek (from SR 1008 at Rathbun downstream to SR 3001 at Howard Siding)
Elk	Straight Creek
Forest	Tionesta Creek (from Tionesta Dam outflow downstream)
Indiana	Cummins Reservoir (Blue Spruce Lake)
Lawrence	Cascade Quarry

<i>County</i>	<i>Water</i>
Lebanon	Lakeside Quarry
Luzerne	Frances Slocum Lake
Luzerne	Upper Ice Pond
Luzerne	Sylvan Lake
Luzerne/ Sullivan	Lake Jean
McKean	Meade Run
Northampton	Minsi Lake
Perry	Holman Lake (Little Buffalo State Park)
Schuylkill	Tuscarora Lake
Somerset	Blue Hole Run (from confluence with Garys Run downstream to mouth)
Somerset	Fall Creek (from confluence with Ansell Run downstream to mouth)
Wayne	Duck Harbor Pond
Wyoming	Mehoopany Creek (from confluence with Kasson Brook downstream to confluence of North Fork Mehoopany Creek)
York	South Branch Codorus Creek (from SR 0616 in Centerville downstream to T-527)
York	Glatco Lake
York	Lake Marburg

DOUGLAS J. AUSTEN, Ph.D.,  
*Executive Director*

[Pa.B. Doc. No. 08-2034. Filed for public inspection November 7, 2008, 9:00 a.m.]

**Triploid Grass Carp Permit Application**

Under 58 Pa. Code § 71.7 (relating to triploid grass carp), the Fish and Boat Commission (Commission) may issue permits to stock triploid grass carp in Commonwealth waters. Triploid grass carp are sterile fish that may, in appropriate circumstances, help control aquatic vegetation. The Commission has determined consistent with 58 Pa. Code § 71.7(e)(3) to seek public input with respect to any proposed stockings of triploid grass carp in waters having a surface area of more than 5 acres.

Interested persons are invited to submit written comments, objections or suggestions about the notice to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 10 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted. Comments also may be submitted electronically by completing the form at [www.fishandboat.com/regcomments](http://www.fishandboat.com/regcomments). If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

The following application to stock triploid grass carp in waters having a surface area of greater than 5 acres is currently undergoing staff review:

<i>Applicant</i>	<i>Water</i>	<i>Location of Water</i>	<i>Description of Water</i>	<i>Nature of Vegetation to be Controlled</i>
Lakeside Outing Club at Page Lake	Page Lake	New Milford Township Susquehanna County	100 acre lake which discharges into Salt Lick Creek and then into the Susquehanna River	Potamogeton spp. Ceratophyllum demersum Chara spp. Najas flexilis Nymphaea odorata Nuphar advena Vallisneria americana Nitella spp. Filamentous Algae

DOUGLAS J. AUSTEN, Ph.D.,  
*Executive Director*

[Pa.B. Doc. No. 08-2035. Filed for public inspection November 7, 2008, 9:00 a.m.]

# INDEPENDENT REGULATORY REVIEW COMMISSION

## Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Act (71 P. S. § 645.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
10-180	Department of Health Supplemental Nutrition Program for Women, Infants and Children (WIC Program) 38 Pa. B. 4767 (August 30, 2008)	9/29/08	10/29/08
16A-4617	State Board of Dentistry Dental Hygiene Scope of Practice; Local Anesthesia 38 Pa. B. 4777 (August 30, 2008)	9/29/08	10/29/08

**Department of Health**  
**Regulation #10-180 (IRRC #2718)**  
**Supplemental Nutrition Program for Women, Infants and Children (WIC Program)**  
**October 29, 2008**

We submit for your consideration the following comments on the proposed rulemaking published in the

August 30, 2008 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Department of Health (Department) to respond to all comments received from us or any other source.

**1. Section 1101.2. Definitions.—Implementation procedures; Clarity.**

*Peer group and Store peer group system*

According to the Preamble, the inclusion of these definitions will allow the Department to implement “Federally-mandated cost containment measures,” yet the regulation does not explain what these measures entail. The final-form regulation should explain this phrase.

Also, the definition for “peer group” refers to “criteria selected by the Department,” and the definition for “store peer group system” refers to “common characteristics” or “criteria that affect food prices.” For both terms, the final-form regulation should provide examples of such criteria and characteristics.

**2. Section 1103.1. Authorization and reauthorization process and requirements.—Reasonableness; Implementation procedures; Clarity.**

Subsections (b)(5) and (c)(2) refer to “any information necessary” for the Department to determine whether the store qualifies as an above-50-percent-store. The same phrase is used in Subsection 1105.6(h). This phrase is vague and the final-form regulation should provide examples of the relevant “information” needed.

Subsection (d)(7) states that if the Department does not receive from the store the information requested to determine if the store qualifies as an above-50-percent-store within 20 calendar days, then the Department will terminate a store’s authorization or reauthorization. How did the Department determine this was an appropriate timeframe?

**3. Section 1103.4. Selection criteria for authorization and reauthorization.—Reasonableness.**

Under Paragraph (15), the Department will provide notice by September 15 of minimum technology requirements for the following calendar year. Given that the magnitude of the technology change is not known, does notice by September 15 allow a store sufficient time to purchase, test and implement the new technology in all circumstances?

**4. Section 1103.8. Store peer group system.—Clarity.**

Subsection (b) states that the Department will create peer groups “based upon at least two criteria selected by

the Department . . . .” This subsection lists a measure of geography as one criterion, but it does not explain the second. The final-form regulation should explain both criteria.

**5. Section 1107.1a. Disqualifications.—Implementation procedures.**

For how long must a store violate this section before it will be subject to a one year disqualification? Will the store receive notice of the violation and be given an opportunity to cure it before it is disqualified? What happens after the one year period ends? How does the store become “re-authorized”? The final-form regulation should address these issues.

State Board of Dentistry  
Regulation #16A-4617 (IRRC #2720)

Dental Hygiene Scope of Practice;  
Local Anesthesia

October 29, 2008

We submit for your consideration the following comments on the proposed rulemaking published in the August 30, 2008 *Pennsylvania Bulletin*. Our comments are based on criteria in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the State Board of Dentistry (Board) to respond to all comments received from us or any other source.

**1. Administration of local anesthesia by a dental hygienist.—Statutory authority; Protection of the public health, safety and welfare.**

The General Dental Law (Law) states that a person engages in the practice of dentistry when he “administers anesthetic agents.” 63 P. S. § 121. It further limits the administration of general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia to licensed dentists. 63 P. S. § 130c. As the Board noted in the preamble to its 1995 revisions to Chapter 33, the Law “only confers the authority upon dentists to administer anesthesia.” 25 Pa.B. 2494 (June 24, 1995). While the Law does not extend the privilege of administering anesthesia to dental hygienists, it does permit them to perform “intra-oral procedures which the hygienists have been educated to perform and which require their competence and skill but which do not require the professional competence and skill of the dentist.” 63 P. S. § 121.

In seeking to allow dental hygienists to administer local anesthesia, it appears the Board has determined that such action is an intra-oral procedure, rather than the administration of an anesthetic agent. On what basis did the Board make that determination? How does the administration of local anesthesia differ from administration of other anesthetic agents? Finally, how did the Board conclude that administration of local anesthesia is not a skill that requires the professional competence and skill of a dentist?

In addition to answering these questions, the final-form regulation should further explain the Board’s statutory authority for allowing dental hygienists to administer local anesthesia, and how allowing them to do so protects the public health, safety and welfare.

**2. Section 33.1. Definitions.—Clarity.**

Act 51 of 2007 created the “public health dental hygiene practitioner” and the Board has defined that

term in this proposal. We recommend that the term be added to the Board’s existing definition of “board regulated practitioner.”

The second sentence of the definition of “Local anesthesia” applies only to § 33.115 of the proposed regulation. We recommend that the sentence be moved to that section.

**3. Section 33.115. Local anesthesia permit.—Clarity.**

Subsection (c)(3) requires a dental hygienist seeking a local anesthesia permit to provide “acceptable documentation” to the Board. We recommend that the final-form regulation specify the type of documentation that would be acceptable to the Board. Similar language appears in Sections 33.116(b)(2) and (3).

Under Subsection (c)(3)(iii)(C), dental hygienists must “certify” certain information to the Board. We recommend that the regulation specify how certain information can be “certified.”

**4. Section 33.116. Certification of public health dental hygiene practitioners.—Statutory authority; Need; Implementation procedures; Clarity.**

Subsection (b)(3) requires public health dental hygiene practitioners to provide the Board with acceptable documentation that professional liability insurance has been obtained. We have four concerns. First, what is the Board’s statutory authority for requiring public health dental hygiene practitioners to obtain professional liability insurance?

Second, it is our understanding that no other practitioner regulated by the Board is required by statute or regulation to obtain professional liability insurance. What is the need for requiring public health dental hygiene practitioners to obtain professional liability insurance?

Third, a commentator has noted that some employers of public health dental hygiene practitioners provide liability coverage for the practitioner. Would the Board consider the coverage provided by an employer acceptable? If so, and as noted in our comment on § 33.115, what would be considered acceptable proof of coverage? This should be included in the final-form regulation.

Finally, if coverage provided by an employer is less than the minimum amount specified in the regulation, will supplemental coverage for the difference be required? This should be specified in the final-form regulation.

**5. Section 33.205. Practice as a dental hygienist.—Clarity.**

Under Subsection (a)(1), what are “subgingival agents”? Since this term is used in other sections of the proposed regulation, we recommend it be defined in § 33.1, relating to definitions.

**6. Section 33.205b. Practice as a public health dental hygiene practitioner.—Consistency with other statutes and regulations; Clarity; Implementation procedures.**

Subsection (c) lists the places that a public health dental hygiene practitioner can practice. We have three concerns.

First, what is meant by the following terms: schools; correctional facilities; and federally qualified health centers? We suggest that these terms be defined.

Second, under the Public School Code of 1949 (24 P. S. §§ 14-1401 and 14-1403) and the Department of Education’s regulations (28 Pa. Code § 23.35), dental hygienists can practice in school districts if they are certified to do

so by the Department of Education. In developing the final-form regulation, the Board needs to ensure that it is consistent with these existing statutory and regulatory provisions that apply to dental hygienists that practice in school districts.

Third, Subsection (d) requires dental records to be maintained for five years. However, it is not clear what format these records may be kept in. Must they be written or are electronic records acceptable?

**7. Section 33.302. Auxiliary personnel performing radiologic procedures.—Statutory authority; Protection of the public health, safety and welfare.**

Under Subsection (a), what is the Board’s statutory authority for allowing public health dental hygiene practitioners to perform radiological procedures without the supervision of a dentist? Is the health and safety of the public adequately protected if a public health dental hygiene practitioner is allowed to perform these procedures, which would include diagnosis?

**8. Miscellaneous clarity.**

Under § 33.116(c), should the phrase “local anesthesia permit” be replaced with the phrase “certificate of public health dental hygiene practitioner”?

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 08-2036. Filed for public inspection November 7, 2008, 9:00 a.m.]

**INSURANCE DEPARTMENT**

**Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Lutheran Community at Telford**

Lutheran Community at Telford has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Lutheran Community at Telford in Telford, PA. The initial filing was received on October 22, 2008, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225). Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed, and a concise statement with sufficient detail to inform the Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, syerger@state.pa.us.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-2038. Filed for public inspection November 7, 2008, 9:00 a.m.]

**Notice of Filing of Final Rulemakings**

The Independent Regulatory Review Commission (Commission) received the following regulations. They are scheduled to be considered on the date noted. The Commission’s public meetings are held at 333 Market Street, 14th Floor, in Harrisburg, PA at 10:30 a.m. To obtain a copy of the regulation, interested parties should first contact the promulgating agency. If a copy cannot be obtained from the promulgating agency, the Commission will provide a copy or you can obtain a copy from our web site, [www.irrc.state.pa.us](http://www.irrc.state.pa.us).

*Final-Form*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
54-65	Pennsylvania Liquor Control Board Promotion of Sale of Liquor by Vendors	10/27/08	12/18/08

*Final-Omit*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>	<i>Public Meeting</i>
6-315	State Board of Education Disciplinary Placements	10/27/08	12/18/08

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 08-2037. Filed for public inspection November 7, 2008, 9:00 a.m.]

**Application and Request for a Certificate of Authority to Provide a Continuing Care Retirement Community by Messiah Family Services**

Messiah Family Services has applied for a Certificate of Authority to operate a Continuing Care Retirement Community at Mount Joy Country Homes in Mount Joy, PA. The initial filing was received on October 21, 2008, and was made under the requirements set forth under the Continuing Care Provider Registration and Disclosure Act (40 P. S. §§ 3201—3225). Persons wishing to comment on the grounds of public or private interest to the issuance of a Certificate of Authority are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail to inform the a Department of the exact basis of the statement. Written statements should be directed to Steven L. Yerger, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, syerger@state.pa.us.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-2039. Filed for public inspection November 7, 2008, 9:00 a.m.]

**Farmington Casualty Company; The Automobile Insurance Company of Hartford, Connecticut; The Charter Oak Fire Insurance Company; The Phoenix Insurance Company; The Travelers Indemnity Company; The Travelers Indemnity Company of America; Homeowners; Rate and Rule Revision; Rate Filing**

On October 20, 2008, the Insurance Department (Department) received from Farmington Casualty Company, The Automobile Insurance Company of Hartford, Connecticut, The Charter Oak Fire Insurance Company, The Phoenix Insurance Company, The Travelers Indemnity Company and The Travelers Indemnity Company of America a filing for a rate level and rule change for homeowners insurance.

The companies request an overall 2.87% increase amounting to \$4,736,783 annually, to be effective February 26, 2009, for renewal business only.

Unless formal administrative action is taken prior to November 19, 2008, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.ins.state.pa.us](http://www.ins.state.pa.us). To access the filing, under "Quick Links" click on "Rate Filings Published in the PA Bulletin."

Interested parties are invited to submit written comments, suggestions or objections to Eric Zhou, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, [gzhou@state.pa.us](mailto:gzhou@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-2040. Filed for public inspection November 7, 2008, 9:00 a.m.]

**Paul Hecht, M. D.; Prehearing**

**Appeal of Paul Hecht, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM08-10-004**

On or before November 19, 2008, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's September 18, 2008, 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 December 9, 2008, at 9 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before December 5, 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 November 19, 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 December 5, 2008.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-3873.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-2041. Filed for public inspection November 7, 2008, 9:00 a.m.]

**Review Procedure Hearings; Cancellation or Refusal of Insurance**

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68) (Act 68) in connection with the termination of the insureds' automobile policies. The hearings 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 hearings will be held in the Insurance Department's regional offices in Harrisburg and Philadelphia, 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 Gregory A. Deaven; file no. 08-183-58768; Encompass Insurance Company; doc no. P08-10-012; December 16, 2008, 10 a.m.

The following hearings will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Robyn Daniels; file no. 08-214-54640; State Farm Fire and Casualty Insurance Company; doc. no. PH08-07-016; December 3, 2008, 11 a.m.

Appeal of Brian D. Woodford and Georgette Escardill; file no. 08-217-55641; AIG Indemnity Insurance Company; doc. no. PH08-08-015; December 4, 2008, 1 p.m.

Appeal of Anthony Green; file no. 08-215-54217; New Jersey Manufacturers Insurance Company; doc. no. PH08-06-011; December 3, 2008, 9 a.m.

Appeal of Arlene Hopkins; file no. 08-215-52849; Capitol Insurance Company; doc. no. PH08-06-010; December 4, 2008, 2 p.m.

Appeal of Thomas M. Mullarkey; file no. 08-214-58993; Allstate Insurance Company; doc. no. PH08-10-015; December 4, 2008, 9 a.m.

Appeal of David Robbins; file no. 08-215-51110; USAA Casualty Insurance Company; doc. no. PH08-06-009; December 4, 2008, 1:30 p.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 Donna R. Fleischauer, Human Resources Director, at (717) 705-3873.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-2042. Filed for public inspection November 7, 2008, 9:00 a.m.]

### Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' policies. The administrative hearing will be held in the Insurance Department's regional office in Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Thomas and Helen Mettee; file no. 08-215-58520; Cumberland Mutual Fire Insurance Company; doc. no. PH08-10-014; December 4, 2008, 10 a.m.

Appeal of Christopher and Peggy Sadow; file no. 08-217-54074; State Farm Fire and Casualty Insurance Company; doc no. PH08-05-028; December 3, 2008, 2 p.m.

Appeal of Julia Singleton; file no. 08-217-58409; Hanover Fire and Casualty Insurance Company; doc. no. PH08-10-006; December 4, 2008, 11 a.m.

Parties may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending.

Reimbursement is available only when the insured is successful on appeal and may not be ordered in all

instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-3873.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-2043. Filed for public inspection November 7, 2008, 9:00 a.m.]

### Review Procedure Hearings under the Unfair Insurance Practices Act

The following insurer has requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' policies. The administrative hearing will be held in the Insurance Department's regional office in Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of The Philadelphia Contributionship; file no. 08-215-55320; William J. Dunne; doc. no. PH08-07-014; December 3, 2008, 10 a.m.

Parties may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending.

Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons

participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-3873.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-2044. Filed for public inspection November 7, 2008, 9:00 a.m.]

### The Travelers Home and Marine Insurance Company; Private Passenger Automobile; Rate Revisions; Rate Filing

On October 24, 2008, the Insurance Department (Department) received from The Travelers Home and Marine Insurance Company a filing for rate level changes for private passenger automobile insurance.

The company requests an overall 5.68% increase amounting to \$7.976 million annually, to be effective January 16, 2009.

Unless formal administrative action is taken prior to December 23, 2008, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's web site at [www.ins.state.pa.us](http://www.ins.state.pa.us). To access the filing, under "Quick Links" click on "Rate Filings Published in the PA Bulletin."

Interested parties are invited to submit written comments, suggestions or objections to Michael McKenney, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, [mmckenney@state.pa.us](mailto:mmckenney@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-2045. Filed for public inspection November 7, 2008, 9:00 a.m.]

### Bruce Woodring, Jr.; Prehearing

#### Appeal of Bruce Woodring, Jr. under 40 P. S. §§ 991.2101—991.2193; Quality Health Care Accountability and Protection Article; Doc. No. HC08-10-011

Under 40 P. S. §§ 991.2101—991.2193, notice is hereby given that the appellant in this action has requested a hearing, in connection with the appellant's managed health care plan. The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedures) and any other relevant procedure provisions of law.

A prehearing telephone conference initiated by the Administrative Hearings Office shall be conducted on

November 20, 2008, at 10 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before November 17, 2008. The hearing will occur on December 17, 2008, at 10 a.m. in Room 200, Administrative Hearing Office, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102.

Motions preliminary to those at hearing, protests, petitions to intervene, or notices of intervention, if any, must be filed on or before December 10, 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 shall be filed on or before December 17, 2008.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Donna R. Fleischauer, Human Resources Director, at (717) 705-3873.

JOEL SCOTT ARIO,  
*Insurance Commissioner*

[Pa.B. Doc. No. 08-2046. Filed for public inspection November 7, 2008, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The Liquor Control Board Lease will expire:

Chester County, Wine & Spirits Store #1504, (Relocation), West Chester, PA

*Lease Expiration Date:* September 30, 2015

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 8,000 net useable square feet of new or existing retail commercial space. Location must be within a 1 mile radius of the Downingtown Pike and Stradsburg Road, East Bradford Township, West Chester, PA.

*Proposals due:* November 21, 2008, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Robert Jolly, (215) 482-9670

PATRICK J. STAPLETON, III,  
*Chairperson*

[Pa.B. Doc. No. 08-2047. Filed for public inspection November 7, 2008, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene

must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by November 24, 2008. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

**Applications of the following for approval to begin operating as common carriers for transportation of persons as described under each application.**

**A-2008-2066513. Autoeffects Motor Sports, Inc.** (191 9th Street, Monaca, Beaver County, PA 15061), a corporation of the Commonwealth—persons, in limousine service, from points in the Town of Monaca, Beaver County, and within an airline radius of 50 statute miles, to points in Pennsylvania and return, excluding service that is under the jurisdiction of the Philadelphia Parking Authority.

**A-2008-2066748. Tina L. Rittenhouse t/a Rittenhouse Busing** (460 Mountain Lane, McVeytown, Mifflin County, PA 17051), for the right to begin to transport persons, in paratransit service, from points in the Mifflin County, to points in Pennsylvania, and return.

**A-2008-2071172. Youth Transit Authority, LLC** (188 Blue Jay Way, Hummelstown, Dauphin County, PA 17036)—a limited liability corporation of the State of Pennsylvania—persons in paratransit service, between points in Pennsylvania. Subject to the following conditions: that the service is limited to: (a) at-risk youth and their families; and (b) to organizations providing intervention and other services for at-risk youth and their families. *Attorney:* Michael M. Miller, 213 Market Street, Harrisburg, PA 17101.

**Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under the application.**

**A-2008-2061209. Haines Transportation Services, Inc.** (1139 Mt. Laurel Avenue, Temple, Berks County, PA 19560), a corporation of the Commonwealth—for the right to transport, as a common carrier, by motor vehicle, persons in limousine service, between points in Pennsylvania; which is to be a transfer of all of the operating rights under the certificate issued at A-00120195, to Michael's Classic Limousine, Inc., subject to the same limitations and conditions; excluding service that is under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* David P. Temple, Esquire, 1760 Market Street, Suite 1100, Philadelphia, PA 19103.

\_\_\_\_\_  
*Pennsylvania Public Utility Commission, Bureau of  
Transportation and Safety v. Curtis L. Gardner;  
Doc. No. C-2008-2056922*

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are

prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That all authority issued to Curtis L. Gardner (respondent) is under suspension effective December 11, 2007 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 615 Heinsohn Hill Road, Bangor, PA 18013.

3. That respondent was issued a Certificate of Public Convenience by this Commission on January 26, 2004, at Application Docket No. A-00119324.

4. That respondent has failed to maintain evidence of Liability insurance and Cargo insurance on file with this Commission.

5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

*Wherefore*, unless respondent causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Transportation and Safety Prosecutory Staff will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at Docket No. A-00119324 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services and Enforcement  
Bureau of Transportation and Safety

NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and

must include the reference number of this Complaint. Your Answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. Pursuant to 66 Pa.C.S. § 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, or any other remedy as may be appropriate. Each day you continue to violate any regulation, direction, requirement, determination or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations and by paying the fine proposed in the Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Transportation and Safety  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

Acord Certificates of Insurance and Faxed Form Es and Hs are **Unacceptable** as Evidence of Insurance.

The fine payment must be made to the Commonwealth of Pennsylvania and forwarded to:

James J. McNulty, Secretary  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations.

Upon receipt of the evidence of insurance from your insurer and receipt of your fine payment, the Complaint proceeding shall be closed.

D. If you file an Answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the cancellation of your Certificate of Public Convenience. Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. GP Cab Co.;*  
*Doc. No. C-2008-2071116*

### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff here by represents as follows:

1. That all authority issued to GP Cab Co. (respondent) is under suspension effective June 25, 2005 for failure to maintain evidence of insurance on file with this Commission.

2. That respondent maintains a principal place of business at 553 Snow Din Road, Upper Darby, PA 19082.

3. That respondent was issued a Certificate of Public Convenience by this Commission on December 21, 2004, at A-00121185.

4. That respondent has failed to maintain evidence of Liability insurance on file with this Commission. The penalty is \$250.00.

5. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

*Wherefore*, unless respondent pays the penalty of \$250.00 and causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Transportation and Safety Prosecutory Staff will request that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at A-00121185 for failure to maintain evidence of current insurance on file with the Commission, (2) fines Respondent the sum of two hundred and fifty dollars (\$250.00) for the illegal activity described in this Complaint, (3) orders such other remedy as the Commission may deem to be appropriate, which may include the suspension of a vehicle registration and (4) imposes an additional fine on the respondent should cancellation occur.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
 Motor Carrier Services & Enforcement Division  
 Bureau of Transportation and Safety  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

### VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect that the Bureau will be able to prove same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

Wendy J. Keezel, Chief of Enforcement  
 Motor Carrier Services and Enforcement  
 Bureau of Transportation and Safety

NOTICE

A. You must file an Answer within twenty (20) days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An Answer is a written explanation of circumstances wished to be considered in determining the outcome. The Answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty (20) days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. Pursuant to 66 Pa.C.S. § 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, or any other remedy as may be appropriate. Each day you continue to violate any regulation, direction, requirement, determination or Order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations **and by paying the \$250.00 fine** proposed in the Complaint by certified check or money order within twenty (20) days of the date of service of this Complaint.

The proof of insurance must be filed with the:

Compliance Office, Bureau of Transportation and Safety  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

Acord Certificates of Insurance and Faxed Form Es and Hs are **Unacceptable** as Evidence of Insurance.

The fine payment must be made to the Commonwealth of Pennsylvania and forwarded to:

James J. McNulty, Secretary  
 Pennsylvania Public Utility Commission  
 P. O. Box 3265  
 Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations.

Upon receipt of the evidence of insurance from your insurer **and receipt of your fine payment**, the Complaint proceeding shall be closed.

D. If you file an Answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the cancellation of your Certificate of Public Convenience. Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1227.

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 08-2048. Filed for public inspection November 7, 2008, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept bids for the sale of the following items until 2 p.m., Monday, November 24, 2008. Project No. 08-135, sale of two 1,500 gallon, preowned, never used, Concrete Storage Tanks. Project No. 08-136, sale of one used Cleaver Brooks Boiler, pressure of 150 PSI, output of 125 horsepower, Model No. CB100-125-150 ST. Additional information can be obtained from the Director of Procurement, PRPA, 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available November 11, 2008. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 08-2049. Filed for public inspection November 7, 2008, 9:00 a.m.]

## STATE BOARD OF BARBER EXAMINERS

### Bureau of Professional and Occupational Affairs v. Harry Mercado; Doc. No. 2337-42-07

On September 4, 2008, Harry Mercado, unlicensed, of Philadelphia, Philadelphia County, was assessed a civil penalty of \$500, based on Respondent practicing barbering without a license.

Individuals may obtain a copy of the adjudication by writing to C. William Fritz, II, Board Counsel, State Board of Barber Examiners, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final State Board of Barber Examiners (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a

copy of their petition for review. The agency contact for receiving service of such appeals is the previously-named Board counsel.

VINCENT IACONO,  
*Chairperson*

[Pa.B. Doc. No. 08-2050. Filed for public inspection November 7, 2008, 9:00 a.m.]

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## STATE BOARD OF NURSING

### **Bureau of Professional and Occupational Affairs v. Julia Fay Kendall, LPN; Doc. No. 2396-51-07**

On September 16, 2008, Julia Fay Kendall, license no. PN-088661L, of Mesa, AZ had her license to practice practical nursing indefinitely suspended based on disciplinary action taken against her license by the proper licensing authority of another state.

Individuals may obtain a copy of the adjudication by writing to C. William Fritz, II, Board Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final State Board of Nursing (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board counsel.

MARY E. BOWEN, RN, CRNP,  
*Chairperson*

[Pa.B. Doc. No. 08-2051. Filed for public inspection November 7, 2008, 9:00 a.m.]

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### **Bureau of Professional and Occupational Affairs v. Gina A. Levy, RN; Doc. No. 1128-51-08**

On September 16, 2008, Gina A. Levy, license no. RN-514099L, of Pittsburgh, Allegheny County, had her license to practice practical nursing indefinitely suspended, retroactive to July 3, 2008, based on findings she is unable to practice professional nursing with reasonable skill and safety to patients by reason of mental or physical illness or condition or physiological or psychologi-

cal dependence on alcohol, hallucinogenic or narcotic drugs or other drugs which tend to impair judgment or coordination.

Individuals may obtain a copy of the adjudication by writing to C. William Fritz, II, Board Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final State Board of Nursing (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board counsel.

MARY E. BOWEN, RN, CRNP,  
*Chairperson*

[Pa.B. Doc. No. 08-2052. Filed for public inspection November 7, 2008, 9:00 a.m.]

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### **Bureau of Professional and Occupational Affairs v. Lynn A. Pesanka, RN; Doc. No. 0674-51-2007**

On September 11, 2008, Lynn A. Pesanka, license no. RN-517537, of Pittsburgh, Allegheny County, had her license to practice nursing indefinitely suspended for no less than 3 years, based on the inability to practice professional nursing with reasonable skill and safety to patients by reason of mental or physical illness of condition or physiological or psychological dependence upon alcohol, hallucinogenic or narcotic drugs or other drugs, which tend to impair judgment or coordination.

Individuals may obtain a copy of the adjudication by writing to C. William Fritz, II, Board Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final State Board of Nursing (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of their petition for review. The Board contact for receiving service of the appeals is the previously-named Board counsel.

MARY E. BOWEN, RN, CRNP,  
*Chairperson*

[Pa.B. Doc. No. 08-2053. Filed for public inspection November 7, 2008, 9:00 a.m.]







