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# PENNSYLVANIA BULLETIN

Volume 38

Number 17

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Pages 1917—2030

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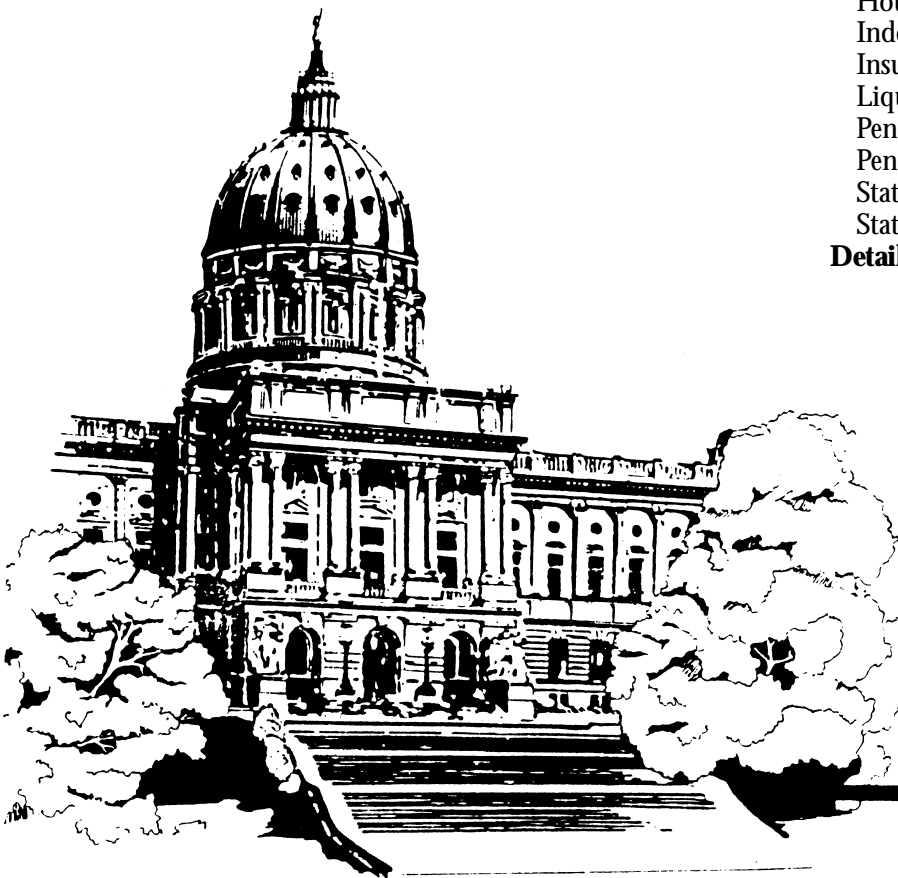
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**Latest Pennsylvania Code Reporter  
(Master Transmittal Sheet):**

**No. 401, April 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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# THE COURTS

## Title 201—RULES OF JUDICIAL ADMINISTRATION

[ 201 PA. CODE CH. 30 ]

### Judicial Administration Governing Court Interpreters for Persons with Limited English Proficiency and for Persons Who are Deaf; Notice of Proposed Rules

The Administrative Office of Pennsylvania Courts is planning to recommend that the Supreme Court of Pennsylvania adopt these proposed rules of judicial administration that provide for a court interpreter certification program and prescribe procedures for requesting and obtaining certified or otherwise qualified court interpreters.

Specifically, the proposed rules direct and empower the Court Administrator to: establish a program for certifying court interpreters; compile a list of certified court interpreters; create guidelines for courts to use in selecting otherwise qualified interpreters when a certified court interpreter is not available; prepare a fee schedule for court interpreters; and establish standards of professional conduct and a disciplinary system for court interpreters. In addition, the proposed rules provide the procedures judges and court personnel are to use to identify the need for an interpreter and to obtain, appoint and remove a court interpreter. The proposed rules also provide: a procedure for waiver of the right to an interpreter; for telephonic interpretation under specific circumstances; and confidentiality of certain communications between the court interpreter and the person with limited English proficiency or person who is deaf. Finally, the proposed rules state how the cost of the court interpreter is to be allocated.

The Report highlights the considerations underlying these proposed rules. I request that interested persons submit suggestions, comments, or objections concerning this proposal to the Interpreter Certification Program through

Osvaldo Aviles  
 Interpreter Program Administrator  
 Administrative Office of Pennsylvania Courts  
 1515 Market Street, Suite 1414  
 Philadelphia, PA 19102  
 InterpreterProgram@pacourts.us

no later than June 20, 2008.

ZYGOMONT A. PINES,  
*Court Administrator of Pennsylvania*

#### Annex A

#### TITLE 201. RULES OF JUDICIAL ADMINISTRATION

#### CHAPTER 30. UNIFORM RULES GOVERNING COURT INTERPRETERS FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY AND FOR PERSONS WHO ARE DEAF

##### GENERAL PROVISIONS

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##### GENERAL PROVISIONS

#### Rule 3001. Scope.

These rules shall govern the appointment and use of interpreters for persons with limited English proficiency and persons who are deaf in all court proceedings within the Unified Judicial System.

#### Rule 3002. Definitions.

For purposes of these rules:

(a) *Appellate Court Prothonotary*—Means the prothonotary responsible for the appellate court in which the judicial proceeding is conducted or his or her designee.

(b) *Certified Interpreter*—Means a person who is certified in accordance with the guidelines established by the Court Administrator for the certification and appointment of interpreters.

(c) *Court Administrator*—Means the Court Administrator of Pennsylvania.

(d) *Deaf*—Means an impairment of hearing which results in the inability to hear well enough in order to process information, understand or communicate in a spoken language.

(e) *Direct Victim*—Means an individual against whom a crime has been committed or attempted and who, as a direct result of the criminal act or attempt, suffers physical or mental injury, death or the loss of earnings under this act. The term shall not include the alleged offender.

(f) *District Court Administrator*—Means the court administrator responsible for the administration of the courts of the judicial district in which the judicial proceeding is conducted or his or her designee.

(g) *Immediate family member*—Means a spouse, child, parent or an individual who stands in loco parentis to a child in a proceeding pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

(h) *Interpret*—Means either:

(1) within the context of court interpreters for persons with limited English proficiency, to convey spoken and written English into the language of the person with limited English proficiency and to convey spoken and written statements by that person into English; or

(2) within the context of court interpreters for persons who are deaf, to convey spoken English in a manner understood by the deaf person through, but not limited to, American Sign Language and transliteration or the use of Computer-Aided-Real-Time Captioning (CART) or similar

procedure, and to convey the communications made by the deaf person into spoken English.

(i) *Interpreter*—Includes both a certified interpreter and an otherwise qualified interpreter for persons with limited English proficiency and the deaf.

(j) *Judicial proceeding*—Means an action, appeal or proceeding in any court of the Commonwealth of Pennsylvania and includes any proceeding conducted by a presiding judicial officer as defined by Pa.R.J.A. 3002(o).

(k) *Limited ability to speak or understand English*—Means the ability to speak exclusively or primarily a language other than English and the inability to sufficiently speak and understand English so as to fully participate and be understood in a judicial proceeding.

(l) *Otherwise qualified interpreter*—Means a person who meets the pertinent requirements of the guidelines established by the Court Administrator for qualification and appointment of interpreters.

(m) *Person who is deaf*—Means a principal party in interest or a witness who is deaf.

(n) *Person with limited English proficiency*—Means a principal party in interest or a witness who has limited ability to speak or understand English.

(o) *Presiding judicial officer*—Includes justices, judges, magisterial district judges, and appointive judicial officers such as arbitrators, masters and other like officers.

(p) *Principal party in interest*—Means a person involved in a judicial proceeding who is a named party, a defendant or direct victim in a criminal proceeding, a defendant, parent of a defendant, or direct victim in a proceeding pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters), or a plaintiff or defendant in a proceeding pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse).

(q) *Roster*—Means the list of certified and otherwise qualified interpreters maintained and distributed by the Court Administrator.

(r) *Staff Interpreter*—Means a certified or otherwise qualified interpreter who is an employee of the appellate court or judicial district and whose principal duty consists of providing services as an interpreter and functions related to interpreting.

(s) *Transliteration*—Means to convey spoken or written English in an English-based sign system and the process of conveying an English-based sign system in spoken or written English.

*Comment:* The definition of “Certified Interpreter” set forth in subsection (b) contains the requirement that the interpreter be certified by the Court Administrator. An interpreter who is certified pursuant to another jurisdiction or organization’s policies is nonetheless not a certified interpreter under these rules if that individual has not been certified by the Court Administrator. Therefore, persons charged with applying these rules should take care to confirm that an interpreter who purports to be certified has in fact been certified by the Court Administrator. A “Staff Interpreter” pursuant to subsection (r) is a full-time employee of the appellate court or judicial district whose sole duty is to provide interpretation services. Persons employed as staff interpreters—even those employed as such on or before the date of the enactment of these rules—will be required to be certified in their language of expertise by the Court Administrator in order to attain certified status under these rules, if such certification is available.

### **Rule 3003. Interpreter Certification Program.**

(a) *Interpreter program*.—The Court Administrator shall establish a program for the certification, appointment and use of interpreters for persons with limited English proficiency and persons who are deaf in judicial proceedings.

(b) *List of certified interpreters*.—The Court Administrator shall compile, maintain and disseminate a current list of interpreters certified by the Court Administrator for the courts through any means deemed appropriate by the Court Administrator, including, but not limited to, a written directory which shall be maintained on file with the office of the clerk of courts in each judicial district, and through publication on the official World Wide Web site of the Administrative Office of the Pennsylvania Courts.

(c) *Guidelines for court selection of otherwise qualified interpreters*.—The Court Administrator shall provide guidelines to the courts for the selection and use of otherwise qualified interpreters in order to ensure that the highest standards of accuracy are maintained in all judicial proceedings subject to the provisions of this chapter.

(d) *Fee schedule*.—The Court Administrator shall prescribe, subject to periodic review, a schedule of reasonable fees for services rendered by certified interpreters and otherwise qualified interpreters used in judicial proceedings.

(e) *Discipline of interpreters*.—The Court Administrator shall have the authority to revoke or suspend an interpreter’s certification or roster status for violations of these Rules or any conduct which calls into question the interpreter’s ability to properly perform his or her duties.

(f) *Standards of professional conduct*.—

(1) The Court Administrator shall establish and adopt a code of ethics and professional conduct for interpreters for persons with limited English proficiency and persons who are deaf.

(2) The Court Administrator shall establish and administer a process to review and respond to allegations of violations of the code of ethics and professional conduct for interpreters for persons with limited English proficiency and persons who are deaf including, but not limited to, decertification and other disciplinary measures pursuant to Pa.R.J.A. 3003(e).

### **Rule 3004. Interpreter Certification Requirements; Renewal of Certification; Waiver and Reciprocity of Examination Requirement.**

(a) In order to become certified or otherwise qualified, interpreters shall meet the requirements established by the Court Administrator for the appointment and certification of interpreters.

(b) *Renewal of roster status*.—To renew their roster status, every two years all interpreters must:

(1) satisfy any continuing education requirements established by the Court Administrator;

(2) pay the renewal fee determined by the Court Administrator; and

(3) follow all guidelines, complete all forms and abide by reporting deadlines as established by the Court Administrator for the fulfillment of the foregoing requirements.

(c) *Waiver and reciprocity of examination requirement*.—Upon presentation of satisfactory proof to the

Court Administrator, the written and oral proficiency examination requirements shall be waived for any interpreter who has successfully completed all the requirements of the Federal Court Interpreter Certification Examination (FCICE) administered by the Administrative Office of the United States Courts; an oral proficiency examination administered in accordance with the standards of the Consortium for State Court Interpreter Certification in another Consortium member state; or the National Association of Judiciary Interpreters and Translators (NAJIT) oral proficiency examination. Reciprocity for interpreters from other jurisdictions could be granted at the discretion of the Court Administrator. These interpreters must comply with all additional program requirements.

**Rule 3005. Confidentiality of Communications.**

An interpreter appointed under this chapter shall not be permitted or compelled to testify in any judicial proceeding as to any statements made by the person with limited English proficiency or person who is deaf interpreted by the interpreter when the person with limited English proficiency or person who is deaf is engaged in a confidential communication as provided by any statute or general rule, including, but not limited to:

- (a) 42 Pa.C.S. § 5916 (relating to confidential communications to attorney);
- (b) 42 Pa.C.S. § 5928 (relating to confidential communications to attorney);
- (c) 42 Pa.C.S. § 5942 (relating to confidential communications to news reporters);
- (d) 42 Pa.C.S. § 5943 (relating to confidential communications to clergymen);
- (e) 42 Pa.C.S. § 5944 (relating to confidential communications to psychiatrists or licensed psychologists);
- (f) 42 Pa.C.S. § 5945 (relating to confidential communications to school personnel);
- (g) 42 Pa.C.S. § 5945.1 (relating to confidential communications with sexual assault counselors); and
- (h) 42 Pa.C.S. § 5945.2 (relating to confidential communications to crime stopper or similar anticrime program).

**Rule 3006. Telephonic Interpretation.**

In the event that a certified or otherwise qualified interpreter for persons with limited English proficiency cannot be found to interpret in person, one may be appointed pursuant to this chapter to interpret via telephone provided that the judicial proceeding: is expected to be no more than 30 minutes in duration; is non-evidentiary; and does not involve more than one interpreter. If neither a certified nor otherwise qualified interpreter can be procured to interpret via telephone, the court may utilize a telephone interpreter provided by a commercial telephone interpreter service. Prior to utilizing a telephone interpreter provided by a commercial telephone interpreter service, however, the court must conduct a voir dire to determine his or her qualifications.

**Rule 3007. Waiver of Interpreter.**

The person with limited English proficiency or person who is deaf may waive the right to an interpreter provided the waiver is conducted in the presence of the presiding judicial officer and the person seeking to waive is represented by counsel. The presiding judicial officer shall ascertain from the person with limited English proficiency or person who is deaf whether the waiver is

knowing, voluntary, and intelligent. If the judicial proceeding is conducted in a court of record, the foregoing determination shall be made on the record. The person with limited English proficiency or person who is deaf must be provided with an interpreter during the waiver process. In addition, the waiver shall be in writing: (1) signed by the person with limited English proficiency or person who is deaf, with a representation that the person was told of the right to an interpreter and that the person chose not to have an interpreter at the judicial proceeding; and (2) signed by the presiding judicial officer with a certification that the waiver was made knowingly, voluntarily, and intelligently. The written waiver shall be made a part of the record of the judicial proceeding.

*Comment:* When persons with limited English proficiency or persons who are deaf waive their right to an interpreter pursuant to Pa.R.J.A. 3007 they are divesting themselves of an important due process safeguard. For this reason, the presiding judicial officer should take great care to ensure that the person's waiver is knowing, voluntary and intelligent. When deciding whether to permit waiver the presiding judicial officer should consider not only the needs of the person with limited English proficiency or person who is deaf but also the needs of the presiding judicial officer and others involved in the proceedings to accurately understand that person. If the presiding judicial officer feels that the interpreter is necessary for the presiding judicial officer or others involved in the proceedings to accurately understand the person with limited English proficiency or person who is deaf, the waiver request should be denied.

**PROCEDURES FOR NOTIFICATION, DETERMINATION OF NEED, PROCUREMENT AND APPOINTMENT OF INTERPRETERS**

**Rule 3101. Notice of Need for Interpreter.**

(a) *Persons required to give notice; timing and form of notice.*—

(1) If a principal party in interest is a person with limited English proficiency or a person who is deaf and is in need of an interpreter, either the principal party in interest or his or her attorney shall give notice of the need for an interpreter as soon as is practicable after learning of the need. The notice shall be made to the presiding judicial officer in writing, if practicable. If written notice is not practicable, oral notice is acceptable provided it conveys all of the information required in subsection (b) of this rule. If a presiding judicial officer has not yet been assigned to the matter or is otherwise not known, notice shall be made to the Appellate Court Prothonotary or District Court Administrator.

(2) If the person with limited English proficiency or person who is deaf is a witness, notice of the need for an interpreter shall be given by the party that intends to call the person as a witness as soon as is practicable after learning of the need. The notice shall be made to the presiding judicial officer in writing, if practicable. If written notice is not practicable, oral notice is acceptable provided it conveys all of the information required in subsection (b) of this rule. If a presiding judicial officer has not yet been assigned to the matter or is otherwise not known, notice shall be made to the Appellate Court Prothonotary or District Court Administrator.

(3) If the person with limited English proficiency or person who is deaf is a direct victim, the notice of the need for an interpreter shall be given by the Commonwealth as soon as is practicable after learning of the need. The notice shall be made in writing to the presiding

judicial officer, if practicable. If written notice is not practicable, oral notice is acceptable provided it conveys all of the information required in subsection (b) of this rule. If a presiding judicial officer has not yet been assigned to the matter or is otherwise not known, notice shall be made to the Appellate Court Prothonotary or District Court Administrator.

(b) *Content of Notice.*—The notice required under this rule shall set forth the:

- (1) caption of the judicial proceeding;
- (2) name of the person filing the notice;
- (3) name of the person with limited English proficiency or deaf person for whom the interpreter is sought;
- (4) in the case of persons with limited English proficiency:
  - (i) the language spoken by the person with limited English proficiency for whom the interpreter is sought, specifying any particular dialect or regional version of said language; and
  - (ii) the country of origin of the person with limited English proficiency for whom the interpreter is sought;
- (5) in the case of persons who are deaf:
  - (i) the type of sign language or method of communication used by the deaf person to communicate;
  - (ii) the country of origin of the deaf person for whom an interpreter is sought when said person uses a foreign sign language to communicate; and
  - (iii) a description of any educational, physical, mental or other particular condition which may limit the deaf person's ability to communicate;
- (6) relationship of the person with limited English proficiency or deaf person to the proceedings (i.e. party, witness, victim, etc.); and
- (7) date, time and location of the judicial proceeding(s) for which the interpreter is needed, if known.

*Comment:* Subsection (a) requires that notice be given as soon as practicable after learning of the need. The fact that no specific time limit is given is in recognition of the fact that situations may arise in which significant advance notice is not feasible. Nevertheless, the party responsible for giving notice under these rules must notify the presiding judicial officer as soon as the need for an interpreter is known so as to avoid unnecessary delay. The party responsible for giving notice should take the initiative in giving notice of the need for an interpreter. The notice shall be made to the presiding judicial officer in writing, if practicable. There may, however, be situations where written notice is not practicable due to time constraints, in these situations oral notice is acceptable provided it conveys all of the information required in subsection (b) of this rule. The party responsible for giving notice is encouraged to use the notice form prepared by the Court Administrator so as to ensure that all information required by subsection (b) is provided.

In the case of a deaf juror, the District Court Administrator should follow the judicial district's existing policies pursuant to the American's with Disabilities Act (ADA), 42 U.S.C. §§ 12101 et seq., to ensure proper accommodation of a deaf juror. Juror summonses and/or questionnaires should advise prospective jurors to give notice of need for an accommodation prior to the date they report for jury duty.

### **Rule 3102. Determination of Need for Interpreter.**

(a) Once the presiding judicial officer receives notice of the need for an interpreter pursuant to Pa.R.J.A. 3101, he or she must determine whether the person for whom the interpreter is sought is a person with limited English proficiency or deaf person. In making this determination, the presiding judicial officer shall follow the policy guidelines established by the Court Administrator for determination of need for interpreters for persons with limited English proficiency or the deaf. If, after considering the notice of need, the presiding judicial officer requires additional information in order to make the determination, he or she may request any additional filings from the parties or conduct any proceedings he or she deems necessary including, but not limited to, conducting the voir dire for determination of need for an interpreter for persons with limited English proficiency established by the Court Administrator.

(b) If the presiding judicial officer determines that the person for whom the interpreter is sought is a person with limited English proficiency or deaf person, he or she shall forward a copy of the notice of need for an interpreter and his or her determination of need to the Appellate Court Prothonotary or District Court Administrator as soon as is practicable.

(c) If, during the course of the judicial proceedings, and without regard to whether notice of need for an interpreter was given, the presiding judicial officer determines that a principal party in interest, witness, or direct victim is a person with limited English proficiency or that a principal party in interest, witness, direct victim or juror is deaf and is in need of an interpreter, he or she shall give notice to the Appellate Court Prothonotary or District Court Administrator as provided in subsection (b) of this rule.

(d) If the appellate court or judicial district employs staff interpreters and one certified or otherwise qualified in the applicable language is readily available, the presiding judicial officer may appoint that staff interpreter to the new judicial proceeding pursuant to Pa.R.J.A. 3104. In this situation, the presiding judicial officer need not give the notice required under subsection (b) of this rule.

*Comment:* Subsection (a) requires that the presiding judicial officer make the determination of need for an interpreter. Subsection (a) further requires that the presiding judicial officer follow the guidelines established by the Court Administrator for determining whether the person for whom the interpreter is sought is a person with limited English proficiency or person who is deaf. Subsection (a) also allows the presiding judicial officer to acquire additional information in order to make the determination of need by way of supplemental filings, hearings, and any other means typically within the presiding judicial officer's power in handling the particular judicial proceeding and, in the case of persons with limited English proficiency, suggests using the voir dire established by the Court Administrator for assessing the level of English proficiency of the individual in question.

Subsection (b) states that once the presiding judicial officer determines that an interpreter is needed he or she must give notice to the Appellate Court Prothonotary or District Court Administrator by forwarding copies of the notice of need and determination of need as soon as is practicable so that a certified interpreter, if available, can be procured expeditiously pursuant to Pa.R.J.A. 3103. The original notice of need and determination of need should be made part of the record of the proceeding. If

the notice of need was oral, the presiding judicial officer should forward a written statement or order containing the information required in Pa.R.J.A. 3101(b) to the Appellate Court Prothonotary or District Court Administrator, which should subsequently be made part of the record of the proceeding. If an interpreter must be procured quickly the presiding judicial officer may supply the notice required in subsection (b) in oral form; however, the notice of need and determination of need still must be made part of the record of the proceeding.

Subsection (c) is intended to clarify that even if notice of the need for an interpreter is not given by one of the individuals required to give notice under Pa.R.J.A. 3101(a), the presiding judicial officer may sua sponte determine the need for an interpreter and thereby start the appointment process in motion if he or she deems it appropriate to do so under these rules.

Subsection (d) recognizes that some appellate courts or judicial districts may employ staff interpreters for the appropriate language who may be readily available and thus requiring the notice set forth in Pa.R.J.A. 3102(b) and the actions set forth in Pa.R.J.A. 3103 would be unnecessary and time consuming. In this case, the presiding judicial officer shall be guided by the procedures established within the particular judicial district for obtaining the services of a staff interpreter.

**Rule 3103. Procurement of Certified and Otherwise Qualified Interpreters.**

(a) Once the Appellate Court Prothonotary or District Court Administrator receives both the notice and determination of need for an interpreter from the presiding judicial officer, the Appellate Court Prothonotary or District Court Administrator shall procure a certified interpreter in the manner provided by the guidelines established by the Court Administrator for the appointment of certified interpreters.

(b) If the Appellate Court Prothonotary or District Court Administrator cannot procure a certified interpreter in the manner set forth in subsection (a) above, he or she shall procure an otherwise qualified interpreter in the manner provided by the guidelines established by the Court Administrator for the appointment of otherwise qualified interpreters. Once an otherwise qualified interpreter is identified and arrangements are made to procure his or her services for the judicial proceeding, the Appellate Court Prothonotary or District Court Administrator shall notify the presiding judicial officer in writing. The notice shall also contain a statement by the Appellate Court Prothonotary or District Court Administrator that he or she procured the otherwise qualified interpreter in the manner provided by the guidelines established by the Court Administrator for the appointment of otherwise qualified interpreters as well as a brief statement of the efforts made to procure a certified interpreter.

(c) If the Appellate Court Prothonotary or District Court Administrator cannot procure either a certified interpreter or an otherwise qualified interpreter in the manner set forth in subsections (a) and (b) above, he or she shall notify the presiding judicial officer in writing of the steps taken to procure a certified and otherwise qualified interpreter and the reasons why none could be obtained.

*Comment:* Subsection (a) requires the Appellate Court Prothonotary or District Court Administrator to follow the Court Administrator's guidelines for appointing a certified interpreter and to make the necessary arrangements to secure the interpreter's services for the judicial proceed-

ing if one is found. If a certified interpreter cannot be found subsection (b) requires the Appellate Court Prothonotary or District Court Administrator to obtain an otherwise qualified interpreter in the manner provided in the Court Administrator's guidelines. The notice under subsection (b) must contain sufficient information so as to allow the presiding judicial officer to make the determinations required under Pa.R.J.A. 3104(b). In procuring either a certified or otherwise qualified interpreter, and when the person requiring the interpreter is a person with limited English proficiency, the Appellate Court Prothonotary or District Court Administrator may obtain the services of an interpreter to translate via telephone subject to the limitations of Pa.R.J.A. 3006. Pursuant to subsection (c), if the Appellate Court Prothonotary or District Court Administrator cannot procure a certified or otherwise qualified interpreter he or she shall promptly notify the presiding judicial officer of the efforts undertaken to procure such interpreters and the reasons why they could not be obtained. In the event that neither a certified nor an otherwise qualified interpreter can be procured, the Appellate Court Prothonotary or District Court Administrator shall contact the Court Administrator's office for guidance. A copy of the notices required under subsections (a), (b), or (c) should be made part of the record of the proceedings.

**Rule 3104. Appointment of Interpreters.**

(a) *Appointment of a certified interpreter.*—The presiding judicial officer shall appoint the certified interpreter procured pursuant to Pa.R.J.A. 3103(a), or the staff interpreter obtained pursuant to Pa.R.J.A. 3102(d), unless a certified interpreter is unavailable.

(b) *Appointment of an otherwise qualified interpreter.*—

(1) An otherwise qualified interpreter shall be appointed by the presiding judicial officer if the presiding judicial officer determines that the Appellate Court Prothonotary or District Court Administrator made a good faith effort to procure a certified interpreter and a certified interpreter was not available and also that the Appellate Court Prothonotary or District Court Administrator properly procured an otherwise qualified interpreter pursuant to Pa.R.J.A. 3103(b). In making the foregoing determinations the presiding judicial officer shall consider the efforts made by the Appellate or District Court Administrator and whether these efforts complied with the requirements of Pa.R.J.A. 3103.

(i) *Persons with limited English proficiency.*—Prior to the appointment of the otherwise qualified interpreter for a person with limited English proficiency, the presiding judicial officer shall state on the record that:

(A) a certified interpreter was not available;

(B) the Appellate Court Prothonotary or District Court Administrator properly procured the otherwise qualified interpreter pursuant to Pa.R.J.A. 3103(b);

(C) the presiding judicial officer conducted the voir dire for qualifying interpreters for persons with limited English proficiency; and

(D) the otherwise qualified interpreter has read, understands and agrees to abide by the policies and regulations governing the certification and appointment of interpreters and the code of ethics and professional conduct for court interpreters for persons with limited English proficiency, as established by the Court Administrator.

(ii) *Persons who are deaf.*—

Prior to the appointment of the otherwise qualified interpreter for a person who is deaf, the presiding judicial officer shall state on the record that:

(A) a certified interpreter was not available;

(B) the Appellate Court Prothonotary or District Court Administrator properly procured the otherwise qualified interpreter pursuant to Pa.R.J.A. 3103(b);

(C) the otherwise qualified interpreter is certified by the National Association of the Deaf (NAD), the Registry of Interpreters for the Deaf (RAD) or similar registry to the best of the knowledge of the presiding judicial officer;

(D) the otherwise qualified interpreter has read, understands and agrees to abide by the policies governing certification and appointment of interpreters for the deaf, the code of ethics for court interpreters for persons who are deaf, and the code of ethics and professional conduct for court interpreters as established by the Court Administrator; and

(E) the otherwise qualified interpreter has complied with the requirements of the Sign Language Interpreter and Transliterator State Registration Act, 63 P. S. § 1725.1 et seq., and is registered with the Office for the Deaf and Hard of Hearing (ODHH) within the Department of Labor and Industry of the Commonwealth.

(2) In ascertaining whether an individual is able to interpret and should be appointed as an otherwise qualified interpreter, the presiding judicial officer shall follow the guidelines established by the Court Administrator for the appointment of otherwise qualified interpreters for persons with limited English proficiency or for persons who are deaf.

(c) *Additional interpreter(s).*—After consideration of the length of the judicial proceeding and the number of persons requiring interpreters involved, the presiding judicial officer may appoint, as provided for in subsections (a) and (b), an additional interpreter or provide for additional interpretation in a manner deemed appropriate by the presiding judicial officer. In making this determination, the presiding judicial officer shall follow the guidelines established by the Court Administrator for the appointment of additional interpreters for persons with limited English proficiency or for persons who are deaf.

(d) *Immediate family.*—The presiding judicial officer may appoint, as provided in subsections (a) and (b), an interpreter or provide for additional interpretation, as provided in subsection (c), for an immediate family member of a principal party in interest.

*Comment:* The appointment process outlined in this subchapter is comprised of four main steps: (1) notice of need for an interpreter (Pa.R.J.A. 3101); (2) determination of need for an interpreter (Pa.R.J.A. 3102); (3) procurement of an certified or otherwise qualified interpreter (Pa.R.J.A. 3103); and (4) formal appointment of the interpreter (Pa.R.J.A. 3104). If a certified or otherwise qualified staff interpreter for the language is readily available, however, the presiding judicial officer may dispense with the third step. See Pa.R.J.A. 3102(d).

Subsection (a) of Pa.R.J.A. 3104 authorizes the presiding judicial officer to appoint a certified interpreter after the steps outlined in Pa.R.J.A. 3101, 3102, and 3103 have been taken. In addition, subsection (a) permits the presiding judicial officer to appoint a certified interpreter sua sponte if it is appropriate. If the presiding judicial officer determines sua sponte that an interpreter is needed, he or she must notify the Appellate Court Prothonotary or District Court Administrator of the need for a certified interpreter pursuant to Pa.R.J.A. 3102(b). If the judicial proceeding is conducted in a court of record, the formal appointment of either a certified interpreter or an other-

wise qualified interpreter should always be done on the record at the first appearance of the interpreter at the proceeding. Subsection (c) allows for the appointment of a team of interpreters if the judicial proceeding is a jury trial, is likely to be more than two hours in duration, or, in the case of a deaf person, whenever the limitations and particularities of the deaf person's form of communication (such as when the deaf person is a foreign national who does not communicate in any of the forms of sign language spoken in this country) requires it.

#### **Rule 3105. Replacement or Removal of Interpreter.**

(a) The presiding judicial officer shall dismiss an interpreter and obtain the services of another interpreter in accordance with this subchapter if the interpreter:

(1) Fails to follow the standards prescribed by law or by the code of ethics and professional conduct for court interpreters for persons with limited English proficiency or for persons who are deaf (whichever is applicable) established by the Court Administrator by engaging in conduct such as, but not limited to:

(i) knowingly and willfully making false, misleading, or incomplete interpretation while serving in an official capacity;

(ii) knowingly and willfully disclosing confidential or privileged information obtained while serving in an official capacity;

(iii) failing to reveal potential conflicts of interest;

(iv) misrepresenting his or her credentials; or

(v) failing to appear as scheduled without good cause.

(2) Is unable to effectively communicate with the presiding judicial officer or the person with limited English proficiency or the person who is deaf, including where the interpreter self-reports such inability.

(b) In the event a presiding judicial officer removes an interpreter for the grounds specified in subsection (a)(1) he or she shall notify the Court Administrator.

*Comment:* Subsection (b) requires that a presiding judicial officer inform the Court Administrator whenever an interpreter has to be removed for failing to follow standards prescribed by law or the code of ethics and professional conduct for judiciary interpreters established by the Court Administrator, the code of ethics of the Registry of Interpreters for the Deaf (RID), the National Association for the Deaf (NAD) or any other professional organization regulating the interpreter. This mandatory reporting requirement allows the Court Administrator to enforce the applicable standards and code of ethics and professional conduct governing court interpreters. In addition to reporting violations resulting in removal of a court interpreter, the presiding judicial officer is encouraged to report any other suspected violations of legal standards, the code of ethics and professional conduct, failure to follow Interpreter Certification Program guidelines, the Sign Language Interpreter and Transliterator State Registration Act, 63 P. S. § 1725.1 et seq., and the standards of the Department of Labor and Industry's Office of the Deaf and Hard of Hearing (ODHH), even if the suspected violations are not sufficient to cause the presiding judicial officer to remove the interpreter.

#### **Rule 3106. Oath for Interpreters.**

Before commencement of interpreter duties, an interpreter shall take the following oath:

Do you solemnly swear or affirm that you will make an accurate, complete and impartial interpretation

from the English language into the (target language), and vice-versa, of any communication put through you using your best skill, judgment and ability and that you will abide by the Code of Ethics and Professional Responsibility for judiciary interpreters, and so you do swear or affirm?

Once the oath is administered, the interpreter becomes an officer of the court for the duration of his or her appointment.

**Rule 3107. Cost of Providing Interpreters for Persons with Limited English Proficiency.**

(a) *General rule.*—An interpreter appointed pursuant to Rule 3104 is entitled to a reasonable fee for interpreter services and shall be reimbursed for actual and reasonable expenses in accordance with the compensation schedule approved by the Court Administrator.

(b) *Principal party in interest.*—If the person with limited English proficiency is a defendant, party or a direct victim in a judicial proceeding for a criminal matter or juvenile proceeding pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters), or a plaintiff or defendant in a protection from abuse proceeding pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse), the payment of the cost of providing the interpreter shall be the responsibility of the county of the court or the appellate court that has jurisdiction over the judicial proceeding for which the interpreter was appointed.

(c) *Witness.*—If the person with limited English proficiency is compelled to appear as a witness in a judicial proceeding for a criminal matter or juvenile proceeding pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters), the payment of the cost of providing the interpreter shall be the responsibility of the county of the court that has jurisdiction over the judicial proceeding for which the interpreter was appointed.

(d) *Payment determination.*—Except as provided in subsections (b) and (c), disposition of all or part of the cost of providing interpreter services shall be in the discretion of the presiding judicial officer and in accordance with the compensation schedule established by the Court Administrator, unless the principal party in interest is indigent. If the principal party in interest is indigent, the cost of providing interpreter services shall be the responsibility of the county of the court or the appellate court that has jurisdiction over the judicial proceeding for which the interpreter was appointed. The presiding judicial officer may order reimbursement to the county of the court or the appellate court that has jurisdiction over the judicial proceeding for which the interpreter was appointed for its responsibilities under this subchapter. In determining the amount of actual and reasonable expenses to be paid to the interpreter, the presiding judicial officer shall follow the fee schedule for interpreters established by the Court Administrator.

*Comment:* The compensation schedule referred to in subsection (a) will be published in the *Pennsylvania Bulletin* and the official web site of the Administrative Office of the Pennsylvania Courts and will be subject to periodic review. In a judicial district comprised of more than one county, the county of the court that has jurisdiction over the judicial proceedings is the county in which the cause of action arose.

**Rule 3108. Costs of Providing Interpreters for Persons who are Deaf.**

(a) *General rule.*—Except as provided in subsection (b), an interpreter appointed in accordance with Rule 3104 is

entitled to a reasonable fee for the services of the interpreter and shall be reimbursed for actual and reasonable expenses by the county of the court that has jurisdiction over the judicial proceeding in accordance with the compensation schedule approved by the Court Administrator. Except as provided in subsection (b), expenses related to interpreters appointed for appellate judicial proceedings shall be the responsibility of the appellate court.

(b) *Payment determination of certain costs.* Disposition of all or part of the cost of providing an interpreter appointed in accordance with Rule 3104(d) shall be in the discretion of the court that has jurisdiction over the judicial proceeding and in accordance with the compensation schedule approved by the Court Administrator. In no event shall the cost of providing interpreter services be the responsibility of the person who is deaf. If the principal party in interest is indigent, the cost of providing interpreter services shall be the responsibility of the county of the court or the appellate court that has jurisdiction over the judicial proceeding for which the interpreter was appointed. The presiding judicial officer may order reimbursement to the county or the appellate court for its responsibilities under this chapter.

*Comment:* The compensation schedule referred to in subsection (a) will be published in the *Pennsylvania Bulletin* and the official web site of the Administrative Office of the Pennsylvania Courts and will be subject to periodic review. In a judicial district composed of more than one county, the county of the court that has jurisdiction over the judicial proceedings is the county in which the cause of action arose.

**REPORT**

***Proposed Uniform Rules Governing Court Interpreters For Persons With Limited English Proficiency And For Persons Who Are Deaf.***

**I. Background**

In March of 2003 the Supreme Court's Committee on Racial and Gender Bias in the Justice System recommended to the Supreme Court the implementation of an Interpreter Certification Program in order to establish the qualifications of persons providing interpreting services to the Courts, provide improved access to court services and guarantee due process for persons with limited English proficiency and persons who are deaf. As a result of this recommendation, the Supreme Court asked the Administrative Office of Pennsylvania Courts to consider the possibility of establishing such a program. In September 2004 the Administrative Office of Pennsylvania Courts joined the Consortium for State Court Interpreter Certification at the National Center for State Courts. Following the Consortium's model and guidance, the Court Administrator started the process of creating an interpreter certification program. In November 2006, the General Assembly passed and the Governor signed Act 172 of 2006. Act 172, which went into effect on January 29, 2007, amends Title 42 (Judiciary and Judicial Procedure) and Title 2 (Administrative Law and Procedure) and mandates the use of certified or otherwise qualified interpreters in the courts of Pennsylvania and authorizes the creation of an Interpreter Certification Program under the auspices of the Court Administrator of Pennsylvania.

The Supreme Court recognized that uniform standards were needed to: (1) ensure a statewide pool of available interpreters possessing the basic qualifications necessary to perform competent court interpretation, as often judges

were unable to identify or locate properly trained and qualified court interpreters in a timely manner; (2) educate judges and court personnel on the proper means of identifying the need for an interpreter and for securing a properly qualified court interpreter so they can determine when an interpreter is required and how to quickly obtain one; (3) establish guidelines for compensation of court interpreters as well as a means to allocate the cost in a manner that is most equitable under the circumstances; and (4) establish ethical guidance to ensure that interpreters clearly understand their role in the judicial system so that they may faithfully serve without overstepping their role.

Therefore, in order to foster uniform standards, the Court Administrator is recommending the adoption of new rules for: implementing an interpreter certification program; establishing qualification and certification requirements for court interpreters; establishing procedures for determining the need for court interpreters and for their procurement and appointment; establishing a fee schedule and criteria for allocating the cost of the court interpreter; and establishing a code of ethics and disciplinary procedure for court interpreters.

## II. Discussion

Pennsylvania is one of the most linguistically diversified states in the nation. According to the 2000 Census, Pennsylvania ranks sixth among the states with 135 different languages spoken within its territory. In February 2005, a survey of the sixty judicial districts conducted by the Administrative Office of the Pennsylvania Courts revealed that there were fifty-seven (57) languages in use throughout the state court system. The United States is rapidly becoming the most linguistically diverse country in the world. As a result, the need for the use of qualified interpreters in the courts is growing.

Even before the passage of Act 172, the Supreme Court recognized the need to ensure the competence of court interpreters and joined the National Center for State Courts Consortium for State Court Interpreter Certification. This membership provides access to testing instruments, and the opportunity to build on the experience of other member states in certifying court interpreters. The information learned through the Consortium enabled the Interpreter Certification Program to prepare for the testing and certification that would be mandated by the then-pending legislation that ultimately became Act 172.

The following rules provide the structure for an interpreter certification program that will result in the creation of a statewide roster of qualified and certified interpreters and also prescribe procedures for requesting and procuring interpreters for court cases. The program will certify both foreign language interpreters and interpreters for the deaf. To become certified, court interpreters will be required to pass a series of examinations that assess the interpreter's knowledge of English and the target language, interpreting skills, and knowledge of words and phrases particular to the judicial process. Successful interpreters will be placed on the roster of interpreters certified to work in the courts of Pennsylvania, a roster from which court interpreters must be selected by judicial districts, absent exigent circumstances.

The rules also prescribe the method by which interpreters are requested and selected. While recognizing that each judicial district deals with administrative issues such as the hiring of interpreters in different ways, it was nonetheless decided that a uniform approach to request-

ing interpreters was advisable to ensure that judges, attorneys and court administrators throughout the state understand their role and obligations. Such an understanding should result in fewer cases being delayed due to the need to procure an interpreter. A standard procedure should also help ensure that only certified or otherwise qualified interpreters are hired.

## III. Proposed Rules

To address the issues discussed above, the Court Administrator proposes the adoption of the following rules of judicial administration: *Uniform Rules Governing Court Interpreters for Persons with Limited English Proficiency and Persons Who are Deaf*. Upon adoption of these rules the following previous rule must be rescinded: Pa. R.J.A. 1903.

[Pa.B. Doc. No. 08-784. Filed for public inspection April 25, 2008, 9:00 a.m.]

# Title 25—LOCAL COURT RULES

## LYCOMING COUNTY

### Amendments to Rules of Civil Procedure; Doc. No. 08-00685

#### Order

*And Now*, this 25th day of March, 2008, it is hereby *Ordered and Directed* as follows:

1. Lycoming County Rules of Civil Procedure L205.2, L208.3, L212, L1301 and L1308 and are revised as indicated on the following. (New language is bolded; removed language is bolded and bracketed.)

2. The Prothonotary is directed to:

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

b. Forward two (2) certified copies of this order and a computer disk to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

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

d. Forward one (1) copy of this order to the *Lycoming Reporter* for publication therein.

e. Forward one (1) copy to the chairman of the Lycoming County Customs and Rules Committee.

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

3. The rule revisions approved by this order shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

*By the Court,*

KENNETH D. BROWN,  
*President Judge*



**L205.2. Filing Legal Papers with the Prothonotary.**

(a) *Size of Paper.* All pleadings, motions, petitions, briefs, and other legal documents filed with the prothonotary shall be on paper size 8 1/2 inches by 11 inches, unless otherwise required by rule or order of court. **Any document more than three pages in length may be printed on both sides of the paper.**

(b) . . .

A. . . .

B. *Motion Cover Sheet.* The procedure set forth in this section shall apply to every request for relief and/or application to the court for an order, whether by petition, motion, preliminary objection, exception, or stipulation, that the filing party desires to bring before the court or family court hearing officer, except a motion for a continuance (see rule L205.2(b)c regarding continuance) **and exceptions to a Family Court Order (see Rule L1910.12 regarding exceptions).**

*Note:* The use of this cover sheet is also required in orphans' court; see, Lyc. Co. O.C.R. L3.4.

1. A cover sheet substantially in the form set forth in subsection 7 of this section shall be attached to the front of every request for a court order to which this rule applies. **[ , with the exception of any ] Any request for relief on the front of which an applicable Pennsylvania Rule of Civil Procedure requires a specific order or notice to be attached shall include that order or notice directly following the cover sheet.**

**L208.3 Motions. Procedures. Briefs.**

(a) *Motion procedure.*

A. . . .

B. *Briefs.* Briefs may be ordered by the court and, if so ordered, the time for filing will be set forth on the executed motion cover sheet. If briefs are ordered, the original and **[ two copies ] one copy** shall be filed with the prothonotary, who shall forward **[ them ] the copy** to the judge. All parties shall be served with a copy of the brief contemporaneously with the filing of the brief. Where briefs are required and are not timely filed, the court may treat the request for relief as having been submitted by the defaulting party and proceed ex parte, or impose such other sanction as it shall deem appropriate.

. . .

**L212. Pretrial Conferences and Trial Scheduling.**

A. . . .

B. *Pretrial Conferences.*

1. . . .

2. Not less than seven days before the date set for the pretrial conference, each party shall file the original and **[ two copies ] one copy** of the pretrial statement and serve a copy on all other parties. The prothonotary shall forward the **[ two copies ] copy** to the trial judge as soon as possible.

**L1301. Compulsory Arbitration.**

A. **[ Compulsory arbitration of matters as authorized ] All civil cases that fall within the jurisdictional limits set by Section 7361 of the Judicial Code, 42 Pa.C.S. [ Section 101, et seq. shall apply to all civil cases which are at issue wherein the amount in controversy (exclusive of interest and costs) shall**

**be Twenty-Five Thousand Dollars (\$25,000) or less, including appeals from a civil judgment of a district justice, except those involving title to real estate or actions in equity. Such actions ] § 7361, shall be submitted to [ and heard by a board of ] compulsory arbitration [ consisting ], in accordance with the provisions of [ three attorneys ] Section 7361. The amount in controversy generally will be determined from the pleadings [ or by an agreement of reference filed by the attorneys ]. [ However, the ] The court on its own motion, or on the motion of any party may, based upon affidavits, depositions, stipulation of counsel or after hearing, determine that the amount actually in controversy does not exceed [ twenty-five thousand Dollars (\$25,000) and ] the jurisdictional amount for arbitration and may enter an order [ certifying ] submitting the case to [ a board of arbitration. In the event that a case within arbitration limits is consolidated with a case involving more than arbitration limits after the former has been referred to a board of arbitrators, the order of consolidation will remove the same from the jurisdiction of the board of arbitrators ] compulsory arbitration.**

B. . . .

**L1308. Compensation for Arbitrators.**

A. Each of the three members of an arbitration panel shall receive compensation in the amount of **[ \$100.00 ] \$200.00** per case for which the member serves as an arbitrator. A substitute arbitrator who does not serve shall receive \$50.00.

B. Each arbitrator shall be entitled to receive additional compensation at the rate of **[ twenty-five (\$25.00) dollars ] \$50.00** per hour in any case in which the actual time spent in the hearing exceeds three and one-half (3 1/2) hours.

C. . . .

D. . . .

[Pa.B. Doc. No. 08-785. Filed for public inspection April 25, 2008, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Collection Fee and Late Payment Penalty for 2008-2009 Assessment Year

Notice is hereby given that in accordance with Pennsylvania Rule of Disciplinary Enforcement 219(d)(2) and 219(h)(2), The Disciplinary Board of the Supreme Court of Pennsylvania (Board) has established the collection fee for checks returned as unpaid and the late payment penalty for the 2008-2009 Assessment Year as follows:

Where a check in payment of the annual registration fee for attorneys has been returned to the Board unpaid, the collection fee will be \$50 per returned item.

At the time the final notices are transmitted by certified mail to an attorney who fails to timely file an annual registration form and pay the fee, the late payment penalty will be \$100. After 30 days, the names of every attorney who has failed to respond to the notice shall be certified to the Supreme Court, at which time the late payment penalty will be increased to \$200.

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

[Pa.B. Doc. No. 08-786. Filed for public inspection April 25, 2008, 9:00 a.m.]

**Notice to Attorneys**

Notice is hereby given that pursuant to Rule 221(b), Pa.R.D.E., the following List of Financial Institutions have been approved by the Supreme Court of Pennsylvania for the maintenance of fiduciary accounts of attorneys. Each financial institution has agreed to comply with the requirements of Rule 221, Pa.R.D.E, which provides for trust account overdraft notification.

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

**LIST OF APPROVED PA FINANCIAL INSTITUTIONS WHO HAVE BEEN APPROVED AS DEPOSITORIES FOR FIDUCIARY ACCOUNTS OF ATTORNEYS**

**Bank Code A.**

- 595 Abacus Federal Savings Bank
- 374 Abington Bank
- 2 Adams County National Bank
- 477 Advest, Inc.
- 572 Affinity Bank of Pennsylvania
- 302 Allegheny Valley Bank of Pittsburgh
- 548 Allegiance Bank of North America
- 579 Alliance Bank
- 375 Altoona First Savings Bank
- 376 Ambler Savings Bank
- 532 American Bank
- 502 American Eagle Savings Bank
- 581 American Home Bank, N.A.
- 116 Ameriserv Financial
- 377 Apollo Trust Company
- 568 Arc Federal Credit Union

**Bank Code B.**

- 558 Bancorp Bank (The)
- 485 Bank of America
- 138 Bank of Canton
- 155 Bank of Hanover
- 3 Bank of Lancaster County
- 415 Bank of Landisburg
- 5 Bank of New York Mellon
- 519 Beaver Valley Federal Credit Union
- 501 BELCO Community Credit Union
- 397 Beneficial Savings Bank
- 582 Berkshire Bank
- 391 Blue Ball Bank
- 392 Brentwood Bank
- 495 Brown Brothers Harriman & Co.

- 161
- 156

**Bank Code C.**

- 540 C & G Savings Bank
- 480 Cambria County Federal Savings & Loan Assoc.
- 459 Centra Bank
- 136 Centric Bank
- 394 Charleroi Federal Savings Bank
- 599 Citibank N.A.
- 238 Citizens & Northern Bank
- 561 Citizens Bank of Pa
- 420 Citizens National Bank—Meyersdale
- 206 Citizens Savings Bank
- 602 City National Bank of New Jersey
- 576 Clarion County Community Bank
- 16 Clearfield Bank & Trust Co.
- 591 Clearview Federal Credit Union
- 23 CNB Bank
- 354 Coatesville Savings Bank
- 603 Colonial American Bank
- 17 Columbia County Farmers National Bank
- 250 Commerce Bank, Pa, N.A.
- 18 Commerce Bank/Harrisburg, NA
- 223 Commercial Bank & Trust of Pennsylvania
- 21 Community Bank
- 310 Community Bank & Trust Company
- 204 Community Banks
- 533 Community First Bank
- 430 Community National Bank of Northwestern PA
- 132 Community State Bank of Orbisonia
- 170 Conestoga Bank
- 590 Continental Bank
- 380 County Savings Bank

**Bank Code D.**

- 339 Dime Bank (The)
- 239 DNB First, National Assoc.
- 27 Dollar Bank
- 423 Dwelling House Savings & Loan Association

**Bank Code E.**

- 357 Eagle National Bank
- 569 Earthstar Bank
- 424 East Penn Bank
- 597 East River Bank
- 340 East Stroudsburg Savings Association
- 500 Elderton State Bank
- 567 Embassy Bank
- 541 Enterprise Bank
- 28 Ephrata National Bank (The)
- 383 ESB Bank, F.S.B.
- 601 Esquire Bank
- 552 Eureka Bank

**Bank Code F.**

- 478 Farmers & Merchants Bank of Western PA, N.A.
- 31 Farmers & Merchants Trust Company
- 205 Farmers National Bank of Emlenton
- 311 Fidelity Bank
- 34 Fidelity Deposit & Discount Bank
- 343 Fidelity Savings & Loan of Bucks County
- 583 Fifth Third Bank
- 174 First Citizens National Bank
- 191 First Columbia Bank & Trust Co.
- 539 First Commonwealth Bank
- 551 First Cornerstone Bank

369	First Federal Savings & Loan Assoc. of Bucks County	<b>Bank Code J.</b>	
504	First Federal Savings & Loan Assoc. of Greene County	70	Jersey Shore State Bank
388	First Federal Savings Bank	127	Jim Thorpe National Bank
525	First Heritage Federal Credit Union	488	Jonestown Bank and Trust Co.
228	First Keystone Bank	72	Juniata Valley Bank (The)
42	First Keystone National Bank	<b>Bank Code K.</b>	
371	First Liberty Bank & Trust	403	KNBT, division of National Penn Bank
263	FirstMerit Bank, N.A.	414	Kish Bank
51	First National Bank & Trust Co. of Newtown (The)	<b>Bank Code L.</b>	
52	First National Bank of Chester County	74	Lafayette Ambassador Bank
421	First National Bank of Fredericksburg	554	Landmark Community Bank
322	First National Bank of Greencastle	78	Luzerne National Bank
417	First National Bank of Lilly	<b>Bank Code M.</b>	
418	First National Bank of Liverpool	361	M & T Bank
43	First National Bank of Marysville	386	Malvern Federal Savings Bank
46	First National Bank of Mercersburg	412	Manor Bank
419	First National Bank of Mifflintown	510	Marion Center National Bank
198	First National Bank of Minersville	387	Marquette Savings Bank
524	First National Bank of New England	81	Mars National Bank
426	First National Bank of Palmerton	367	Mauch Chunk Trust Company
48	First National Bank of Pennsylvania	555	Mercer County State Bank
427	First National Bank of Port Allegany	192	Merchants National Bank of Bangor
175	First National Community Bank	610	Meridian Bank
549	First National Community Bank (Midland)	294	Mid Penn Bank
604	First Priority Bank	511	Mifflin County Savings Bank
592	First Resource Bank	276	Mifflinburg Bank & Trust Company
40	First Savings Bank of Perkasio	457	Milton Savings Bank
349	First Star Savings Bank	345	Minersville Safe Deposit Bank and Trust Co.
158	First Summit Bank	596	MoreBank
408	First United National Bank	346	Morton Savings Bank
151	Firsttrust Bank	484	Muncy Bank & Trust Company
416	Fleetwood Bank	<b>Bank Code N.</b>	
493	FNB Bank, N.A.	433	National Bank of Malvern
291	Fox Chase Bank	337	National City Bank of PA
241	Franklin Mint Federal Credit Union	88	National Penn Bank
612	Franklin Security Bank	347	Neffs National Bank
58	Fulton Bank	372	Nesquehoning Savings Bank
<b>Bank Code G.</b>		536	New Century Bank
588	Gateway Bank of Pennsylvania	434	New Tripoli Bank
499	Gratz National Bank (The)	15	NexTier Bank
593	Graystone Bank	492	North Penn Bank
498	Greenville Savings Bank	439	Northumberland National Bank
<b>Bank Code H.</b>		93	Northwest Savings Bank
402	Halifax National Bank	546	Nova Savings Bank
244	Hamlin Bank & Trust Co.	<b>Bank Code O.</b>	
64	Harleysville National Bank and Trust Company	348	Old Forge Bank
362	Harleysville Savings Bank	323	Omega Bank, N.A.
363	Hatboro Federal Savings	489	OMEGA Federal Credit Union
463	Haverford Trust Company (The)	94	Orrstown Bank
410	Herndon National Bank (The)	<b>Bank Code P.</b>	
559	Home Savings & Loan Co.	598	Parke Bank
68	Honesdale National Bank (The)	267	Parkvale Bank
350	HSBC Bank of USA	584	Parkview Community Federal Credit Union
364	Huntingdon Valley Bank	580	Penn Liberty Bank
605	Huntington National Bank	97	Penn Security Bank & Trust Company
608	Hyperion Bank	168	Pennstar Bank
<b>Bank Code I.</b>		544	Pennsylvania Business Bank
365	Indiana First Savings Bank	445	Pennsylvania State Bank
575	Integrity Bank	447	Peoples National Bank Of Susquehanna County
557	Investment Savings Bank	491	Peoples State Bank (The)
200	Iron and Glass Bank	99	PeoplesBank
526	Iron Workers Bank	556	Philadelphia Federal Credit Union
366	Irwin Bank & Trust Company		

448 Phoenixville Federal Bank & Trust  
 79 PNC Bank, N.A.  
 534 Pocono Community Bank  
 528 Polonia Bank  
 449 Port Richmond Savings  
 454 Portage National Bank  
 451 Progressive Home Federal  
 456 Prudential Savings Bank

**Bank Code Q.**

560 Quaint Oak Savings Bank  
 107 Quakertown National Bank (The)

**Bank Code R.**

452 Reliance Savings Bank  
 220 Republic First Bank  
 208 Royal Bank America

**Bank Code S.**

153 S&T Bank  
 464 Scottdale Bank & Trust Company  
 460 Second Federal Savings & Loan Assoc. of  
 Philadelphia  
 516 Sentry Federal Credit Union  
 458 Sharon Savings Bank  
 312 Sky Bank  
 462 Slovenian Savings & Loan Assoc. of  
 Franklin-Conemaugh  
 486 Somerset Trust Company  
 316 Sovereign Bank, F.S.B.  
 465 St. Edmonds Federal Savings Bank  
 518 Standard Bank, PASB  
 542 Stonebridge Bank  
 440 SunTrust  
 385 Susquehanna Bank  
 282 Susquehanna Bank DV  
 30 Susquehanna Bank PA  
 236 Swineford National Bank

**Bank Code T.**

143 TD Banknorth  
 594 Team Capital Bank  
 26 Third Federal Savings Bank

609 Tristate Capital Bank  
 467 Turbotville National Bank

**Bank Code U.**

113 Union Bank and Trust Company  
 481 Union Building and Loan Savings Bank  
 483 Union National Bank of Mount Carmel  
 133 Union National Community Bank  
 472 United Bank of Philadelphia  
 475 United Savings Bank  
 600 Unity Bank  
 232 Univest National Bank & Trust Co.

**Bank Code V.**

589 Valley Green Bank  
 607 Vantage Point Bank  
 182 VIST Bank  
 611 Victory Bank (The)

**Bank Code W.**

338 Wachovia  
 119 Washington Federal Savings Bank  
 121 Wayne Bank  
 553 WesBanco Bank  
 122 West Milton State Bank  
 494 West View Savings Bank  
 473 Westmoreland Federal Savings  
 476 William Penn Bank  
 370 Willow Financial Bank  
 160 Wilmington Trust of PA  
 272 Woodlands Bank  
 573 Woori America Bank

**Bank Code X.****Bank Code Y.**

571 Yardville National Bank  
 577 York Traditions Bank

**Bank Code Z.**

[Pa.B. Doc. No. 08-787. Filed for public inspection April 25, 2008, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD

[ 58 PA. CODE CH. 421a ]

[ Correction ]

### General Provisions; and Advertising

An error occurred in a document which appeared at 38 Pa.B. 1585, 1587 (April 5, 2008). A word was inadvertently omitted in 58 Pa. Code § 421a.6(e). The correct version appears in Annex A, with ellipses referring to the existing text of the regulation.

#### Annex A

#### TITLE 58. RECREATION

#### PART VII. GAMING CONTROL BOARD

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

#### CHAPTER 421a. GENERAL PROVISIONS

#### § 421a. Advertising.

\* \* \* \* \*

(e) A slot machine, junket or manufacturer licensee or an agent thereof may not employ or contract with an individual to persuade or convince a person to engage in gaming or play a specific slot machine at a licensed facility.

[Pa.B. Doc. No. 08-622. Filed for public inspection April 4, 2008, 9:00 a.m.]

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# PROPOSED RULEMAKING

## DEPARTMENT OF PUBLIC WELFARE

[ 55 PA. CODE CHS. 2380, 2390, 6400 AND 6500 ]

### Individual Support Plan for Individuals with Mental Retardation

The Department of Public Welfare (Department) under the authority of the Public Welfare Code (62 P.S. §§ 901—922 and 1001—1087) intends to amend the regulations set forth in Annex A.

#### *Purpose of Regulation*

The purpose of this proposed regulatory amendment is to update and clarify regulations regarding the comprehensive plan to provide services for individuals with mental retardation. The process of developing and implementing a plan to provide these services has changed. The proposed amendment is needed to clarify the individual plan development process and the provider's role in developing and implementing the individual plan.

#### *Background*

Current regulations specify that a provider shall develop and implement an Individual Program Plan (IPP) or Individual Written Program Plan (IWPP). The IPP and IWPP were the sole documents to be used by providers to organize and manage services provided for individuals served by the Office of Developmental Programs (ODP), formerly the Office of Mental Retardation (OMR). Each provider created an IPP or IWPP for every individual served. An individual could easily have several plans: one for his residential program; one for the vocational program; and one for day services. In some cases, individuals and their families would attend multiple meetings to update plans for each provider, and the plans would conflict with each other.

As part of the regulatory development process, an individual and family-focused work group was convened. The group offered suggestions for the language to be used in the regulatory revisions some of which are incorporated into the proposed amendments. The group also requested ODP add regulatory language specifying when individuals and families receive information prior to the plan development meeting and requested the 3 month review summary within 30 days of completion of review. ODP agreed the addition would be beneficial, and added this language to the proposed amendments. These time frames were acceptable to the workgroup, which was composed of an individual receiving services, families, providers, provider associations and administrative entity representatives.

In 2002, OMR (now ODP) implemented the Individual Support Plan (ISP) to resolve these problems by replacing multiple plans with one comprehensive plan. The ISP is the single document used to coordinate all supports and services for an individual, to eliminate the need for each provider to have its own plan. The individual and his family or friends, as applicable, meet with all providers at the same time to develop and plan how to meet the needs and wants of the individual. This creates consistency and ensures that everyone is working together to meet the individual's needs and personal goals.

The creation and coordination of the ISP is conducted by the supports coordinator. Supports coordination assists

waiver participants with locating, coordinating and monitoring needed services and supports. With the improvements in planning for the individual needs and wants moving from a provider-directed IPP or IWPP to a supports coordinator-facilitated ISP, the current regulations need to conform to these improvements. The proposed amendments are consistent with the current process for developing or implementing the ISP. The proposed regulations do, however, change the acronyms "IPP" or "IWPP" to the more generic "IP," and change existing regulatory language to reflect the preferred process for developing an IP. This regulatory change provides for consistent and uniform language throughout the relevant regulations. It also allows for changes to occur, if necessary, in the type of format used to document and coordinate all supports and services provided to an individual in the future.

#### *Requirements*

§§ 2380.3, 2390.5, 6400.4 and 6500.4 regarding definitions

These sections are being amended to define the IP and supports coordinator.

§§ 2380.33, 2390.33 and 6400.44 regarding program specialist

These sections state the responsibilities of a program specialist. The proposed change to these sections reflects that a program specialist is required to provide the completed assessment prior to planning meetings. The other proposed change is the addition of information on how a provider is required to coordinate and develop an IP for individuals who do not have an assigned supports coordinator.

§§ 2380.35 and 6400.45 regarding staffing

These sections describe the conditions under which a person may be unsupervised. This section requires that staffing ratios specified in the IP must be implemented as written.

§ 6500.44 regarding supervision

This section describes the conditions under which a person may be left unsupervised. This section requires that staffing ratios specified in the IP must be implemented as written.

§ 2380.101 regarding program activities and services

This section states that the program activities shall be provided as specified in the IP. The change in this section is that the general term "services" was added to the section heading and subsection (c).

§ 2390.91 regarding activities and services

This section states that the activities for an individual shall include work experience and other developmentally-oriented work training and shall be provided as specified in the IP. The change in this section is that the general term "services" was added to the section heading and the text of the regulation. The term "work training activities" was changed to "work training endeavors."

§§ 2380.103(1), 2390.95(1), 6400.122(1) and 6500.112(1) regarding development of the individual plan

These sections define the development of the IP. Specific changes to these sections include a new section for an individual who does not have an assigned supports coordinator. It indicates what procedures are to be fol-

lowed by the program specialist or family living specialist when there is no supports coordinator.

*§§ 2380.104, 6400.123 and 6500.113 regarding review of the IP*

These sections define the review and revision process for the IP. The most prominent enhancement to these sections is that the time frame for quarterly reviews is now three calendar months in all three chapters.

*§ 2390.97 regarding review of the IP*

This section defines the review process for IPs. It provides that the time frame for review is at least every 3-calendar months.

*§§ 2380.105, 6400.124 and 6500.114 regarding participation in the development of the IP*

These sections outline who must participate in the development of the IP. The amendment describes the duties of the program specialist or family living specialist.

*§ 2390.96 regarding content of the IP*

This section states the content requirements for the IP. The change adds provisions for individuals without an assigned supports coordinator and outlines procedures that are to be followed regarding the development and content of the individual's plan.

*§§ 2380.106, 6400.125 and 6500.115 regarding content of IP*

These sections define the content required for the IP. The proposed amendment specifies that a program specialist or family living specialist shall review certain areas of the IP and document any missing or incomplete items. The program specialist shall also prepare the IP for individuals without a supports coordinator.

*§§ 2380.107, 6400.126 and 6500.116 regarding implementation of the IP*

These sections require that the IP shall be implemented as written.

*§§ 2380.108, 2390.98, 6400.127 and 6500.117 regarding copies of the IP*

These sections outline the requirements regarding copies of the IP. The changes require the program specialist or family living specialist to send a written summary of each three month review to all interested parties. The program specialist or family living specialist shall also keep documentation for those persons who have opted not to receive a written copy of the reviews.

*§§ 6400.163 and 6500.133 regarding use of prescription medications*

These sections relate to prescription medications. The acronym IPP is replaced with "IP."

*Affected Individuals and Organizations*

Currently, the majority of individuals receiving services through ODP are required to have an ISP. It is the only form approved for documenting services and facilitating payment through ODP under Chapters 2380, 2390, 6400 and 6500. The ISP eliminates the need for each provider to have its own plan. The benefits to individuals and families include having only one plan meeting to attend in which all providers are required to be present. Previously, some individuals and families were being asked to attend meetings separately with the various providers which created an unnecessary hardship.

As part of the regulatory development process, the individual and family-focused workgroup requested that

ODP add certain regulatory language to specify that individuals and families receive assessment information prior to the plan development meeting. Providers will be required to distribute copies of their assessment information and 3-month review summary to individuals and families within 30 days of the meeting. The provider shall also forward the assessment data that will be used during the plan meeting to planning team members no later than 30 days before the meeting.

*Accomplishments and Benefits*

The proposed amendments codify the current process for developing and implementing the ISP. The proposed regulations do, however, revise the acronyms "IPP" or "IWPP" to the more generic "IP" and change the existing regulatory language to reflect the preferred process for developing an IP. This regulatory revision provides for consistent and uniform language throughout Chapters 2380, 2390, 6400 and 6500. It also allows for changes to occur in the type of format used to document and coordinate all supports and services for an individual if necessary in the future. The regulatory revisions are necessary to ensure that ODP has the necessary authority to enforce the new requirements and protect the health and welfare of individuals receiving services.

*Fiscal Impact*

There is no cost associated with clarifying and updating plan regulations for the Commonwealth, local government or individuals receiving services. The regulation work group identified one additional cost to providers related to copies of reviews and assessment information that are required to be sent to them on a quarterly basis. This information previously was only sent to the Supports Coordinator and the individual. It will now be sent to the individual's family, if appropriate, as well. However, a provision allows families to opt not to receive this information. Electronic distribution of materials to families is permitted if the family has a means to receive and read information in electronic form. Mailing and copying costs should be minimal for providers. Additionally, because the regulations clarify that only the form approved by the Department will be accepted as the IP, providers who create both a regulatory IPP and the Department-requested ISP can cease this practice. Regulations will allow for the single IP document which will eliminate the cost of staff time in creating a second document.

*Paperwork Requirements*

Providers will need to provide copies of their assessment information and three month review summary to individuals and families. The amount of paperwork will depend on the page count of each provider's assessment information and the three month review summary. The proposed regulations permit electronic distribution. The proposed regulations add a 30-day time frame for providers to send review summary information to individuals and families. The proposed amendments also state that the provider must forward assessment data to be used during the plan meeting to planning team members no later than 30 days before the meeting. No new forms are required by the amended regulations.

*Effective Date*

This regulatory amendments will be effective upon final publication in the *Pennsylvania Bulletin*.

*Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to the Department at the following address:

Wendy Dixon, Human Services Program Specialist, Office of Developmental Programs, Department of Public Welfare, P. O. Box 2675, Harrisburg, PA 17105-2675, raodpregscomment@state.pa.us, within 30 calendar days after the date of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference Regulation No. 14-512 when submitting comments.

Persons with a disability who require an auxiliary aid or service may submit comments by using the AT&T Relay Service at (800) 654-5984 (TTY users) or (800) 654-5988 (voice users).

*Regulatory Review Act*

Under section 5(a) of the Regulatory Review Act (act) (71 P. S. § 745.5(a)), on April 16, 2008, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In addition to submitting the proposed rulemaking, the Department has provided the IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

Under section 5(g) of the act, if the IRRC has any comments, recommendations or objections to any portion of the proposed regulation, it may notify the Department and the Committees within 30 days after the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met. The act specifies detailed procedures for review by the Department, the General Assembly and the Governor, of any comments, recommendations or objections raised, prior to final publication of the regulations.

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-512. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 55. PUBLIC WELFARE**

**PART IV. ADULT SERVICES MANUAL**

**Subpart D. NONRESIDENTIAL AGENCIES/FACILITIES/SERVICE**

**CHAPTER 2380. ADULT TRAINING FACILITIES**

**GENERAL PROVISIONS**

**§ 2380.3. Definitions.**

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

\* \* \* \* \*

**[ IPP—Individual Program Plan. ]**

**IP—Individual plan**—The form provided by the Department which identifies services and supports needed and used by an individual.

\* \* \* \* \*

**Supports coordinator**—The individual responsible for case management functions.

**STAFFING**

**§ 2380.33. Program specialist.**

\* \* \* \* \*

(b) [ A program specialist shall be responsible for the program at the facility, including the following:

- (1) Coordination or completion of assessments.
- (2) Coordination or development and review of IPPs.
- (3) Coordination of training and development for individuals.
- (4) Development of planned program activities.
- (5) Participation in interdisciplinary team meetings.
- (6) Ensurance of the implementation of IPPs and program activities. ]

The program specialist shall be responsible for the following:

- (1) Coordinating and developing training for individuals.
- (2) Coordinating and completing assessments.
- (3) Participating in the development of the IP.
- (4) Attending the IP development meetings.
- (5) Providing the completed assessment and other relevant information for the development of the IP prior to the planning meetings to the supports coordinator, individual, and, if appropriate, to the individual's parent, guardian or advocate. The program specialist shall send this information within 30 days following the receipt of notification of the planning meeting.

(6) Reviewing the IP for content accuracy.

(i) Content discrepancies shall be communicated to the supports coordinator in writing.

(ii) Written documentation of content discrepancy communications shall be maintained in the individual's record.

(7) Ensuring the implementation of IP outcomes.

(8) Coordinating the training of direct support professionals in the content of relevant IPs.

(9) Monitoring services provided for the individual.

(10) Ensuring monthly documentation of the individual's participation and progress for IP outcomes.

(11) Providing quarterly documentation of the individual's participation and progress for the IP outcomes to the supports coordinator, individual, and, if appropriate, the individual's parent, guardian or advocate.

(12) Informing the individual and, if appropriate, the individual's parent, guardian or advocate of the option not to receive a copy of the assessments or quarterly documentation.

(13) Maintaining documentation of an individual's or the individual's parent, guardian or advocate's request denying a copy of assessment or quarterly documentation.

(14) Documenting and reporting changes in the individual's needs, interests and personal goals to the supports coordinator, and, if appropriate, the individual's parent, guardian or advocate.



(c) If the individual does not have an assigned supports coordinator, the program specialist shall coordinate the development of the IP.

(d) If the individual does not have an assigned supports coordinator, the program specialist shall prepare the IP using the Department approved format.

(e) If the individual does not have an assigned supports coordinator, the program specialist shall provide the individual, and, if appropriate, the individual's parent, guardian or advocate with a copy of the IP and attendance sheet.

(1) The individual or individual's parent, guardian or advocate may decline in writing to receive copies of the IP or attendance sheet.

(2) The program specialist shall maintain a copy of the written request.

[ (c ) ( f ) \* \* \*

\* \* \* \* \*

§ 2380.35. Staffing.

\* \* \* \* \*

(d) An individual may be left unsupervised for specified periods of time if the absence of direct supervision is consistent with the individual's assessment and is part of an individual's [ IPP ] IP aimed at achieving a higher level of independence.

(e) Direct staff support as specified in the IP shall be implemented as written.

(f) Staffing ratios specified in the IP shall be implemented as written.

[ (e ) ( g ) An individual may not be left unsupervised solely for the convenience of the facility or staff persons.

PROGRAM

§ 2380.101. Program activities and services.

\* \* \* \* \*

(c) Program activities and services shall be provided as specified in each [ IPP ] IP.

\* \* \* \* \*

§ 2380.103. Development of [ IPP ] the IP.

[ (a) An IPP shall be developed for each individual based upon the individual assessment, within 30 individual attendance days after the individual's admission date. ] For individuals without a supports coordinator the following apply:

(1) The program specialist shall prepare an IP for each individual based upon the individual's assessment information.

(2) The program specialist shall complete the IP within 30 days after the individual's admission date.

[ (b) The IPP ] (3) The IP shall be developed by the [ interdisciplinary ] individual's planning team.

[ (c ) ( 4 ) Members of the [ interdisciplinary ] individual's planning team at a minimum shall include the individual, the program specialist, [ the individual's parent, guardian or advocate, if appropriate, ] direct service staff persons who work with the individual, [ staff persons from the funding agency, ] and if

applicable and appropriate, the individual's parent, guardian or advocate, staff persons from the individual's residential program[ , if applicable, ] and other specialists, such as medical, nursing, behavior management, speech, occupational or physical therapy specialists [ if appropriate for the individual's special needs ].

(5) The program specialist shall send invitations to each planning team member for each IP development meeting.

(6) The program specialist shall maintain a copy of the invitation and attendance sheet with the IP in the individual's file.

[ (d ) ( 7 ) At least three members of the [ interdisciplinary ] individual's planning team, in addition to the individual if the individual chooses to attend, shall be present at the [ interdisciplinary ] individual's planning team meeting at which the [ IPP ] IP is developed.

[ (e ) ( 8 ) Members of the [ interdisciplinary ] individual's planning team who attend the meeting to develop the [ IPP ] IP shall sign and date the [ IPP ] IP attendance sheet to indicate participation.

(9) The IP shall be reviewed and updated by the planning team annually, or more frequently if the individual's needs change.

(10) The program specialist shall send a copy of the attendance sheet and the IP to each member of the planning team unless the member does not want a copy.

(11) If a member of the individual's planning team denies a copy of the IP or attendance sheet, the program specialist shall maintain a copy of the written denial in the individual's record.

§ 2380.104. Review[ , update, and rewrite ] of [ IPP ] the IP.

[ (a) A review of each individual's progress on the IPP, and a revision of the IPP if necessary, shall be completed or coordinated by the program specialist at least every 65 individual attendance days.

(b) The IPP shall be revised in accordance with subsection (a) if there has been no progress on a goal, if a goal is no longer appropriate or if a goal needs to be added.

(c) The IPP shall be reviewed and rewritten by the interdisciplinary team at least annually.

(d) At least three members of the interdisciplinary team, in addition to the individual if the individual chooses to attend, shall be present at the annual interdisciplinary team meeting at which the IPP is reviewed and rewritten.

(e) Members of the interdisciplinary team who attend the meeting to rewrite the IPP shall sign and date the new IPP.

(f) The IPP shall be discussed with, dated by and signed by the individual, the individual's parent, guardian or advocate if appropriate, and the program specialist after each 65-day review and annual rewrite of the IPP. ]

(a) A review of each individual's progress on the IP shall be completed by the program specialist and the individual, and, if appropriate, the individual's

parent, guardian or advocate, every 3 months, or more frequently if the individual's needs change.

(b) A revision of the IP, if necessary, shall be communicated to the supports coordinator, individual, and, if appropriate, the individual's parent, guardian or advocate.

(c) The IP shall be revised if one of the following apply:

- (1) There has been no progress on an outcome.
- (2) An outcome is no longer appropriate.
- (3) An outcome is added.

§ 2380.105. Participation in the development of the [ IPP ] IP.

[ The individual's parent, guardian or advocate, if appropriate, and the funding agency shall be invited, in writing, to participate in the initial development and annual rewrite of the IPP. A copy of the written invitations shall be kept. ]

(a) The program specialist shall provide assessment information for the development and revision of an IP.

(b) The program specialist shall participate in the development and revision of the IP.

§ 2380.106. Content of [ IPP ] the IP.

[ Each IPP shall include:

- (1) The goals for the individual in specific areas of growth and development.
- (2) An evaluation of the individual's skill level for each goal.
- (3) Monthly documentation of the individual's progress on each goal.
- (4) Specific activities and services that meet the needs of the individual.

(5) A program and schedule for allowing the individual to be without direct staff supervision for specific periods of time, aimed at achieving a greater level of independence, if the individual's assessment states the individual may be without direct supervision.

(6) A planned program to address the social, emotional and environmental needs of the individual, if a medication is prescribed to treat maladaptive behavior. ]

(a) For individuals with a supports coordinator, the program specialist shall review the IP for the following:

- (1) Outcomes addressing the individual's needs.
- (2) Specific activities and services that reflect the individual's needs, interests and personal goals.
- (3) Time frames for expected completion of outcomes.
- (4) An evaluation of the individual's skill level for each outcome.

(5) A program and schedule outlining specified periods of time for the individual to be without direct supervision, aimed at achieving a greater level of independence, if the absence of direct supervision is consistent with the individual's assessment.

(6) Method of evaluation used to determine the progress towards each outcome.

(7) A program to address the social, emotional and environmental needs of the individual, if medication has been prescribed to treat maladaptive behavior.

(8) A program to address the reduction of a restrictive procedure, if restrictive procedures are used in response to a maladaptive behavior.

(b) The program specialist shall document missing or incomplete items from the IP.

(c) The program specialist shall report missing or incomplete items from the IP in writing to the supports coordinator.

(d) For individuals without a supports coordinator, the program specialist shall prepare the IP including the items in subsection (a)(1)–(8).

§ 2380.107. Implementation of [ IPP ] the IP.

[ Each IPP ] Each IP shall be implemented as written.

§ 2380.108. Copies of [ IPP ] the IP.

(a) A [ written ] copy of [ IPPs ] the IP and [ adjustments ] revisions made during reviews shall be kept in the individual's record.

(b) [ The individual, the individual's parent, guardian or advocate, if appropriate, the residential service provider, if applicable, and the funding agency shall be provided with a copy of all IPPs. Documentation of transmittal of each IPP shall be kept. ]

The program specialist shall send the written summary of each 3-month review to the supports coordinator, individual, and, if appropriate, the individual's parent, guardian or advocate within 30 days after the completion of the review.

(c) If the individual, or the individual's parent, guardian or advocate, denies a copy of a written summary, the program specialist shall maintain the signed written denial.

MEDICATIONS

§ 2380.123. Use of prescription medications.

\* \* \* \* \*

(b) If a medication is prescribed to treat maladaptive behavior, there shall be a [ planned ] program [ as part of the IPP ] to address the social, emotional and environmental needs of the individual related to the maladaptive behavior as part of the IP.

RECORDS

§ 2380.173. Content of records.

Each individual's record [ shall ] must include:

\* \* \* \* \*

(5) [ IPPs ] IP.

\* \* \* \* \*

CHAPTER 2390. VOCATIONAL FACILITIES

GENERAL PROVISIONS

§ 2390.5. Definitions.

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

\* \* \* \* \*

**IP—Individual plan**—The form provided by the Department which identifies services and supports needed and used by an individual.

[ **Individual written program plan**—A plan that is developed for a client on the basis of assessment data that specifies specific objectives and program services for the clients. ]

\* \* \* \* \*

**Supports coordinator**—The individual responsible for case management functions.

\* \* \* \* \*

**STAFFING**

**§ 2390.33. Program specialist.**

\* \* \* \* \*

(b) [ A program specialist shall be responsible for the program at the facility, including the following:

(1) Development and implementation of individual written program plans.

(2) Coordination of training and development for clients. ]

The program specialist shall be responsible for the following:

(1) Coordinating and developing training for clients.

(2) Coordinating and completing assessments.

(3) Participating in the development of the IP.

(4) Attending the IP development meetings.

(5) Providing the completed assessment and other relevant information for the development of the IP prior to the planning meetings to the supports coordinator, client and, if appropriate, to the client's parent, guardian or advocate. The program specialist shall send this information within 30 days following the receipt of notification of the planning meeting.

(6) Reviewing the IP for content accuracy.

(i) Content discrepancies shall be communicated to the supports coordinator in writing.

(ii) Written documentation of content discrepancy communications shall be maintained in the client's record.

(7) Ensuring the implementation of IP outcomes.

(8) Coordinating the training of direct support professionals in the content of relevant IPs.

(9) Monitoring services provided for the client.

(10) Ensuring monthly documentation of the client's participation and progress for IP outcomes.

(11) Providing quarterly documentation of the client's participation and progress for IP outcomes to the supports coordinator, client, and, if appropriate, the client's parent, guardian or advocate.

(12) Informing the client and, if appropriate, the client's parent, guardian or advocate of the option not to receive a copy of the assessments or quarterly documentation.

(13) Maintaining documentation of a client's or the client's parent, guardian or advocate's request denying a copy of assessment or quarterly documentation.

(14) Documenting and reporting changes in the client's needs, interests and personal goals to the supports coordinator and, if appropriate, the client's parent, guardian or advocate.

(c) If the client does not have an assigned supports coordinator, the program specialist shall coordinate the development of the IP.

(d) If the client does not have an assigned supports coordinator, the program specialist shall prepare the IP using the Department approved format.

(e) If the client does not have an assigned supports coordinator, the program specialist shall provide the client and, if appropriate, the client's parent, guardian or advocate with a copy of the IP and attendance sheet.

(1) The client or client's parent, guardian or advocate may decline in writing to receive copies of the IP or attendance sheet.

(2) The program specialist shall maintain a copy of the written request.

[ (c) ] (f) \* \* \*

\* \* \* \* \*

**PROGRAM**

**§ 2390.91. Activities and services.**

Activities and services for a client [ shall ] must include work experience and other developmentally oriented, work training [ activities ] endeavors designed to promote movement into a higher level vocational program or into competitive employment. Activities and services shall be provided as specified in the [ individual written program plan ] IP.

**§ 2390.95. Development of the [ individual written program plan ] IP.**

[ (a) An individual written program plan shall be developed for a client within 30 client attendance days of the client's admission date.

(b) The plan shall be developed by the interdisciplinary team. The members of the interdisciplinary team shall sign and date the plan. ]

For client's without a supports coordinator, the following apply:

(1) The program specialist shall prepare an IP for each client based on the client's assessment information.

(2) The program specialist shall complete the IP within 60 days after the client's admission date.

(3) The IP shall be developed by the client's planning team.

(4) Members of the client's planning team at a minimum shall include the client, the program specialist, the direct service staff who work with the client, and if applicable and appropriate, the client's parent, guardian or advocate, the staff person from the individual's residential program, and other specialists, such as medical, nursing, behav-

ior management, speech, occupational or physical therapists, if appropriate, for the individual's needs.

(5) The program specialist shall send invitations to each planning team member for each IP development meeting.

(6) At least three members of the planning team, in addition to the client if the client chooses to attend, shall be present at the planning team meeting at which the IP is developed.

(7) Members of the planning team shall sign and date the attendance sheet to indicate participation in the IP development meeting.

(8) The program specialist shall retain a copy of the invitation and attendance sheet in the client's file.

(9) A copy of the attendance sheet shall be sent to each member of the planning team.

(10) The program specialist shall send a copy of the attendance sheet and the IP to each member for the client's planning team unless the member does not want a copy.

(11) If a member of the client's planning team denies a copy of the IP or attendance sheet, the program specialist shall maintain a copy of the written denial in the client's record.

§ 2390.96. Content of [ individual written program plan ] the IP.

[ The plan shall include the following information:

(1) Specific short term objectives including measurable steps for completion.

(2) Evaluation of client's current skill level in the area of the objective.

(3) Time frames for expected completion of objectives.

(4) Method of evaluation used to determine mastery of objective.

(5) Service areas to which the client will be assigned.

(6) Staff responsible for the outcome of the individual written program plan.

(7) Assessment of the client's placement potential. ]

(a) For clients with a supports coordinator, the program specialist shall review the IP for the following items:

(1) Outcomes addressing the client's needs.

(2) Specific activities and services that reflect the client's needs and interests.

(3) Time frames for expected completion of outcomes.

(4) An evaluation of the client's skill level for each outcome.

(5) A program and schedule outlining specified periods of time for the individual to be without direct supervision, aimed at achieving a greater level of independence, if the absence of direct supervision is consistent with the individual's assessment.

(6) Method of evaluation used to determine the progress towards each outcome.

(7) Services areas to which the client will be assigned.

(8) Assessment of the client's potential to achieve competitive employment placement potential.

(b) The program specialist shall document missing or incomplete items from the IP.

(c) The program specialist shall report missing or incomplete items from the IP in writing to the supports coordinator.

(d) For clients without a supports coordinator, the program specialist shall prepare the IP including items listed in subsection (a)(1)—(8).

§ 2390.97. Review[ , update and rewrite ] of [ individual written program plan ] the IP.

(a) [ The plan for clients, except those clients in a training program, shall be reviewed and updated by the program specialist at least every 65 client attendance days.

(b) The plan for clients in a training program shall be reviewed and updated by the program specialist at least every 20 client attendance days.

(c) The plan shall be discussed with the client and signed by the program specialist and the client and dated after each review.

(d) The plan shall be reviewed and rewritten by the interdisciplinary team at least annually. The members of the interdisciplinary team shall sign and date the revised plan. ]

A review of each client's progress on the IP, except those clients in a training program, shall be completed by the program specialist and the client, and, if appropriate, the client's parent, guardian or advocate every 3 months, or more frequently if the client's needs change.

(b) A progress review of the IP for clients in a training program shall be completed by a program specialist and the client and, if appropriate, the client's parent, guardian or advocate every 20 days, or more frequently if the individual's needs change.

(c) A revision of the IP, if necessary, shall be communicated to the supports coordinator, client, and, if appropriate, the client's parent, guardian or advocate.

(d) The IP shall be revised if any of the following occur:

(1) There has been no progress on an outcome.

(2) An outcome is no longer appropriate.

(3) An outcome is added.

§ 2390.98. Copies of [ individual written program plan ] the IP.

(a) A [ written ] copy of the [ plan and adjustments ] IP and revisions made during reviews shall be kept in the client's file.

(b) [ The client, or parent or guardian when appropriate, shall be invited, in writing, to participate in the initial development and reviews of the program plan. A copy of the written invitations shall be kept in the client's file.

(c) A client, parent or guardian shall be provided with a copy of a plan. ]

The program specialist shall send the written summary of each 3-month review to the supports coordinator, the client and, if appropriate, the client's parent, guardian or advocate within 30 days after the completion of the review.

(c) If the client, or the client's parent, guardian or advocate, denies a copy of the written summary, the program specialist shall maintain the signed written denial.

CLIENT RECORDS

§ 2390.124. Content of records.

A client's record [ shall ] must include the following information:

\* \* \* \* \*

(8) [ Copies of individual written program plans or work performance reviews.

(9) A copy of a written invitation to participate in individual written program plan reviews. ]

Copies of IPs and revisions made during reviews.

(9) Copies of work performance reviews.

\* \* \* \* \*

PART VIII. MENTAL RETARDATION MANUAL

Subpart E. RESIDENTIAL AGENCIES/FACILITIES/SERVICES

Article I. LICENSING/APPROVAL

CHAPTER 6400. COMMUNITY HOMES FOR INDIVIDUALS WITH MENTAL RETARDATION

GENERAL PROVISIONS

§ 6400.4. Definitions.

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

\* \* \* \* \*

[ IPP—Individual program plan. ]

IP—Individual plan—The form provided by the Department which identifies services and supports needed and used by an individual.

\* \* \* \* \*

Supports coordinator—The individual responsible for case management functions.

STAFF

§ 6400.44. Program specialist.

\* \* \* \* \*

(b) [ A program specialist shall be responsible for the program at the home, including the following:

- (1) The individual's daily activities.
- (2) Coordination or completion of assessments.
- (3) Coordination or development and review of individual program plans.
- (4) Coordination of training and development for individuals.
- (5) Development of planned program activities.
- (6) Participation in planning team meetings.

(7) Ensurance of the implementation of individual program plans and program activities. ]

The program specialist shall be responsible for the following:

- (1) Supervising the individual's daily activities.
- (2) Coordinating and completing assessments.
- (3) Participating in the development of the IP.
- (4) Attending the IP development meetings.

(5) Providing completed assessment and other relevant information for the development of the IP prior to the planning meetings to the supports coordinator, individual and, if appropriate, the individual's parent, guardian or advocate. The program specialist shall send this information within 30 days following the receipt of notification of the planning meeting.

(6) Reviewing the IP for content accuracy.

(i) Content discrepancies shall be communicated in writing to the supports coordinator.

(ii) Written documentation of content discrepancy communications shall be maintained in the individual's record.

(7) Ensuring the implementation of IP outcomes.

(8) Coordinating the training of direct support professionals in the content of relevant IPs.

(9) Monitoring services provided for the individual.

(10) Ensuring monthly documentation of the individual's participation and progress for IP outcomes.

(11) Providing quarterly documentation of the individual's participation and progress for IP outcomes to the supports coordinator, individual and, if appropriate, the individual's parent, guardian or advocate.

(12) Informing the individual and, if appropriate, the individual's parent, guardian or advocate of the option not to receive a copy of the assessments or quarterly documentation.

(13) Maintaining documentation of an individual's or the individual's parent, guardian or advocate's request denying a copy of the assessment or quarterly documentation.

(14) Documenting and reporting changes in the individual's needs, interests or personal goals to the supports coordinator and, if appropriate, the individual's parent, guardian or advocate.

(c) If the individual does not have an assigned supports coordinator, the program specialist shall coordinate the development of the IP.

(d) If the individual does not have an assigned supports coordinator, the program specialist shall prepare the IP using the Department approved format.

(e) If the individual does not have an assigned supports coordinator, the program specialist shall provide the individual and, if appropriate, the individual's parent, guardian or advocate with a copy of the IP and attendance sheet.

(1) The individual or the individual's parent, guardian or advocate may decline in writing to receive copies of the IP or attendance sheet.

(2) The program specialist shall maintain a copy of the written request.

[ (c) ] (f) \* \* \*  
\* \* \* \* \*

§ 6400.45. Staffing.

\* \* \* \* \*

(c) An individual may be left unsupervised for [ specific ] specified periods of time if the absence of direct supervision is consistent with the individual's assessment and is part of the [ IPP ] IP aimed at achieving a higher level of independence.

(d) Direct staff support as specified in the IP shall be implemented as written.

(e) Staffing ratios specified in the IP shall be implemented as written.

[ (d) ] (f) An individual may not be left unsupervised solely for the convenience of the home or the staff.

PROGRAM

§ 6400.122. Development of the [ IPP ] IP.

[ (a) An IPP shall be developed for each individual, based on the individual assessment, within 60 calendar days of the individual's admission date. ] For individuals without a supports coordinator, the following apply:

(1) The program specialist shall prepare an IP for each individual based upon the individual's assessment information.

(2) The program specialist shall complete the IP within 60 days after the individual's admission date.

[ (b) The IPP ] (3) The IP shall be developed by [ an interdisciplinary ] the individual's planning team.

[ (c) ] (4) Members of the [ interdisciplinary ] individual's planning team at a minimum shall include the individual, [ the individual's direct care staff, ] the program specialist, [ the individual's parent, guardian or advocate, if appropriate, ] direct staff persons who work with the individual, and if applicable and appropriate, the individual's parent, guardian or advocate, [ the county case manager if the individual is funded through the county mental retardation program, ] the program specialist for the individual's day program, and other specialists, such as medical, nursing, behavior management, speech, occupational, or physical therapy specialists [ if appropriate for the individual's special needs ].

(5) The program specialist shall send invitations to each planning team member for each IP development meeting.

(6) The program specialist shall maintain a copy of the invitation and attendance sheet with the IP in the individual's file.

[ (d) ] (7) At least three members of the [ interdisciplinary ] individual's planning team, in addition to the individual if the individual chooses to attend, shall be present at the [ interdisciplinary ] individual's planning team meeting at which the [ IPP ] IP is developed.

[ (e) ] (8) Members of the [ interdisciplinary ] individual's planning team who attend the meeting to develop the [ IPP ] IP shall sign and date the [ IPP ] IP attendance sheet to indicate participation.

(9) The IP shall be reviewed and updated by the planning team annually, or more frequently if the individual's needs change.

(10) The program specialist shall send a copy of the attendance sheet and the IP to each member of the planning team unless the member does not want a copy.

(11) If a member of the individual's planning team denies a copy of the IP or attendance sheet, the program specialist shall maintain a copy of the written denial in the individual's record.

§ 6400.123. Review [ , revision and rewrite ] of the [ IPP ] IP.

(a) [ A review of each individual's progress on the IPP and a revision of the IPP, if necessary, shall be completed or coordinated by the program specialist at least every 3 months.

(b) The IPP shall be revised in accordance with subsection (a) if there has been no progress on a goal, if a goal is no longer appropriate or if a goal needs to be added.

(c) The IPP shall be reviewed and rewritten by the interdisciplinary team at least annually.

(d) At least three members of the interdisciplinary team, in addition to the individual if the individual chooses to attend, shall be present at the annual interdisciplinary team meeting at which the IPP is reviewed and rewritten.

(e) Members of the interdisciplinary team who attend the meeting to rewrite the annual IPP shall sign and date the new IPP.

(f) The IPP shall be discussed with, dated by and signed by the individual, the individual's parent, guardian or advocate if appropriate and the program specialist after each 3-month review and annual rewrite of the IPP. ]

A review of each individual's progress on the IP shall be completed by the program specialist, and the individual and, if appropriate, the individual's parent, guardian or advocate, every 3 months, or more frequently if the individual's needs change.

(b) A revision of the IP, if necessary, shall be communicated to the supports coordinator, individual and, if appropriate, the individual's parent, guardian or advocate.

(c) The IP shall be revised if any of the following occur:

- (1) There has been no progress on an outcome.
- (2) An outcome is no longer appropriate.
- (3) An outcome needs to be added.

§ 6400.124. Participation in the development of the [ IPP ] IP.

[ The individual's parent, guardian or advocate if appropriate and the county case manager if the individual is funded through the county mental retardation program shall be invited, in writing, to participate in the initial development and the an-

nual rewrite of the IPP. A copy of the written invitations shall be kept. ]

(a) The program specialist shall provide assessment information for the development and revision of the IP.

(b) The program specialist shall participate in the development and revision of the IP.

§ 6400.125. Content of the [ IPP ] IP.

[ An IPP shall include:

(1) The goals for the individual in specific areas of growth and development.

(2) An evaluation of the individual's skill level for each goal.

(3) Monthly documentation of the individual's progress on each goal.

(4) A plan for the individual to participate in community life.

(5) Specific activities and services that meet the needs of the individual.

(6) A program and schedule for allowing the individual to be without direct staff supervision for specific periods of time, aimed at achieving a greater level of independence, if the individual's assessment states the individual may be without direct supervision.

(7) A planned program to address the social, emotional and environmental needs of the individual, if a medication is prescribed to treat maladaptive behavior. ]

(a) For individuals with a supports coordinator, the program specialist shall review the IP for the following:

(1) Outcomes addressing the individual's needs.

(2) Specific activities and services that reflect the individual's needs, interests and personal goals.

(3) Time frames for expected completion of outcomes.

(4) An evaluation of the individual's skill level for each outcome.

(5) A program and schedule outlining specified periods of time for the individual to be without direct supervision, aimed at achieving a greater level of independence, if the absence of direct supervision is consistent with the individual's assessment.

(6) Method of evaluation used to determine the progress towards each outcome.

(7) A program to address the social, emotional and environmental needs of the individual, if medication is prescribed to treat maladaptive behavior.

(8) A program to address the reduction of a restrictive procedure, if restrictive procedures are used in response to a maladaptive behavior.

(b) The program specialist shall document missing or incomplete items from the IP.

(c) The program specialist shall report missing or incomplete items from the IP in writing to the supports coordinator.

(d) For individuals without a supports coordinator, the program specialist shall prepare the IP including the items in subsection (a)(1)—(8).

§ 6400.126. Implementation of the [ IPP ] IP.

[ An IPP ] Each IP shall be implemented as written.

§ 6400.127. Copies of the [ IPP ] IP.

(a) A copy of [ IPPs ] the IP and [ adjustments ] revisions made during reviews shall be kept in the individual's record.

(b) The program specialist shall send a written summary of each 3-month review to the supports coordinator, individual and, if appropriate, the individual's parent, guardian or advocate, within 30 days after the completion of the review.

(c) If the individual, or the individual's parent, guardian or advocate, denies a copy of a written summary, the program specialist shall maintain the signed written denial.

(d) \* \* \*

MEDICATIONS

§ 6400.163. Use of prescription medications.

\* \* \* \* \*

(b) If a medication is prescribed to treat maladaptive behavior, there shall be a [ planned ] program [ as part of the IPP ] to address the social, emotional and environmental needs of the individual related to the maladaptive behavior as part of the IP.

\* \* \* \* \*

INDIVIDUAL RECORDS

§ 6400.213. Content of records.

Each individual's record [ shall ] must include:

\* \* \* \* \*

(7) [ IPPs ] IP.

\* \* \* \* \*

CHAPTER 6500. FAMILY LIVING HOMES

GENERAL PROVISIONS

§ 6500.4. Definitions.

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

\* \* \* \* \*

[ IPP—Individual program plan. ]

IP—Individual plan—The form provided by the Department which identifies services and supports needed and used by an individual.

\* \* \* \* \*

Supports coordinator—The individual responsible for case management functions.

STAFFING

§ 6500.43. Family living specialist.

\* \* \* \* \*

[ (d) A family living specialist shall be responsible for the program at the home, including the following:

(1) Supervision and evaluation of services provided for the individual.

(2) Coordination of support services for the family.

(3) Completion or coordination of individual assessments.

(4) Development, review, update and revision of IPPs.

(5) Ensurance of the implementation of IPPs. ]

(d) The family living specialist shall be responsible for the following:

(1) Coordinating and completing individual assessments.

(2) Coordinating the training for family members.

(3) Participating in the development of the IP.

(4) Attending the IP development meetings.

(5) Providing completed assessment and other relevant information for the development of the IP prior to the planning meetings to the supports coordinator, individual and, if appropriate, the individual's parent, guardian or advocate. The family living specialist shall send this information within 30 days following the receipt of notification of the planning meeting.

(6) Reviewing the IP for content accuracy.

(i) Content discrepancies shall be communicated in writing to the supports coordinator.

(ii) Written documentation of content discrepancy communications shall be maintained in the individual's record.

(7) Ensuring the implementation of IP outcomes.

(8) Monitoring services provided for the individual.

(9) Orienting the family on the content of the IP.

(10) Ensuring monthly documentation of the individual's participation progress for IP outcomes.

(11) Providing quarterly documentation of the individual's participation and progress for IP outcomes to the supports coordinator, individual and, if appropriate, the individual's parent, guardian or advocate.

(12) Informing the individual and, if appropriate, the individual's parent, guardian or advocate of the option not to receive a copy of the assessment or quarterly documentation.

(13) Maintaining documentation of an individual's or the individual's parent, guardian or advocate's request denying a copy of assessment or the quarterly assessment.

(14) Documenting and reporting changes in the individual's needs, interests or personal goals to the supports coordinator and, if appropriate, the individual's parent, guardian or advocate.

(15) Meeting with the individual at his home once a month or more frequently as indicated by the individual's IP.

(e) If the individual does not have an assigned supports coordinator, the family living specialist shall coordinate the development of the IP.

(f) If the individual does not have an assigned supports coordinator, the family living specialist shall provide the individual and, if appropriate, the individual's parent, guardian or advocate with a copy of the IP and attendance sheet.

(1) The individual or the individual's parent, guardian or advocate may decline in writing to receive copies of the IP or attendance sheet.

(2) The program specialist shall maintain a copy the written request.

[ (e) ] (g) \* \* \*

\* \* \* \* \*

§ 6500.44. Supervision.

(a) An individual may not be left unsupervised with a person who is not 18 years of age or older, unless the absence of direct supervision is consistent with the individual's assessment and is part of the [ IPP ] IP aimed at achieving semi-independence.

\* \* \* \* \*

PROGRAM

§ 6500.112. Development of the [ IPP ] IP.

[ (a) An IPP shall be developed for each individual, based in the individual's assessment, within 3 months after the individual lives in the home.

(b) The IPP shall be developed by the family living specialist in conjunction with the individual and the family.

(c) The family living specialist and the family members who assisted in developing the IPP shall sign and date the IPP. ]

For individuals without a supports coordinator, the following apply:

(1) The family living specialist shall prepare an IP for each individual based upon the individual's assessment information.

(2) The family living specialist shall complete the IP within 90 days after the individual lives in the home.

(3) The IP shall be developed by the individual's planning team.

(4) Members of the individual's planning team at a minimum shall include the individual, the family and, if applicable and appropriate, the individual's parent, guardian or advocate, the program specialist for the individual's day service, and other specialists, such as medical, nursing, behavior management, speech, occupational or physical therapy specialists.

(5) The family living specialist shall send invitations to each planning team member for each IP development meeting.

(6) The family living specialist shall maintain a copy of the invitation and attendance sheet with the IP in the individual's file.

(7) Members of the individual's planning team who attend the meeting to develop the IP shall sign and date the IP attendance sheet to indicate participation.



(8) The IP shall be reviewed and updated by the planning team annually, or more frequently if the individual's needs change.

(9) The family living specialist shall send a copy of the attendance sheet and the IP to each member of the planning team unless the member does not want a copy.

(10) If a member of the individual's planning team denies a copy of the IP or attendance sheet, the program specialist shall maintain a copy of the written denial in the individual's record.

§ 6500.113. Review[, revision and rewrite] of the [IPP] IP.

(a) [The IPP shall be reviewed and revised if necessary, by the family living specialist in conjunction with the individual and the family at least every 3 months.

(b) The IPP shall be revised in accordance with subsection (a) if there has been no progress on a goal, if a goal is no longer appropriate or if a goal needs to be added.

(c) The IPP shall be reviewed and rewritten by the family living specialist in conjunction with the individual and the family at least every 12 months.

(d) The IPP shall be discussed with, dated by and signed by the individual, the individual's parent, guardian or advocate if appropriate, the family living specialist and the family members who assisted in revising or rewriting the IPP after each 3 month review and annual rewrite of the IPP.]

A review of each individual's progress on the IP shall be completed by the family living specialist in conjunction with the individual, the family and, if appropriate, the individual's parent, guardian or advocate every 3 months, or more frequently if the individual's needs change.

(b) A revision of the IP, if necessary, shall be communicated to the supports coordinator, family, individual and, if appropriate, the individual's parent, guardian or advocate.

(c) The IP shall be revised if any of the following occur:

- (1) There has been no progress on an outcome.
- (2) An outcome is no longer appropriate.
- (3) An outcome needs to be added.

§ 6500.114. Participation in the development of the [IPP] IP.

[The individual's parent, guardian or advocate if appropriate and the county case manager if the individual is funded through the county mental retardation program shall be invited, in writing, to participate in the initial development and the annual rewrite of the IPP. A copy of the written invitations shall be kept.]

(a) The family living specialist shall provide assessment information for the development and revision of the IP.

(b) The family living specialist shall participate in the development and revision of the IP.

§ 6500.115. Content of the [IPP] IP.

[Each IPP shall include:

(1) Goals for the individual in specific areas of growth and development.

(2) An evaluation of the individual's skill level for each goal.

(3) Monthly documentation of the individual's progress on each goal.

(4) A plan for the individual to participate in community and family life.

(5) Specific activities and services that meet the needs of the individual.

(6) A program and schedule for allowing the individual to be without direct supervision for specific periods of time, aimed at achieving a greater level of independence, if the individual's assessment states the individual may be without direct supervision.

(7) A planned program to address the social, emotional and environmental needs of the individual, if a medication is prescribed to treat maladaptive behavior.]

(a) For individuals with a supports coordinator, the family living specialist shall review the IP for the following items.

(1) Outcomes addressing the individual's needs.

(2) Specific activities and services that reflect the individual's needs, interests and personal goals.

(3) Time frames for expected completion of outcomes.

(4) An evaluation of the individual's skill level for each outcome.

(5) A program for the individual to participate in community life activities reflecting the individual's interests.

(6) A program and schedule outlining specified periods of time for the individual to be without direct supervision, aimed at achieving a greater level of independence, if the absence of direct supervision is consistent with the individual's assessment.

(7) A program to address the social and emotional needs of the individual, if medication is prescribed to treat maladaptive behavior.

(8) A program to address the reduction of a restrictive procedure, if restrictive procedures are used in response to maladaptive behavior.

(b) The family living specialist shall document missing or incomplete items from the IP.

(c) The family living specialist shall report missing or incomplete items from the IP in writing to the supports coordinator.

(d) For individuals without a supports coordinator, the family living specialist shall prepare the IP including the items in subsection (a)(1)–(8).

§ 6500.116. Implementation of the [ IPP ] IP.

The [ IPP ] IP shall be implemented as written.

§ 6500.117. Copies of the [ IPP ] IP.

(a) A copy of all [ IPPs ] IPs and revisions shall be kept in the individual's record.

(b) [ The individual, the individual's parent, guardian or advocate, if appropriate, and the county case manager if the individual is funded through the county mental retardation program, and the individual's day service facility shall be provided a copy of all IPPs. Documentation of transmittal of each IPP shall be kept. ]

The family living specialist will send a written summary of each 3-month review to the supports coordinator, individual and, if appropriate, the individual's parent, guardian or advocate within 30 days after the completion of the review.

(c) If the individual or the individual's parent, guardian or advocate denies a copy of a written summary, the family living specialist shall maintain the signed written denial.

MEDICATIONS

§ 6500.133. Use of prescription medications.

\* \* \* \* \*

(b) If a medication is prescribed to treat maladaptive behavior, there shall be a [ planned ] program [ as part of the IPP ] to address the social, emotional and environmental needs of the individual related to the maladaptive behavior as part of the IP.

\* \* \* \* \*

INDIVIDUAL RECORDS

§ 6500.182. Individual records.

\* \* \* \* \*

(c) Each individual's record [ shall ] must include:

\* \* \* \* \*

(6) [ IPPs ] IP.

\* \* \* \* \*

[Pa.B. Doc. No. 08-788. Filed for public inspection April 25, 2008, 9:00 a.m.]

INSURANCE DEPARTMENT

[ 31 PA. CODE CH. 84b ]

Actuarial Opinion and Memorandum

The Insurance Department (Department) proposes to amend Chapter 84b (relating to actuarial opinion and memorandum) to read as set forth in Annex A. The proposed rulemaking is made under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412) and section 301 of The Insurance Department Act (act) (40 P. S. § 71).

Purpose

The purpose of the proposed rulemaking is to update Chapter 84b to include amendments made by the Na-

tional Association of Insurance Commissioners (NAIC) to Model Regulation 822, entitled "Actuarial Opinion and Memorandum Regulation." That regulation requires all life insurance companies and fraternal benefit societies to submit actuarial opinions based on an asset adequacy analysis, commonly known as "Section 8 opinions." Several of these changes are required for the Department to maintain accreditation by the NAIC beginning in 2009.

A copy of the copyrighted NAIC model regulation was provided to the Legislative Standing Committees, the Independent Regulatory Review Commission (IRRC), the Governor's Office of Policy and Planning, the Governor's Office of General Counsel and the Attorney General to assist in their analysis of this proposed rulemaking. Copies of NAIC model regulations are available to the general public by contacting the NAIC.

Explanation of Regulatory Requirements

The following is a description of the changes contained in the proposed rulemaking:

Section 84b.1 (relating to purpose) is being amended to add reference to supporting memoranda and recognize the regulation's additional purpose to provide guidance on the meaning of adequacy of reserves.

Section 84b.2 (relating to applicability) is being amended to reflect that the regulation will be applied in a manner to recognize an appointed actuary's professional judgment in performing duties specified by the regulation while retaining the Commissioner's authority to require specific methods of actuarial analysis and assumptions when necessary to ensure adequacy of reserves.

Section 84.3 (relating to scope) is being amended to eliminate the references to companies that are exempted from performing an asset adequacy analysis.

Section 84b.4 (relating to definitions) is being amended to modify definitions to reflect the elimination of the exemption from the performance of an asset adequacy analysis, change references to the sections of the chapter in accordance with the elimination, delete definitions no longer necessary because references in the regulation have been deleted, and make other modifications as a matter of form.

Section 84b.5 (relating to general requirements) is being amended to reflect the elimination of the exemption from the performance of an asset adequacy analysis. In addition, changes are proposed to clarify that the actuarial opinion applies to both directly issued and assumed business, and to replace outdated annual statement exhibit number references with descriptive language.

Sections 84b.6 and 84b.7 (relating to required opinions; and statement of actuarial opinion not including an asset adequacy analysis) are being rescinded to comply with amendments made to the NAIC model regulation reflecting the requirement that one type of opinion is to be filed for all companies except for companies doing business in one state.

Section 84b.8 (relating to statement of actuarial opinion based on an asset adequacy analysis) is being revised to conform with IRRC standards, to eliminate the requirement that certain statements be included in the actuarial memorandum verbatim by permitting actuarial opinions to contain statements that comply with the general regulatory requirements. Changes are also proposed to simplify and clarify the requirements and as a matter of form, and to reflect where statements may be omitted, at the Commissioner's discretion, for a company domiciled and doing business in this Commonwealth only. Section

84b.8 is also being revised to remove the table from the body of the regulation. This table will be made readily available on the Department's website.

Section 84b.9 (relating to description of actuarial memorandum including an asset adequacy analysis) is being revised to comply with the NAIC model regulation by requiring a regulatory asset adequacy issues summary to be submitted each year, specifying the contents of the summary, and specifying the information and data required in the actuarial memorandum. Changes are also being proposed to correct references to sections which are being amended and to the heading of the section to conform to the contents therein.

Section 84b.10 (relating to additional considerations for analysis) is being rescinded to comply with the NAIC model regulation by deleting aggregation, allocation and interest scenario requirements concerning an asset adequacy analysis.

Section 84b.11 (relating to insurance company disciplinary action) is being revised to correct references to the applicable section of law referenced.

#### *Affected Parties*

The proposed rulemaking will apply to life insurance companies and fraternal benefit societies doing business in this Commonwealth.

#### *Fiscal Impact*

#### *State Government*

There will be no increase in cost to the Department as a result of the adoption of the proposed amendment to Chapter 84b. As part of its solvency monitoring responsibilities, the Department currently reviews statements of actuarial opinion and supporting memoranda. Thus, this proposed rulemaking will not require any additional staff time or resources to perform the analysis.

#### *General Public*

Since the proposed rulemaking concerns the solvency requirements applied to insurers, the public will benefit from a financially sound insurance industry that has the ability to fulfill its contractual obligations under life insurance policies.

#### *Political Subdivisions*

The proposed rulemaking will not impose additional costs on political subdivisions. However, because the proposed rulemaking promotes stability in this Commonwealth's insurance industry, political subdivisions' tax revenues would benefit as a result of fewer insurer insolvencies. Fewer insolvencies would result in less unemployment and would also increase incentives for insurers to market new insurance products in this Commonwealth.

#### *Private Sector*

The proposed rulemaking may impose additional costs on insurers that are currently exempt from submitting an actuarial opinion based on an asset adequacy analysis. The amount of the additional cost will depend on the type and extent of the asset adequacy analysis that the insurer's actuary believes is necessary to submit an actuarial opinion. The rulemaking provides the actuary flexibility to use professional judgment in performing the analysis.

#### *Paperwork*

The adoption of this proposed rulemaking would not impose additional paperwork on the Department. Insur-

ers that currently do not prepare an actuarial memorandum because the actuarial opinion is not based on an asset adequacy analysis will be required to prepare an actuarial memorandum under the proposed rulemaking. In addition, insurers are required under the proposed rulemaking to submit a regulatory asset adequacy issues summary each year. The amount of additional paperwork in preparing the memorandum and summary will depend on the type and extent of the asset adequacy analysis performed.

#### *Effectiveness/Sunset Date*

The proposed rulemaking will become effective January 1, 2009. The Department continues to monitor the effectiveness of regulations on a triennial basis; therefore, no sunset date has been assigned.

#### *Contact Person*

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, within 30 days following the publication of this notice in the *Pennsylvania Bulletin*. Questions and comments may also be e-mailed to psalvatore@state.pa.us or faxed to (717) 705-3873.

Under the Regulatory Review Act (act) (71 P. S. §§ 745.1—745.15), the Department is required to write to all commentators, requesting whether or not they wish to receive a copy of the final-form rulemaking. To better serve our stakeholders, the Department has made a determination that all commentators will receive a copy of the final-form rulemaking when it is made available to IRRC and the legislative standing committees.

#### *Regulatory Review*

Under section 5(a) of the act (71 P. S. § 745.5(a)), on April 16, 2008, the Department submitted a copy of this proposed rulemaking to IRRC and to the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee. In addition to the submitted proposed rulemaking, the Department has, as required by the act, provided IRRC and the committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of that material is available to the public upon request.

IRRC will notify the Department of any objections to any portion of the proposed rulemaking within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met by that portion. The act specifies detailed procedures for the Department, the Governor, and the General Assembly to review these objections before final publication of the regulations.

JOEL SCOTT ARIO,  
*Acting Insurance Commissioner*

**Fiscal Note:** 11-235. No fiscal impact; (8) recommends adoption.

#### **Annex A**

#### **TITLE 31. INSURANCE**

#### **PART VI. LIFE INSURANCE**

#### **CHAPTER 84b. ACTUARIAL OPINION AND MEMORANDUM.**

#### **§ 84b.1. Purpose.**

The purpose of this chapter is to promulgate [ **standards** ] requirements for statements of actuarial opin-

ions and for supporting memoranda as required by section 301 [ (f) ](g) of the act (40 P. S. § 71 [ (f) ](g) and to provide guidance on the meaning of adequacy of reserves.

§ 84b.2. Applicability.

This chapter applies to life insurance companies and fraternal benefit societies doing business in this Commonwealth. This chapter shall be applied in a manner that allows the appointed actuary to utilize professional judgment in performing the asset adequacy analysis and developing the actuarial opinion and supporting memoranda, consistent with relevant actuarial standards of practice. However, the Commissioner will have the authority to require specific methods of actuarial analysis and actuarial assumptions when, in the Commissioner's judgment, these specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items.

§ 84b.3. Scope.

[ (a) Types of opinions. Except with respect to companies which are exempted under § 84b.6 (relating to required opinions), a statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with § 84b.8 (relating to statement of actuarial opinion based on asset adequacy analysis), and a memorandum in support thereof in accordance with § 84b.9 (relating to description of actuarial memorandum including an asset adequacy analysis) shall be required each year. A company so exempted shall file a statement of actuarial opinion under § 84b.7 (relating to statement of actuarial opinion not including an asset adequacy analysis).

(b) Filing upon request. The Commissioner may require a company otherwise exempt under this chapter to submit a statement of actuarial opinion and to prepare a memorandum in support thereof in accordance with §§ 84b.8 and 84b.9 if, in the opinion of the Commissioner, an asset adequacy analysis is necessary with respect to the company. In forming the opinion, the Commissioner will take into consideration issues such as the nature of the business insured, the type of assets owned by the company and the company's financial ratios determined in accordance with § 84b.6(c). ]

A statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with § 84b.8 (relating to statement of actuarial opinion based on asset adequacy analysis), and a memorandum in support thereof in accordance with § 84b.9 (relating to description of actuarial memorandum including an asset adequacy analysis and regulatory asset adequacy issues summary) shall be required each year.

§ 84b.4. Definitions.

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

\* \* \* \* \*

Actuarial opinion—[ With respect to §§ 84b.8 , 84b.9 and 84b.10 (relating to statement of actuarial opinion based on asset adequacy analysis; description of

actuarial memorandum including an asset adequacy analysis; and additional considerations for analysis), the ] The opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy [ test ] analysis in accordance with § 84b.8 (relating to statement of actuarial opinion based on an asset adequacy analysis) and with applicable actuarial standards. [ With respect to § 84b.7 (relating to statement of actuarial opinion not including an asset adequacy analysis), the opinion of an appointed actuary regarding the calculation of reserves and related items, in accordance with § 84b.7 and with actuarial standards which specifically relate to this opinion. ]

\* \* \* \* \*

Appointed actuary—A qualified actuary who is appointed or retained either directly by the board of directors or by the authority of the board of directors through an executive officer of the company, provided that the executive officer is not the qualified actuary of the company, to prepare the statement of actuarial opinion and supporting memorandum as required by [ § ]301 [ (f) ](g) of the act (40 P. S. § 71 [ (f) ](g)).

Asset adequacy analysis—An analysis that meets the standards and other requirements referred to in § 84b.5(d) (relating to general requirements). [ It may take many forms, including cash flow testing, sensitivity testing or applications of risk theory. ]

\* \* \* \* \*

[ First priority company—A company designated by the NAIC as a company which should be assigned a first priority in the scheduling of a state's company financial reviews. ]

\* \* \* \* \*

[ Noninvestment grade bonds—Bonds designated as classes 3, 4, 5 or 6 by the NAIC Securities Valuation Office, or a successor thereto. ]

\* \* \* \* \*

[ Second priority company—A company designated by the NAIC as a company which should be assigned a second priority in the scheduling of a state's company financial reviews. ]

§ 84b.5. General requirements.

(a) Submission of statement of actuarial opinion.

(1) A company shall include on or attach to Page 1 of the annual statement for each year [ beginning with 1994 ], the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with § 84b.8 (relating to statement of actuarial opinion based on asset adequacy analysis). [ A company exempted under § 84b.6 (relating to required opinions) from submitting a statement of actuarial opinion in accordance with § 84b.8 shall include on or attach to Page 1 of the annual statement a statement of actuarial opinion rendered by an appointed actuary in accordance with § 84b.7 (relating to statement of actuarial opinion not including an asset adequacy analysis). ]

(2) [ If in the previous year a company provided a statement of actuarial opinion in accordance with § 84b.7, and in the current year fails to meet the exemption criteria of § 84b.6(c)(1), (2) or (5), the statement of actuarial opinion in accordance with § 84b.8 is not required until August 1 following the date of the annual statement. In this instance, the company shall provide a statement of actuarial opinion in accordance with § 84b.7 with appropriate qualification noting the intent to subsequently provide a statement of actuarial opinion in accordance with § 84b.8.

(3) In the case of a statement of actuarial opinion required to be submitted by a foreign or alien company, the Commissioner may accept the statement of actuarial opinion filed by the company with the insurance supervisory regulator of another state if the Commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this Commonwealth.

(4) ] Upon written request by the company, the Commissioner may grant an extension of the date for submission of the statement of actuarial opinion.

(b) *Qualified actuary requirements.* A “qualified actuary” is an individual who:

\* \* \* \* \*

(5) Has not failed to notify the Commissioner of any action taken by [ a commissioner ] the insurance regulatory authority of another state similar to that under paragraph (4).

(c) *Appointed actuary notification.* The company shall give the Commissioner written notice of the name, title—and, in the case of a consulting actuary, the name of the firm—and the manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and shall state in the notice that the person meets the requirements in subsection (b). Once notice is furnished, no further notice is required with respect to this person, but the company shall give the Commissioner written notice if the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements in subsection (b). The notice of the appointment or termination of the appointment shall be provided to the Commissioner by [ January 30, 1995, or ] the date of the appointment or termination of the appointment [ unless previously provided to the Commissioner ]. The notice of termination [ shall ] must disclose the reasons for termination. Additionally, the terminated actuary shall furnish to the Commissioner and to the company a description of valuation reserve issues that the actuary considered as material at the time of termination or a statement that no material issues exist. The description [ shall ] must include issues concerning valuation requirements, reserve adequacy, asset adequacy analysis assumptions or methodology and internal controls on the valuation system.

(d) *Standards for asset adequacy analysis.* The asset adequacy analysis required by this chapter [ shall ] must:

\* \* \* \* \*

(e) *Liabilities to be covered.*

(1) Under the authority of section 301 [ (f)(4) ](g)(5)(B) of the act (40 P. S. § 71 [ (f)(4) ](g)(5)(B)), the statement

of actuarial opinion [ shall ] must apply to reserves and related actuarial items associated with all in force business on the statement date, whether directly issued or assumed, regardless of when or where issued (for example, [ reserves of Exhibits 8, 9 and 10, and claim liabilities of Exhibit 11, Part I of the annual statement and equivalent items of the separate account annual statement or statements) ] aggregate reserve for insurance and annuity contracts, liability for deposit-type contracts, liability for contract claims and equivalent items in the separate account statement or statements).

\* \* \* \* \*

(*Editor’s Note:* As part of this proposed rulemaking, the Department is proposing to rescind the §§ 84b.6 and 84b.7, which appear in 31 Pa. Code pages 84b.5—84b-12, serial pages (229447)—(22945).)

§ 84b.6. [ Required opinions ] (Reserved).

§ 84b.7. [ Statement of actuarial opinion not including an asset adequacy analysis ] (Reserved).

§ 84b.8. Statement of actuarial opinion based on an asset adequacy analysis.

(a) [ *General description.* The statement of actuarial opinion submitted in accordance with this section shall consist of:

(1) An opening paragraph as provided in subsection (b)(1) identifying the appointed actuary and the individual’s qualifications.

(2) A scope paragraph as provided in subsection (b)(2) identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary’s work, including a tabulation delineating the reserves and related actuarial items which have been analyzed for asset adequacy and the method of analysis, and identifying the reserves and related actuarial items covered by the opinion which have not been so analyzed.

(3) A reliance paragraph as provided in subparagraphs (i)—(iii):

(i) If the appointed actuary has deferred to other experts in developing data, procedures or assumptions (for example, anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios), the reliance paragraph should include a statement as provided in subsection (b)(3)(i)(A) or (B), supported by a statement of each expert in the form prescribed by subsection (e).

(ii) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph should include a statement as provided in subsection (b)(3)(ii).

(iii) If the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force or asset records prepared by the company or a third party, the reliance paragraph should include a statement as provided in subsection (b)(3)(iii)(A) or (B).

(4) An opinion paragraph as provided in subsection (b)(4) expressing the appointed actuary’s opinion with respect to the adequacy of the supporting assets to mature the liabilities.

(5) One or more additional paragraphs will be needed in individual company cases as follows:

(i) If the appointed actuary considers it necessary to state a qualification of the opinion.

(ii) If the appointed actuary must disclose the method of aggregation for reserves of different products or lines of business for asset adequacy analysis.

(iii) If the appointed actuary must disclose reliance upon any portion of the assets supporting the Asset Valuation Reserve (AVR) or other mandatory or voluntary statement reserves for asset adequacy analysis.

(iv) If the appointed actuary must disclose an inconsistency in the method of asset allocation used at the prior opinion date with that used for this opinion.

(v) If there is an inconsistency in the method of analysis used at the prior opinion date with that used for this opinion.

(vi) If the appointed actuary must disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release.

(vii) If the appointed actuary chooses to add a paragraph briefly describing the assumptions which form the basis for the actuarial opinion.

(b) *Recommended language.* The following paragraphs shall be included in the statement of actuarial opinion in accordance with this section. The language is that which in typical circumstances should be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary shall use language which clearly expresses the individual's professional judgment. The opinion shall retain all pertinent aspects of the language provided in this subsection.

(1) The opening paragraph shall indicate the appointed actuary's relationship to the company and the individual's qualifications to sign the opinion.

(i) For a company actuary, the opening paragraph of the actuarial opinion shall include a statement such as follows:

"I, (name), am (title) of (insurance company name) and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said insurer to render this opinion as stated in the letter to the Commissioner dated (date). I meet the Academy qualification standards for rendering the opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

(ii) For a consulting actuary, the opening paragraph of the actuarial opinion shall contain a statement such as follows:

"I, (name), a member of the American Academy of Actuaries, am associated with the firm of (name of consulting firm). I have been appointed by, or by the authority of, the Board of Directors of (name of company) to render this opinion as stated in the letter to the Commissioner dated (date). I meet the Academy qualification standards for rendering the

opinion and am familiar with the valuation requirements applicable to life and health insurance companies."

(2) The scope paragraph shall include a statement such as follows:

"I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, 19 (year). Those reserves and related actuarial items which have been subjected to asset adequacy analysis are tabulated as shown in the following table of Reserves and Liabilities."

(3) The reliance paragraph shall include a statement such as follows:

(i) If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph shall include a statement such as either (A) or (B) as follows:

(A) "I have relied on (name), (title) for (such as, anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios) and, as certified in the attached statement, . . ."

(B) "I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement."

Such a statement of reliance on other experts shall be accompanied by a statement by each expert in the form prescribed by subsection (e).

(ii) If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph shall also include a statement such as follows:

"My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary."

(iii) If the appointed actuary has not examined the underlying records, but has relied upon listings and summaries of policies in force or asset records prepared by the company or a third party, the reliance paragraph shall include a statement such as either clause (A) or clause (B) as follows:

(A) "I have relied upon listings and summaries (of policies and contracts, of asset records) prepared by (name and title of company officer certifying in-force records) as certified in the attached statement. In other respects my examination included such review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary."

(B) "I have relied upon (name of accounting firm) for the substantial accuracy of the in-force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and tests of the actuarial calculations as I considered necessary."

Such a statement of reliance shall be accompanied by a statement by each person relied upon in the form prescribed by subsection (e).

(4) The opinion paragraph shall include a statement such as follows:

**“In my opinion the reserves and related actuarial items identified above:**

**Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles;**

**Are based on actuarial assumptions which produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;**

**Meet the requirements of the valuation law and regulations of the state of (state of domicile) and are at least as great as the minimum aggregate amounts required by the state in which this statement is filed.**

**Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end, with any exceptions noted below;**

**Include provision for all reserves and related actuarial items which ought to be established.**

**The reserves and related actuarial items, when considered in light of the assets held by the com-**

**pany with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company.**

**The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion.**

**This opinion is updated annually as required by statute. To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which should be considered in reviewing this opinion.**

**or**

**The following material change(s) which occurred between the date of the statement for which this opinion is applicable and the date of this opinion should be considered in reviewing this opinion: (Describe the change or changes.)**

**Note: Choose one of the two immediately preceding paragraphs, whichever is applicable.**

Reserves and Liabilities					
Statement Item	Asset Adequacy Tested Amounts			Other Amount (3)	Total Amount (1)+(2)+(3) (4)
	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)		
2 Supplementary Contracts Not Involving Life Contingencies (Page 3, Line 3)					
3 Dividend and Coupon Accumulations (Page 3, Line 5)					
Total (Exhibit 10)					
Exhibit 11 Part 1					
1 Life (Page 3, Line 4.1)					
2 Health (Page 3, Line 4.2)					
Total (Exhibit 11, Part 1)					
Separate Accounts (Page 3, Line 27)					
<b>TOTAL RESERVES</b>					

IMR (Page ___ Line ___)	
AVR (Page ___ Line ___)	(c)
Other Mandatory or Voluntary Reserves	(c)

NOTES:

- (a) The additional actuarial reserves are the reserves established under subsection 84b.5(e)(2).
- (b) The appointed actuary should indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in subsection 84b.5(d), by means of symbols which should be defined in footnotes to the table.
- (c) Allocated amount.



Reserves and Liabilities					
Statement Item	Asset Adequacy Tested Amounts			Other Amount (3)	Total Amount (1)+(2)+(3) (4)
	Formula Reserves (1)	Additional Actuarial Reserves (a) (2)	Analysis Method (b)		
<b>Exhibit 8</b>					
A Life Insurance					
B Annuities					
C Supplementary Contracts Involving Life Contingencies					
D Accidental Death Benefit					
E Disability - Active					
F Disability - Disabled					
G Miscellaneous					
Total (Exhibit 8 Item 1, Page 3)					
<b>Exhibit 9</b>					
A Active Life Reserve					
B Claim Reserve					
Total (Exhibit 9 Item 2, Page 3)					
<b>Exhibit 10</b>					
1.1 Policyholder Premiums (Page 3, Line 10.1)					
1.2 Guaranteed Interest Contracts (Page 3, Line 10.2)					
1.3 Other Contract Deposit Funds (Page 3, Line 10.3)					

The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion should be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis.

\_\_\_\_\_  
Signature of Appointed Actuary

\_\_\_\_\_  
Address of Appointed Actuary

\_\_\_\_\_  
Telephone Number of Appointed Actuary”

(c) *Assumptions for new issues.* The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of subsection (b)(4).

(d) *Adverse opinions.* If the appointed actuary is unable to form an opinion, the appointed actuary shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, the appointed actuary shall issue an adverse or qualified actuarial opinion explicitly stating the reason for the opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

(e) *Reliance on data furnished by other persons.* If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force or asset related information, or both, there shall be attached to the opinion the statement of a company officer or accounting firm who prepared the underlying data similar to either paragraph (1) or (2) or both paragraphs (1) and (2).

(1) “I (name of officer), (title), of (name of company or accounting firm), hereby affirm that the listings and summaries of policies and contracts in force as of December 31, 19 (year), and other liabilities prepared for and submitted to (name of appointed actuary) were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

\_\_\_\_\_  
Signature of the Officer of the Company or Accounting Firm

\_\_\_\_\_  
Address of the Officer of the Company or Accounting Firm

\_\_\_\_\_  
Telephone Number of the Officer of the Company or Accounting Firm”

(2) “I, (name of officer), (title) of (name of company, accounting firm, or security analyst), hereby affirm that the listings, summaries and analyses relating to data prepared for and submitted to (name of appointed actuary) in support of the asset related aspects of the opinion were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.

\_\_\_\_\_  
Signature of the Officer of the Company, Accounting Firm or the Security Analyst

\_\_\_\_\_  
Address of the Officer of the Company, Accounting Firm or the Security Analyst

\_\_\_\_\_  
Telephone Number of the Officer of the Company, Accounting Firm or the Security Analyst” ]

*General description.* The statement of actuarial opinion required under § 84b.5 (relating to general requirements) must consist of the following:

(1) An opening paragraph that meets the following requirements:

(i) Identifies the actuary's name and title.

(ii) Identifies the insurance company employing the actuary, or if a consulting actuary, the name of the firm with which the actuary is associated.

(iii) States that the actuary is a member of the American Academy of Actuaries (Academy) and that the actuary meets the Academy qualification standards for rendering the opinion.

(iv) States that the actuary was appointed by, or by the authority of, the board of directors of the insurer to render the opinion and is familiar with the valuation requirements applicable to life and health insurance companies.

(v) States the date of the notification letter sent to the Commissioner with respect to the appointment.

(2) A scope paragraph that meets the following requirements:

(i) Describes the extent of the appointed actuary's work.

(ii) Includes a tabulation that meets the following requirements:

(A) Reconciles the reserves and related actuarial items that are covered by the opinion to the annual statement of the company.

(B) Identifies the reserves and related actuarial items that have been analyzed for asset adequacy and the method of analysis.

(C) Identifies the reserves and related actuarial items that have not been analyzed for asset adequacy.

(D) Indicates, for each applicable annual statement item the formula reserves, additional actuarial reserves, analysis method, other amount, and total amount in a format consistent with the “Reserves and Liabilities” Table as adopted by the NAIC in the Actuarial Opinion and Memorandum Model Regulation No. 822.

(iii) Includes a statement that the actuary has examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items that are included in the tabulation and reported in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31 of the relevant year.

(3) A reliance paragraph that meets the following requirements:

(i) Documents the appointed actuary's reliance on other experts to develop certain portions of the analysis in accordance with subsection (c) and

states that the actuary has reviewed the information relied upon for reasonableness.

(ii) If the appointed actuary has examined the underlying asset and liability records, includes the following statements:

(A) The examination included a review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and tests of the actuarial calculations, as considered necessary by the actuary.

(B) The actuary reconciled the underlying basic asset and liability records to the applicable exhibits and schedules of the company's current annual statement.

(iii) If the appointed actuary has not examined the underlying records, but has relied upon data (for example, listings and summaries of policies in force or asset records) prepared by the company, includes the following:

(A) Documentation of the reliance in accordance with subsection (c).

(B) A statement that, in forming the opinion on specified types of reserves, the actuary relied upon data prepared by a company officer certifying in force records or other data.

(C) The name and title of the company officer certifying in force records or other data.

(D) A statement confirming that the actuary evaluated that data for reasonableness and consistency and reconciled that data to the applicable exhibits and schedules of the company's current annual statement.

(E) A statement confirming that the actuary's examination included review of the actuarial assumptions and actuarial methods used and tests of calculations, as considered necessary by the actuary.

(4) An opinion paragraph that meets the following requirements:

(i) States that the reserves and related actuarial items identified in the tabulation:

(A) Are computed in accordance with presently accepted actuarial standards consistently applied and are fairly stated, in accordance with sound actuarial principles.

(B) Are based on actuarial assumptions that produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with other contract provisions.

(C) Meet the requirements of the valuation law and regulations of the state of [ state of domicile ].

(D) Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end, with any changes in actuarial assumptions noted as exceptions in a separate paragraph. The adoption for new issues or new claims or other new liabilities of an actuarial assumption that differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumption within the meaning of this clause.

(E) Provide for all reserves and related actuarial items that ought to be established.

(ii) Includes a statement substantially similar to the following, except that the statement may be omitted, at the discretion of the Commissioner, for an opinion filed on behalf of a company doing business only in this Commonwealth:

"The reserves and related actuarial items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts, make adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company."

(iii) States that the actuarial methods, considerations and analyses used in forming the actuary's opinion conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis of this statement of opinion.

(iv) Includes one of the following items, as applicable:

(A) A statement that the opinion is updated annually as required by statute, and to the best of the actuary's knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of the opinion that should be considered in reviewing the opinion.

(B) A description of the material changes that occurred between the date of the statement for which the opinion is applicable and the date of the opinion that should be considered in reviewing the opinion.

(v) States that the impact of unanticipated events subsequent to the date of the opinion is beyond the scope of the opinion.

(vi) States that the asset adequacy portion of the opinion should be viewed recognizing that the company's future experience may not follow all the assumptions used in the analysis.

(vii) Includes the date and signature, address and telephone number of the appointed actuary.

(5) One or more paragraphs addressing the following items to the extent applicable:

(i) Disclosure of any qualification of the opinion.

(ii) Disclosure of any inconsistency in the method of asset allocation used at the prior opinion date with that used for the opinion.

(iii) Disclosure of any inconsistency in the method of analysis used at the prior opinion date with that used for the opinion.

(iv) Identification of the existence and extent of additional actuarial reserves released subsequent to the prior opinion date.

(v) At the option of the appointed actuary, assumptions forming the basis for the actuarial opinion.

(b) *Adverse opinions.* If the appointed actuary is unable to form an opinion, the appointed actuary shall refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, the appointed actuary shall issue an adverse or qualified actuarial opinion explicitly stating the reason for the opinion. This statement should follow the scope paragraph and precede the opinion paragraph.

(c) *Reliance on information furnished by other persons.* If the appointed actuary relies upon other persons regarding the accuracy or completeness of any data underlying the actuarial opinion or appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion must:

(1) Precisely identify the items subject to reliance and the persons relied upon.

(2) Include a signed, dated certification from each person upon whom the actuary is relying that includes the following:

(i) The name, title, company, address and telephone number of the person upon whom the actuary is relying.

(ii) The items on which the person is providing information.

(iii) A statement as to the accuracy, completeness or reasonableness, as applicable, of the items.

§ 84b.9. Description of actuarial memorandum including an asset adequacy analysis and regulatory asset adequacy issues summary.

(a) *General.*

(1) In accordance with section 301 [ (f)(3) ](g) of the act (40 P. S. § 71 [ (f)(3) ](g)), the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of the opinion regarding the reserves [ under a § 84b.8 (relating to statement of actuarial opinion based on asset adequacy analysis) opinion ]. The memorandum shall be made available for examination by the Commissioner upon the Commissioner's request but will be returned to the company after examination and will not be considered a record of the Department or subject to automatic filing with the Commissioner.

\* \* \* \* \*

(4) In accordance with section 301(g) of the act, the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in this section. The regulatory asset adequacy issues summary shall be submitted by March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required. The regulatory asset adequacy issues summary shall be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

(b) *Details of the memorandum section documenting asset adequacy analysis.* When an actuarial opinion [ under § 84b.8 ] is provided, the memorandum [ shall ] must demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in § 84b.5(d) and additional standards under this chapter. It [ shall ] must specify the following:

(1) For reserves:

\* \* \* \* \*

(vi) Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis.

(vii) Documentation of assumptions, so that an actuary reviewing the actuarial memorandum could form a conclusion as to reasonableness, established for of the following:

- (A) Lapse rates (both base and excess).
- (B) Interest crediting rate strategy.
- (C) Mortality.
- (D) Policyholder dividend strategy.
- (E) Competitor or market interest rate.
- (F) Amortization rates.
- (G) Commissions and expenses.
- (H) Morbidity.

(2) For assets:

\* \* \* \* \*

(vi) Documentation of assumptions, so that an actuary reviewing the actuarial memorandum could form a conclusion as to reasonableness, established for the following:

- (A) Default costs.
- (B) Bond call function.
- (C) Mortgage prepayment function.
- (D) Determining market value for assets sold due to disinvestments strategy.
- (E) Determining yield on assets acquired through the investment strategy.

(3) [ Analysis ] For the analysis basis:

\* \* \* \* \*

(v) Rationale for degree of rigor in analyzing different blocks of business including the level of materiality that was used in determining how rigorously to analyze different blocks of business.

(vi) Criteria for determining asset adequacy including the precise basis for determining if assets are adequate to cover reserves under moderately adverse conditions or other conditions as specified in relevant actuarial standards of practice.

(vii) [ Effect of Federal income taxes, reinsurance and other relevant factors ] Whether the impact of Federal Income Taxes was considered and the method of treating reinsurance in the asset adequacy analysis.

(4) Summary of [ results ] material changes in methods, procedures or assumptions from prior year's asset adequacy analysis.

(5) [ Conclusion ] Summary of results.

(6) Conclusions.

(c) *Details of the regulatory asset adequacy issues summary*

(1) The regulatory asset adequacy issues summary must include the following:

(i) Descriptions of the scenarios tested, including whether those scenarios are stochastic or deterministic, and the sensitivity testing done relative to those scenarios. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values. Ending surplus values shall be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can be reasonably be expected to arise from the assets and liabilities remaining in force.

(ii) The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different than the assumptions used in the previous asset adequacy analysis.

(iii) The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion.

(iv) Comments on any interim results that may be of significant concern to the appointed actuary.

(v) The methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested.

(vi) Whether the actuary has been satisfied that all options whether explicit or embedded, in any asset or liability, including but not limited to those affecting cash flows embedded in fixed income securities, and equity-like features in any investments have been appropriately considered in the asset adequacy analysis.

(2) The regulatory asset adequacy issues summary must contain the name of the company for which the regulatory asset adequacy issues summary is being supplied and shall be signed and dated by the appointed actuary rendering the actuarial opinion.

(d) *Conformity to standards of practice.* The memorandum [shall] must include a statement [such as follows] substantially similar to the following:

"Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum."

(e) *Use of assets supporting the interest maintenance reserve and the asset valuation reserve.* An appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, shall be used in an asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for other risks with respect to reserve adequacy. Analysis of these and other risks may include assets

supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support. The amount of the assets supporting the IMR, AVR and other mandatory or voluntary reserves used in the analysis shall be disclosed in the table of reserves and liabilities of the opinion. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.

(f) *Documentation.* The appointed actuary shall retain on file, for at least 7 years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.

§ 84b.10. [Additional considerations for analysis] (Reserved).

(*Editor's Note:* As part of this proposed rulemaking, the Department is proposing to rescind the text of § 84b.10 which appears in 31 Pa. Code pages 84b.22—84b.24, serial pages (229464), (266393) and (266394).)

§ 84b.11. **Insurance company disciplinary action.**

A company willfully making a false filing of an actuarial opinion or supporting memorandum with the Commissioner or failing to demonstrate a good faith effort to comply with this chapter or section 301[ (f) ](g) of the act (40 P. S. § 71[ (f) ](g)) may be subject to a civil penalty not to exceed \$50,000, following notice and a hearing.

[Pa.B. Doc. No. 08-789. Filed for public inspection April 25, 2008, 9:00 a.m.]

### [ 31 PA. CODE CH. 139 ] Prohibited Phrases

The Insurance Department (Department) proposes to rescind Chapter 139 (relating to prohibited phrases). This rulemaking is proposed under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 422 and 412) and section 354 of The Insurance Company Law of 1921 (40 P. S. § 477b).

#### *Purpose*

The purpose of this rulemaking is to rescind Chapter 139 to eliminate obsolete, unnecessary regulations. Chapter 139 was adopted at 2 Pa.B. 1516 (August 11, 1972).

The chapter was adopted to prohibit the use of the phrases "legal reserve," "old line reserve" or similar phrases to describe an insurer doing business in this Commonwealth and required that the phrases be eliminated from policies or other insurance forms.

Chapter 89b (relating to approval for life insurance, accident and health insurance and property and casualty insurance filing and form) gives the Department the authority to review all policies and forms filed with the Department. The Department has not encountered any problems or issues related to Chapter 139 in any market conduct examination or enforcement action and believes the provisions of Chapter 139 are no longer necessary as they are standard practices for licensed insurance companies.

#### *Affected Parties*

The rescission of the chapter affects insurers doing the business of insurance in this Commonwealth.

*Fiscal Impact*

There is no fiscal impact as a result of the proposed rulemaking.

*Paperwork*

The proposed rulemaking will affect all licensed insurers domiciled in this Commonwealth, but no additional paperwork requirements will be imposed.

*Effectiveness/Sunset Date*

The rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*. Since this is a rescission, no sunset date has been assigned.

*Contact Person*

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, within 30 days following the publication of this notice in the *Pennsylvania Bulletin*. Questions and comments may also be e-mailed to psalvatore@state.pa.us or faxed to (717) 705-3873.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (act) (71 P. S. § 745.5(a)), on April 16, 2008, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee. In addition to the submitted proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of that material is available to the public upon request.

Under section 5(g) of the act, if IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days after the close of the Committees' review. The notification shall specify the regulatory review criteria that have not been met by that portion. The act specifies detailed procedures for the Department, the Governor and the General Assembly to review these objections before final publication of the regulations.

JOEL SCOTT ARIO,  
*Acting Insurance Commissioner*

**Fiscal Note:** 11-237. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 31. INSURANCE**

**PART VIII. MISCELLANEOUS PROVISIONS**

**CHAPTER 139. PROHIBITED PHRASES**

§ 139.1. [ Purpose ] (Reserved).

[ This chapter is not intended to prohibit a company from describing or referring to the specific reserves which it is required to maintain by law. ]

§ 139.2. [ Prohibited phrases ] (Reserved).

[ The use of the phrases "legal reserve," "old line reserve," or a similar phrase as descriptive of an insurance company transacting business in this Commonwealth is prohibited. ]

§ 139.3. [ Effective date ] (Reserved).

[ The phrases prohibited in § 139.2 (relating to prohibited phrases) shall be eliminated from poli-

**cies or other insurance forms used by an insurance company transacting business in this Commonwealth upon the date of reprinting of a policy or form or by January 1, 1974, whichever date is sooner. This ruling shall affect a policy or insurance form reprinted subsequent to August 12, 1972. ]**

[Pa.B. Doc. No. 08-790. Filed for public inspection April 25, 2008, 9:00 a.m.]

**STATE BOARD  
OF EDUCATION**

[ 22 PA. CODE CH. 42 ]

**Program Approval**

The State Board of Education (Board) proposes to amend Chapter 42 (relating to program approval) to read as set forth in Annex A. The Board is acting under the authority of section 2603-B of the Public School Code of 1949 (24 P. S. § 26-2603-B).

*Purpose*

The purpose of amending Chapter 42 is to update and clarify the regulations that establish requirements for the approval of certain programs offered by postsecondary degree-granting institutions in this Commonwealth. The provisions of Chapter 42 apply to specialized associate degree programs offered by a licensed trade, business, correspondence or beauty culture school; an incorporated 2-year college, college, seminary or university that lead to degrees that have not had prior approval; upper division undergraduate programs at two 2-year colleges or community colleges; and additional educational offerings of a foreign corporation approved to operate at a specific site in this Commonwealth. The Board last revised Chapter 42 in 1986.

*Requirements of the Proposed Rulemaking*

The proposed rulemaking establishes a waiver process for private licensed schools meeting certain criteria for the past 10 years from needing a team site visit; permits 2-year colleges, colleges, universities, seminaries and graduate degree granting institutions to request a waiver from certain aspects of the program approval application process; requires new graduate degree programs to document the academic need and workforce demand for each program or educational offering; and removes sections addressing vocational degree programs which are no longer used.

*Affected Parties*

The proposed rulemaking affects the students and professional employees of the degree-granting postsecondary institutions of this Commonwealth. This includes all institutions of postsecondary education, domestic or foreign, including out-of-State and out-of-country, legally authorized to award college credits or grant degrees in this Commonwealth.

*Cost and Paperwork Estimates*

The proposed rulemaking will clarify current requirements. It does not impose any new costs or savings for the Department of Education. The proposed rulemaking may save postsecondary institutions approximately \$41,250 annually.

*Effective Date*

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

*Sunset Date*

The Board will review the effectiveness of Chapter 42 every 4 years in accordance with the Board's policy and practice respecting all regulations promulgated by the Board. Thus, no sunset date is necessary.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (act) (71 P. S. § 745.5(a)), on April 10, 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 and Senate Committees on Education. A copy of this material is available to the public upon request.

Under section 5(g) of the act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The 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 Comments and Contact Person*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to Jim Buckheit, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333, j buckheit@state.pa.us, within 30 days following publication in the *Pennsylvania Bulletin*.

Persons with disabilities needing an alternative means of providing public comment may make arrangements by calling Jim Buckheit at (717) 787-3787 or TDD (717) 787-7367.

JIM BUCKHEIT,  
*Executive Director*

**Fiscal Note:** 006-311. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 22. EDUCATION**

**PART I. STATE BOARD OF EDUCATION**

**CHAPTER 42. PROGRAM APPROVAL**

**PRELIMINARY PROVISIONS**

**§ 42.1. Scope.**

This chapter and Chapter 31 (relating to general provisions) apply to approval of [ all of ] the following:

(1) Specialized associate degree programs at a licensed trade, business, correspondence or beauty culture school [ which ] that is [ chartered or ] established by statute in this Commonwealth.

(2) Additional programs at a chartered [ junior ] 2-year college, college, seminary or university [ which ] that lead to degrees and [ which ] that have not had prior approval consistent with the articles of incorporation. See § 40.56 (relating to additional programs).

(3) Upper division undergraduate programs at [ junior ] 2-years or community colleges.

(4) Additional [ programs ] educational offerings of a foreign corporation approved to operate at a specific site in this Commonwealth. [ A program ] Educational offerings having prior approval may be transferred to another site only after receiving approval of the Department.

[ (5) Vocational educational programs at institutions desiring approval for State/Federal money allotted for vocational education. Federal eligibility restrictions will apply when necessary. ]

**SPECIALIZED ASSOCIATE DEGREE PROGRAMS APPROVAL PROCEDURE**

**§ 42.11. Application.**

\* \* \* \* \*

(d) An approved Pennsylvania private licensed school may request a waiver from a team site visit as part of the evaluation process if it meets the following criteria for the 10 consecutive years just prior to application:

(1) The school has:

(i) Been an approved private licensed school.

(ii) Not been subjected by its accrediting agency to an order to show cause, probation or loss of accreditation.

(iii) Not undergone major corporate change.

(iv) Maintained compliance with applicable statutes and regulations.

(v) Not been under corrective action status, as defined in § 31.2 (relating to definitions).

(vi) Held authority to award specialized associate degrees (the Associate in Specialized Business degree or the Associate in Specialized Technology degree).

(vii) Not been found in violation of the Private Licensed Schools Act (24 P. S. §§ 6501—6518) or its implementing regulations in Chapter 73 (relating to general provisions).

(2) The process for requesting the waiver shall be by written request made to the Department, along with the completed full application in the form and content prescribed by the Department in its application guidelines. The Department will review the request for waiver within 30 days of receipt. Upon review, the Department will approve the waiver request and proceed with the application process, request more information, or explain why the institution must proceed with the site visit. Upon request for additional information, the institution will have 30 days to respond, and the Department will have 30 days subsequent to that response to make a determination on the waiver.

**§ 42.12. Evaluation.**

(a) An evaluation committee shall be selected [ by the Department ] in accordance with § 42.32(a) (relating to approval process). Members of the committee shall qualify as authorities in the program areas to be investigated. The committee shall consist of a representative of the Department and [ such ] other representation as [ is ] appropriate to the specific goals of the applying institution.

(b) The committee shall consider:

\* \* \* \* \*

(6) Faculty retention **[ and ]**, the qualification of the faculty, **and provisions for faculty development at the institution.**

(7) The accommodations and facilities of the institution, including the adequacy of the library **and learning resources necessary to support all aspects of the degree and program.**

\* \* \* \* \*

(c) The committee shall evaluate all documentation submitted by the applicant **[, conduct a site visit ] (in accordance with Department guidelines)** to evaluate the program, **conduct a site visit if not waived under § 42.11 (relating to application)**, and submit a written report, with recommendations, to the Department. This report shall be submitted to the institution by the Department for **[ the institution's reaction ] response by the institution.** The committee's report and the institution's **[ reaction ] response** are the **primary basis on which the Secretary makes a decision.**

**§ 42.13. Approval.**

(a) **[ A program may receive initial approval, including institutional authorization to award the degree specified, for a period of 3 to 6 years during which the program is subject to periodic review by the Department.**

(b) **A program may receive approved status upon completion of initial approval when it has met all prescribed conditions.] An institution may be granted authority to offer the program and award the degree specified. The institution's implementation of the degree program remains subject to periodic review by the Department.** The Department shall be notified immediately by the chief executive officer or **[ his ] a designee** if the school has new management or ownership. **[ In order to ] To** assure the maintenance of the quality of programs, the institution shall be subject to visitation and inspection by the Department and action, when appropriate, as specified in § 42.14 (relating to revocation of degree-granting privilege).

UPPER-DIVISION UNDERGRADUATE PROGRAM  
APPROVAL FOR **[ JUNIOR ] 2-YEAR OR**  
COMMUNITY COLLEGES

**§ 42.21. Approval Criteria.**

(a) A **[ junior ] 2-year** or community college may offer an upper-division program not culminating in a baccalaureate degree when approval of the Department is obtained based upon the following criteria:

\* \* \* \* \*

(4) **[ The advice of the regional coordinating council of the region in which the junior or community college is located.**

(5) **] For a [ junior ] 2-year** college, evidence of financial support for the proposed upper-division program.

**[ (6) ] (5)** For a community college, an estimate of the cost to the Commonwealth of funding the proposed upper-division program.

(b) If a **[ junior ] 2-year** college desires to grant a baccalaureate degree at the end of upper-division programs, it should **[ make application ] apply** to the

Department to become a college in accordance with **[ the provisions of ]** Chapter 40 (relating to institutional approval).

**APPROVAL OF ADDITIONAL PROGRAMS NOT PREVIOUSLY APPROVED**

**§ 42.31. Applicability.**

At a **[ junior ] 2-year** college, college, university, seminary or foreign corporation, additional programs **[ which ] that** lead to degrees and **[ which ] that** have not had prior approval, as appropriate, may be instituted only after receiving approval from the Secretary. **An institution with charter status shall also comply with § 40.56 (relating to additional programs).**

**§ 42.32. Approval process.**

\* \* \* \* \*

(b) An institution having no prior approval for graduate programs and requesting approval of a program leading to a graduate degree shall also comply with §§ 42.41—**[ 42.47 ] 42.45** (relating to graduate program approval procedure).

(c) **[ An institution having charter status shall also comply with § 40.56 (relating to additional programs). ]** The procedure for a request of waiver from the application process is as follows:

(1) An approved Pennsylvania 2-year college, college, university, seminary or graduate degree granting institution may request a waiver from the application process for program approval if it meets the following criteria for the 10 consecutive years just prior to the request for waiver. To be eligible, an institution shall have:

- (i) Maintained its current institutional status.
- (ii) Not undergone major corporate change.
- (iii) Maintained compliance with applicable statutes and regulations.
- (iv) Maintained good standing with its institutional accrediting agency, if applicable.
- (v) Not been under corrective action status as defined in § 31.2 (relating to definitions).

(2) A waiver may not be granted to add a new degree level, programs leading to new degrees, new broad areas of curricular content, new locations of operation within this Commonwealth for State-supported institutions or for changing institutional status.

(3) Institutions shall request the waiver in writing following the form and content described in guidelines issued by the Department and posted on the Department's web site.

(4) The Department will provide written notification to the institution regarding the status of the waiver request within 30 business days of receipt. The notification will advise the institution that its request is approved, request additional information to be submitted within 30 business days necessary for the Department to make a determination, or provide an explanation why the institution must proceed through the regular application process.

(5) Foreign corporations operating within this Commonwealth shall comply with this section to obtain approval to revise their educational offerings.



(d) Initial approval of programs, including institutional authorization to award the degree specified, is provisional. Annual reports, or more frequent reports if requested, shall be sent to the Department by the institution as requested.

(e) Following provisional approval, an institution may receive final approval for the requested programs when, in the opinion of the Secretary, it has met prescribed conditions.

(f) Programs requiring accreditation at the time of provisional approval will need the designation before the program will be recommended for final approval by the Secretary.

#### GRADUATE PROGRAM APPROVAL PROCEDURE

##### § 42.41. Statement of philosophy and need.

An institution applying for approval to grant graduate degrees shall submit a statement of its philosophy of graduate education as part of the application. This statement [ shall ] must set forth the philosophy of the institution with respect to research, instruction and the goals of graduate education, including the major categories of graduate programs to be provided and the institution's provisions for affirmative action and equal educational opportunity. The statement [ shall ] must show the total planning of the institution for graduate instruction and [ shall ] must include the evaluation procedures used to determine future developments. The statement also [ shall ] must document how the proposed graduate instruction fulfills the educational needs of this Commonwealth and [ does not duplicate education already provided in the institution's service region and this Commonwealth ] must document the academic need and workforce demand for each program or educational offering.

##### § 42.45. Application.

[ An institution desiring approval to offer graduate programs shall, after consultation with the Department, submit an application to the Department on forms provided by the Department. ] The application, evaluation and approval of graduate

programs shall follow the procedures in § 42.32 (relating to approval process). The application [ may ] shall be filed [ not later than ] by July 1 of the calendar year preceding the academic year in which the institution desires the approval.

\* \* \* \* \*

(Editor's Note: As part of this proposed rulemaking, the Board is proposing to rescind §§ 42.46, 42.47 and 42.51—42.59, which appear at 22 Pa. Code pages 42-8—42-11, serial pages (220294)—(220297).)

§ 42.46. (Reserved).

§ 42.47. (Reserved).

§ 42.51—42.59. (Reserved).

#### APPEALS

##### § 42.61. Appeals, hearings and notice.

[ A licensed trade, business, correspondence or beauty culture school denied approved status or having its degree-granting privilege revoked, or a junior college, community college, college, professional school, university or State System university ] Institutions of any type offering degrees at any level denied approval of a program may request the Department to provide administrative hearings and notice under the appeal procedures of 2 Pa.C.S. §§ 501—508 (relating to practice and procedure of Commonwealth agencies).

#### RECODIFICATION

##### § 42.71. Recodification.

(a) [ Sections of this chapter replace sections of ] Vocational education degree programs are covered by Chapters 33, 37, 39, 41, 43, 45, 46, 47 and 48.

(b) This chapter is integrated with [ Chapter 31 (relating to general provisions) and Chapter 40 (relating to institutional approval) ] Chapters 31, 35, 36, 40 and 73.

[Pa.B. Doc. No. 08-791. Filed for public inspection April 25, 2008, 9:00 a.m.]

# STATEMENTS OF POLICY

## FISH AND BOAT COMMISSION

[ 58 PA. CODE CH. 57 ]

### Wind Powered Projects

The Fish and Boat Commission (Commission) proposes to adopt a statement of policy in Chapter 57 (relating to statements of policy) that relates to wind power projects. Although not required to publish a proposal to adopt a statement of policy, the Commission is publishing the proposed statement of policy in this manner and is seeking public comment because of the heightened public interest in this issue. The Commission is publishing this proposal under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

#### A. *Effective Date*

The proposed statement of policy, if approved, will go into effect upon publication of an order adopting the statement of policy in the *Pennsylvania Bulletin*.

#### B. *Contact Person*

For further information on the proposed statement of policy, contact Jason E. Oyler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposal is available electronically through the Commission's web site at [www.fish.state.pa.us](http://www.fish.state.pa.us).

#### C. *Statutory Authority*

The proposed statement of policy is published under the statutory authority of section 321 of the code (relating to administration and enforcement) that provides that the Commission administer and enforce the code and other laws of this Commonwealth regarding the protection, propagation and distribution of fish.

#### D. *Purpose and Background*

The development of clean, renewable energy sources is a goal supported by the Commission because it will reduce our society's dependence on the burning of fossil fuels that has been linked to local, regional and global environmental change. Recent incentives to pursue clean energy goals have caused an increase in proposed wind power projects across this Commonwealth. However, wind energy project development potentially poses significant impacts to several species under the Commission's jurisdiction and their habitats. These impacts can be either direct (such as, those landscape activities associated with project construction such as the footprint of the windmill and all support facilities) or indirect (such as, individual species or community behavioral responses to the development). The impacts may be short-term, only occurring during construction activities, or long-term, persisting for the life of the project.

Commission staff within the Bureau of Fisheries, Division of Environmental Services, presently review various permits and plans that are required by local, State and

Federal regulatory authorities for wind power project development. These permits include the Department of Environmental Protection's (Department) 25 Pa. Code Chapter 105 (relating to dam safety and waterway management) and the United States Army Corps of Engineers section 404 permits for stream or wetland encroachments; the Department's NPDES permits for stormwater releases; and County Conservation District Erosion and Sedimentation (E&S) Control permits or plans. The staff provided comments to the appropriate regulatory agencies about potential risks to jurisdictional species and their habitats and recommended ways to avoid, minimize or mitigate potential harm. This function is consistent with the Commission's "Resource First" mission. The Commission is particularly concerned with developments in high-risk watersheds that include Exceptional Value and High Quality Designated Watersheds (25 Pa. Code Chapter 93 (relating to water quality standards)) and Class A Wild Trout (58 Pa. Code § 57.8a (relating to Class A wild trout streams)) and Wilderness Trout Stream (58 Pa. Code § 57.4 (relating to wilderness trout streams)) watersheds. Recommendations by Commission staff on wind power projects conform to the Pennsylvania Municipalities Planning Code (53 P. S. §§ 10101—70105) and the Pennsylvania Model Ordinance for Wind Energy Facilities in Pennsylvania. Specific comments about rare species are consistent with the Department's *Policy for Pennsylvania Natural Diversity Inventory (PNDI) Coordination During Permit Review and Evaluation* (Document 400-0200-001). Commission staff also participate on the Governor's Pennsylvania Wind and Wildlife Collaborative.

To address wind energy project development and its potential to significantly impact species under the Commission's jurisdiction and their habitats, the Commission proposes the following statement of policy.

#### E. *Summary of Proposal*

The Commission proposes to adopt a statement of policy on wind power projects that provides for coordination of all agency concerns on proposed wind power projects with the appropriate local, State and Federal agencies to avoid, minimize and mitigate harmful impacts to the species under the Commission's jurisdiction, as well as, the habitat of those species. Under the proposal, Commission staff will seek the collection of adequate data to identify and quantify risks, avoid harmful impacts, avoid ecologically sensitive areas, reduce habitat fragmentation and develop mitigation strategies for unavoidable impacts.

#### F. *Paperwork*

As the Commission already reviews permit applications for wind development projects brought before local, State and Federal permitting agencies, the proposal will not increase paperwork and will not create new paperwork requirements.

#### G. *Fiscal Impact*

The proposal will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposal will impose no new costs on the private sector or the general public.

H. *Public Comments*

Interested persons are invited to submit written comments, objections or suggestions about the proposed statement of policy to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 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. Electronic comments submitted in any other manner will not be accepted.

DOUGLAS J. AUSTEN, Ph.D.,  
*Executive Director*

**Fiscal Note:** 48A-202. No fiscal impact; (8) recommends adoption.

## Annex A

## TITLE 58. RECREATION

## PART II. FISH AND BOAT COMMISSION

## Subpart A. GENERAL PROVISIONS

## CHAPTER 57. STATEMENTS OF POLICY

## Subchapter A. FISHERIES POLICIES

## § 57.12. Policy on wind power projects.

It is the policy of the Commission to have its staff fully coordinate agency concerns in the review of wind power development projects with all involved local, State and Federal regulatory agencies to avoid, minimize and mitigate harmful impacts to fish, other aquatic life, reptiles, amphibians and their habitats. Commission staff will seek the collection of adequate data for risk analysis when necessary in the environmental review process, the avoidance of threatened and endangered species and their habitats, the avoidance of ecologically sensitive areas when siting projects, the reduction of habitat fragmentation, and the development of mitigation strategies for unavoidable impacts.

[Pa.B. Doc. No. 08-792. Filed for public inspection April 25, 2008, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF AGRICULTURE

### Agricultural Product Promotion Matching Grant for 2009

The Department of Agriculture (Department) announces the application period (May 27, 2008—July 8, 2008) for grants under the Pennsylvania Agricultural Product Promotion Matching Grant Program (Program). See 7 Pa. Code Chapter 105 (relating to Pennsylvania Agricultural Product Promotion Matching Grant Program—Statement of Policy).

The Program provides matching funds to Pennsylvania nonprofit agricultural product promotion and marketing organizations for projects intended to increase consumer awareness of Pennsylvania agricultural products and thereby increase sales of these products. The application, work plan and budget should reflect January 1, 2009, as the project start date and the project completion date will be December 31, 2009.

Applications for the Program will be accepted by the Department beginning Tuesday, May 27, 2008, and continue through Tuesday, July 8, 2008. Applications must be received by 4 p.m. in the Bureau of Market Development on the closing date. Information on this Program may be obtained from Frank Jurbala, Director, Bureau of Market Development, Department of Agriculture, 2301 North Cameron Street, Room 310, Harrisburg, PA 17110-9408, or documents to apply can be accessed at [www.agriculture.state.pa.us](http://www.agriculture.state.pa.us).

DENNIS C WOLFF,  
*Secretary*

[Pa.B. Doc. No. 08-793. Filed for public inspection April 25, 2008, 9:00 a.m.]

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### Vegetable Marketing and Research Program

Under the applicable provisions of 3 Pa.C.S. Chapter 45 (relating to Agricultural Commodities Marketing Act), a review referendum was held from March 10, 2008, to March 24, 2008, to determine if the producers affected by the Vegetable Marketing and Research Program wanted to continue the program for an additional 5 years. To pass, a majority of eligible producers voting had to vote in favor of the program's continuation. An impartial Teller Committee met on April 3, 2008, to count the ballots. The Teller Committee reported there were 486 eligible votes cast. Four hundred nine voted in favor of the program and 77 voted against continuation of the program. An additional five ballots were invalid because they were either unsigned, deceased or no longer farming. Votes favoring continuation of the program by number of producers represented 84.16% of eligible votes and votes against continuation of the program represented 15.84% of eligible votes. Because a majority of the votes were cast in favor of the program, the Pennsylvania Vegetable Marketing and Research Program shall continue for 5 years, effective immediately.

DENNIS C WOLFF,  
*Secretary*

[Pa.B. Doc. No. 08-794. Filed for public inspection April 25, 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 April 15, 2008.

#### BANKING INSTITUTIONS

#### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
4-5-2008	The PNC Financial Services Group, Inc., Pittsburgh, acquired 100% of Sterling Financial Corporation, Lancaster, and thereby indirectly acquired BLC Bank, N.A., Strasburg, and Sterling Financial Trust Company, Lancaster	Pittsburgh	Effective

**Branch Applications**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-7-2008	Mifflinburg Bank and Trust Company Mifflinburg Union County	214 Vine Street New Berlin Union County	Opened
4-10-2008	CNB Bank Clearfield Clearfield County	5739 Buffalo Road Erie Erie County	Approved
4-10-2008	Northwest Savings Bank Warren Warren County	1632 Empire Boulevard Webster Monroe County, NY	Approved
4-10-2008	Peoples State Bank of Wyalusing Wyalusing Bradford County	Colonial Drive and Edward Road North Towanda Township Bradford County	Approved

**Branch Relocations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-10-2008	Nova Savings Bank Philadelphia Philadelphia County	<i>To:</i> 1420 Locust Street Philadelphia Philadelphia County  <i>From:</i> 1535 Locust Street Philadelphia Philadelphia County	Approved

**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. 08-795. Filed for public inspection April 25, 2008, 9:00 a.m.]

## DEPARTMENT OF EDUCATION

### Individuals with Disabilities Education Act—Part B; Application for Federal Grant

To receive a grant under the Individuals with Disabilities Education Act (act), the Department of Education (Department) must submit a State Plan Assurance to the United States Department of Education (USDE) by June 30, 2008. The application assures that the Department by June 30, 2008, will adopt the Department State Plan to ensure compliance with the Individuals with Disabilities Education Act—Part B (as amended by Pub. L. No. 108-446 and Pub. L. No. 110-161). Moreover, the Department assures that throughout the period of the grant (July 1, 2008, to June 31, 2009), the Commonwealth will operate consistent with all requirements of IDEA-2004 and applicable regulations.

The IDEA-B funds, received under 34 CFR Subpart B (relating State Eligibility), will be used to render special education services and programs to children with disabilities eligible for services under the act as well as provide training and technical assistance to professional staff who render services to children with disabilities.

The Department and the State Board of Education has completed amending special education regulations in 22 Pa. Code Chapters 14 and 711 (related to special educa-

tion services and programs; and charter school services and programs for children with disabilities) are pending final adoption through the regulatory review process. The State Plan (draft) is based on the version of the State Board (for Chapter 14) and the version of the Department's (Chapter 711) proposed amendments. The Department will make, at the conclusion of the public comment period for the State Plan, any necessary revisions based upon the final rules publication in the *Pennsylvania Bulletin*.

This notice is seeking public input to the State Plan (draft). Copies of the State Plan (draft) are available by calling Nancy Zeigler at (717) 783-6134. Alternative formats of the documents (for example, Braille, large print or cassette tape) are available upon request. Public comment is welcomed in alternative formats such as Braille, taped comments and telephone comments for the disabled. Individuals who are disabled and wish to submit comments by telephone should call Nancy Zeigler at (717) 783-6134.

In addition, opportunity for public testimony is being provided by the Department. Testimony may be scheduled by calling Nancy Zeigler (8 a.m. to 4 p.m., Monday through Friday) no later than May 23, 2008. The public hearings will be conducted as follows:

May 27, 2008	PaTTAN Pittsburgh 3190 William Pitt Way Pittsburgh, PA 15238 (3—6 p.m.)
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May 28, 2008 PaTTAN Harrisburg  
6340 Flank Drive  
Suite 600  
Harrisburg, PA 17112  
(3—6 p.m.)

May 29, 2008 PaTTAN King of Prussia  
200 Anderson Road  
King of Prussia, PA 19406  
(3—6 p.m.)

Written comments will be received until June 26, 2008. The written comments should be directed to Patty Todd, Department of Education, Bureau of Special Education, 333 Market Street, 7th Floor, Harrisburg, PA 17126-0333.

Following receipt of all comments, the Department will consider all public comments and make any necessary modifications before final submission of the assurance to the Secretary of the USDE.

GERALD L. ZAHORCHAK, D. Ed.,  
*Secretary*

With regard to oral testimony, one written copy of the testimony should be provided.

[Pa.B. Doc. No. 08-796. Filed for public inspection April 25, 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 EPA Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

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

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

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

### I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0062421 (Minor Industrial Waste)	Borough of Jim Thorpe 421 North Street Jim Thorpe, PA 18229-2528	Jim Thorpe Borough Carbon County	Mauch Chunk Creek 02B	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>
PA0111422 (Sew)	Thompsontown Municipal Authority P. O. Box 154 Thompsontown, PA 17094-0154	Juniata County Delaware Township	Delaware Creek	Y
PA0051683 (IW)	Timet, Inc. Titanium Hearth Technologies, Inc. 900 Hemlock Road Morgantown Business Park Morgantown, PA 19543	Berks County Caernarvon Township	UNT to Conestoga River 7-J	Y

*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>
PAS804802 (SW)	Flying J Travel Plaza 5603 Nittany Valley Drive Mill Hall, PA 17752	Clinton County Porter Township	Fishing Creek SWP 9C	Y
PA0208736 (SP)	Mountaintop Area Municipal Authority P. O. Box 275 Snow Shoe, PA 16874	Centre County Snow Shoe Township	UNT to Black Moshannon Creek 8D	Y
PA0228702 (IW)	Pennsylvania State University Nittany Landscape Depot 101P Physical Plant Building University Park, PA 16802-1118	Centre County State College Borough	UNT to Slab Cabin Run 09C	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>
PA0239208	Catherine M. and John A. McIntyre 2510 Old Route 422 East Fenelton, PA 16034-9404	Clearfield Township Butler County	UNT to Little Buffalo Run 18-F	Y
PA0040967	Kinzua, Ltd. 287 Stone Hill Lane Clarendon, PA 16313-9762	Mead Township Warren County	Allegheny River Reservoir 16-B	Y

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

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

**PA0054313**, SEW, SIC 8811, **Sherry Stangil and Rosalie Alosi**, 3176 Walnut Street, Springtown, PA 18081. This proposed facility is located in Springfield Township, **Bucks County**.

Description of Proposed Activity: renewal of an NPDES permit to discharge 800 gpd of treated sewage into a UNT to Cooks Creek.

The receiving stream, UNT to Cooks Creek, is in the State Water Plan Watershed 2D and is classified for: exceptional value stream. The nearest downstream public water supply intake for NWRA and PECO is located on Delaware River and is 22.5 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 800 gpd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub> (5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Suspended Solids	10	20
Ammonia (as N) (5-1 to 10-31)	3.0	6.0
(11-1 to 4-30)	9.0	18.0
Total Residual Chlorine	Monitor and Report	Monitor and Report
Fecal Coliform	200 colonies/100 ml as a Geometric Average	
Dissolved Oxygen	minimum of 6 mg/l at all times	
pH	Within limits of 6.0 to 9.0 Standard Units at all times	

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

**PA0233544**, CAFO, SIC 0213, **Joel D. Knoebel**, 182 Center School Road, Elysburg, PA 17824. This proposed facility is located in Cleveland Township, **Columbia County**.

Description of Proposed Activity: Cleveland Pork is a proposed finishing hog farm, totaling 580.24 Animal Equivalent Units. Construction will consist of a single barn with a concrete, underbarn manure storage facility.

The water body nearest the finishing hog facility is a UNT to Mugser Run in the Roaring Creek Watershed (SWP-05E) and has a designated use of HQ-CWF.

Except for the chronic or catastrophic rainfall events defined as over 25 year/24 hour rain storms, the CAFO permit is a nondischarge NPDES permit. Where applicable compliance with 40 CFR Federal effluent limitation guidelines is required. The permit requires no other numeric effluent limitations. Compliance with the Pennsylvania Nutrient Management Act and The Clean Streams Law constitutes compliance with state narrative water quality standards.

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

1. Compliance with the Farm's Nutrient Management Plan.
2. Compliance with the Farm's Preparedness, Prevention and Contingency Plan.
3. Compliance with the Farm's Erosion and Sedimentation Control Plan for plowing and tilling.
4. Erosion and Sedimentation Control Plan requirements for stormwater during construction activities.
5. Animal mortality handling and disposing requirements.
6. Certification requirements for manure storage facilities.
7. Requirements for storage of feed and other raw materials.
8. Best Management Practices requirements.
9. Maintenance of a 7 inch freeboard within the manure storage facility.
10. Submission to the Department of Environmental Protection of a registered professional engineer's certification for the design and construction of the manure storage facility.

The EPA waiver will not be in effect.

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

**PA0000302**, Industrial Waste, SIC 4941, **Pennsylvania-American Water Company—Indiana**, 1034 Waterworks Road, Indiana, PA 15701. This application is for renewal of an NPDES permit to discharge treated process water and stormwater from the PA-American Water Company—Indiana—Two Lick Creek Water Treatment Plant in White Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, Two Lick Creek, classified as a TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is the Saltsburg Municipal Water Works Conemaugh River Intake, located at Saltsburg, over 40 river miles below the discharge point.

*Outfalls 001—003: existing discharge, design flows of 0.281 (001 or 002) and 0.02 (003) mgd.*

<i>Parameter</i>	<i>Mass (lbs/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Total Suspended Solids			30		60
Iron (Total)			2.0		4.0
Aluminum			4.0		8.0
Manganese			1.0		2.0
Total Residual Chlorine			0.5		1.0
pH (Standard Units)	not less than 6.0 nor greater than 9.0				



Other Conditions: Control residual solids and floating solids, Total Residual Chlorine conditions, chemical additives, Part II permit pollutant limitations superseded, restricting discharge from either 001 or 002 but never both at any one time.

The EPA waiver is in effect.

**PA0216950**, Industrial Waste, SIC 4941, **Cresswell Heights Joint Authority**, P. O. Box 301, South Heights, PA 15108. This application is for renewal of an NPDES permit to discharge treated process water and stormwater from water treatment plant operations in South Heights Borough, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, the Ohio River, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is the NOVA Chemical Company Beaver Valley Plant, located at Potter Township, 13.84 miles below the discharge point.

*Outfall 101 (Internal Monitoring Point):* existing discharge, design flow of 0.0315 mgd.

Parameter	Mass (lbs/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
TSS			30		60
Aluminum			4		8
Iron			2		4
Manganese			1		2
TRC			0.5		1.0
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

**PA0253545**, Industrial Waste, SIC 2869, **Pennsylvania Biodiesel, Inc., Northgate Industrial Park**, 759 Northgate Circle, New Castle, PA 16105. This application is for issuance of an NPDES permit to discharge treated stormwater and untreated cooling water and stormwater from the Kobuta Yard in Potter Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, Ohio River and a UNT to the Ohio River, classified as WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is the Midland Borough Municipal Authority, located at Midland, 5 miles below the discharge point.

*Outfall 001:* new discharge long-term average flow of 0.067 mgd.

Parameter	Mass (lbs/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow	Monitor and Report				
Temperature (° F)					110
Total Residual Chlorine			0.5		1.25
Total Suspended Solids			Monitor and Report		
Nitrate and Nitrite Nitrogen			Monitor and Report		
Oil and Grease			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0				

Other Conditions: Conditions concerning sludge disposal, floating materials control, noncontact cooling water, discharge temperature allowances, stormwater control, oil bearing wastewaters, TRC minimization and chemical additives.

The EPA waiver is in effect.

*Outfall 101:* new discharge long-term average flow of 0.067 mgd.

Parameter	Mass (lbs/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Oil and Grease			15		30
pH	not less than 6.0 nor greater than 9.0				

*Outfall 002:* new discharge long-term average flow of 0.010 mgd.

Parameter	Mass (lbs/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Total Suspended Solids			Monitor and Report		
Nitrate and Nitrite Nitrogen			Monitor and Report		

**PA0206016**, Sewage, **Donald L. Gardner**, 213 Pine Run Road, Amity, PA 15311. This application is for renewal of an NPDES permit to discharge treated sewage from Clearview Mobile Home Park Sewage Treatment Plant in South Franklin Township, **Washington County**.

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

*Outfall 001:* existing discharge, design flow of 0.0035 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	1.9			3.8
(11-1 to 4-30)	2.8			5.6
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	0.08			0.18
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0217794**, Sewage, **Keith B. Enos**, 111 Strawcutter Road, Derry, PA 15627. This application is for renewal of an NPDES permit to discharge treated sewage from Camman Industries SFSTP in Derry Township, **Westmoreland County**.

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

*Outfall 001:* existing discharge, design flow of 0.00088 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
(5-1 to 10-30)	3.0			6.0
(11-1 to 4-30)	9.0			18.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a Geometric Mean			
(10-1 to 4-30)	2,000/100 ml as a Geometric Mean			
Total Residual Chlorine	Monitor and Report			
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0253774**, Sewage, **Hill Properties, LLC**, P. O. Box 7170, East Liverpool, OH 43920. This application is for issuance of an NPDES permit to discharge treated sewage from Hill Properties, LLC STP in Somerset Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as North Branch Pigeon Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the PA-American Water Company located on the Monongahela River.

*Outfall 001:* new discharge, design flow of 0.0007 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60

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

The EPA waiver is in effect.

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

**PA0240168, CAFO, Bortnick Dairy, LLC, 21820 Palmer Road, Conneautville, PA 16406, Beaver Township, Crawford County.**

Description of Size and Scope of Proposed Operation/Activity: The Bortnick Dairy milks 1,350 Holsteins and houses 200 dry cows, 1,500 heifers and 200 calves. The operation grows corn grain (255.5 acres), corn silage (1,161.7 acres), hay (780.6 acres) and soybeans (205 acres) and maintains 172 acres of pasture. The total acreage of the farmstead is 762 acres. The receiving stream, Stone Run, is in the Conneaut Creek watershed classified for: CWF; MF.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the state narrative water quality standards.

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

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

**WQM Permit No. 1508402, Sewerage, Pennsylvania American Water Company, 4 Wellington Boulevard, Wyomissing, PA 19610.** This proposed facility is located in Parkesburg Borough, **Chester County**.

Description of Action/Activity: Replacement of sewer main and manholes with a new 8" PVC in the upper portion of Gay Street and a new upsized 18" PVC on lower portion of Gay Street and Beale Drive.

**WQM Permit No. 1508403, Sewerage, Pennsylvania American Water Company, 4 Wellington Boulevard, Wyomissing, PA 19610.** This proposed facility is located in City of Coatesville, **Chester County**.

Description of Action/Activity: Construction of 3,300 ft. of new sanitary sewer interceptor to replace undersized portions of existing West End Trunk Line.

**WQM Permit No. 4608403, Sewerage, Whitemarsh Township, 616 Germantown Pike, Lafayette Hill, PA 19444.** This proposed facility is located in Whitemarsh Township, **Montgomery County**.

Description of Action/Activity: Remove and replace existing open belt filter press with a new totally enclosed Fournier rotary press with associated polymer feed sys, line feed sys.

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

**WQM Permit No. 4508401, Sewerage, East Stroudsburg Borough, 24 Analomink Street, East Stroudsburg, PA 18301.** This proposed facility is located in East Stroudsburg Borough, **Monroe County**.

Description of Proposed Action/Activity: This project is for the replacement and relocation of an existing gravity sewer collector with new gravity sewer main.

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

**WQM Permit No. 0208401, Sewerage, Charles M. Goulding, 2638 Glenchester Road, Wexford, PA 15090.** This proposed facility is located in Franklin Park Borough, **Allegheny County**.

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

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

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

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

## NOTICES

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011508027	D & H Ventures, LP 977 East Schuylkill Road Pottstown, PA 19465	Chester	North Coventry Township	UNT Schuylkill River HQ-TSF
PAI011508027	Phoenixville Crossing, LP 1055 West Lakes Drive, Suite 170 Berwyn, PA 19312	Chester	East Pikeland Township	UNT Schuylkill River HQ-TSF

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023908003	Louis Pektor, III Lehigh Hills Route 100 Development, LP 559 Main Street Suite 300 Bethlehem, PA 18018	Lehigh	Upper Macungie Township	Little Lehigh Creek HQ-CWF

*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>
PAI024808007	Calvary Baptist Church of Bethlehem Attn: Norm Tonnie 111 Dewberry Avenue Bethlehem, PA 18017	Northampton	Bethlehem Township	Tributary to Bushkill Creek HQ-CWF
PAI024808008	Department of Military and Veteran Affairs Bureau of Facilities Management Building 0-47 Fort Indiantown Gap Annville, PA 17003	Northampton	Forks Township	Tributary to Bushkill Creek HQ-CWF
PAI024808006	Wilson Borough Attn: Karen Lohrman Guy B. Tomaino Municipal Building 2040 Hay Terrace Easton, PA 18042	Northampton	Wilson Borough	Bushkill Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025208003	Iglesia La Gran Comision, Inc. Attn: Angel Sotomayer R. D. 2 Box 740 Dingmans Ferry, PA 18328	Pike	Lehman Township	Tributary to Little Bushkill Basin EV

*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>
PAI032808002	Stone Bridge Farms, LLC Leo Rocca 8730 Fox Gap Road Middletown, MD 21769	Franklin	Antrim Township	UNT to Muddy Run-Conococheague Creek HQ-CWF-WWF

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

*Potter County Conservation District: 107 Market Street, Coudersport, PA 16915 (814) 274-8411, Ext. 4.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI045308001	Mark Chambers Potter County Family Campground 444 Peet Brook Road Coudersport, PA 16915	Potter	Sweden Township	Trout Run HQ Ninemile Run HQ

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

*Washington County Conservation District, 602 Courthouse Square, Washington, PA 15301, (724) 228-6774.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056308001	Department of Transportation 825 Gallatin Avenue Uniontown, PA 15401	Washington	South Strabane Township	UNT to Little Chartiers Creek HQ-WWF

**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)

**CAFO Notices of Intent Received**

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

**PAG124831**, CAFO, SIC 0251, **Montour Farms**, 4070 Mountain Street, Beamsville, Ontario L0R 1B7. This existing facility is located in Derry Township, **Montour County**.

Description of Size and Scope of Proposed Operation/Activity: The applicant proposes the issuance of a CAFO General Permit for his existing poultry-broiler farm that will be expanding operations to include 160,000 chickens, totaling 368.4 Animal Equivalent Units. The facility is comprised of two barns with no external manure storage. The expansion will include the construction of two additional barns.

The receiving stream, Mud Creek is in Watershed 10D (Chillisquaque Creek) and is classified for WWF. The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and The Clean Stream Law constitutes compliance with the state narrative water quality standards.

**PUBLIC WATER SUPPLY (PWS) PERMIT**

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

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the

writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

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

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

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

**SAFE DRINKING WATER**

**Applications Received under the Pennsylvania Safe Drinking Water Act**

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

**Application No. 4608501**, Public Water Supply.

Applicant	<b>Superior Water Company</b> 1885 Swamp Pike Suite 109 P. O. Box 525 Gilbertsville, PA 19525-0525
Township	Douglass
County	<b>Montgomery</b>

Responsible Official Robert Braglio, Manager  
1885 Swamp Pike  
Suite 109  
P. O. Box 525  
Gilbertsville, PA 19525-0525

Type of Facility PWS

Consulting Engineer Entech Engineering, Inc.  
4 South Fourth Street  
P. O. Box 32  
Reading, PA 19603

Application Received Date January 7, 2008

Description of Action Installation of an arsenic treatment unit at Winding Creek Pump Station.

Consulting Engineer Bankson Engineers, Inc.  
267 Blue Run Road  
P. O. Box 200  
Indianola, PA 15051

Application Received Date March 14, 2008

Description of Action Addition of the existing HealthSouth water storage tank and disinfection facilities to the Authority's water supply 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

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

**Application No. 1408501—Construction, Public Water Supply.**

Applicant **State Correctional Institution at Rockview**

Township or Borough Benner Township

County **Centre**

Responsible Official Franklin J. Tennis  
Superintendent  
State Correctional Institution at Rockview  
Box A  
Bellefonte, PA 16823

Type of Facility Public Water Supply—Construction

Consulting Engineer Charles K. Brenc  
Chester Engineers  
260 Airside Drive  
Moon Township, PA 15108

Application Received April 14, 2008

Description of Action Addition to an existing pump station, construction of a new booster pump station and the installation of approximately 17,225 LF of raw water transmission main.

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

**Permit No. 0208501, Public Water Supply.**

Applicant **Municipal Authority of the Borough of Edgeworth**  
313 Beaver Road  
Sewickley, PA 15143

Township or Borough Leet Township

Responsible Official William Easton, Manager  
Municipal Authority of the Borough of Edgeworth  
313 Beaver Road  
Sewickley, PA 15143

Type of Facility Water treatment plant

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

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

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

**Jill Rolli Building/Haly Oil Spill**, Lower Merion Township, **Montgomery County**. Richard D. Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, Jim Bernhardt, Haly Oil Company, 2413 Yellow Springs Road, Malvern, PA 19355 on behalf of Jim Rolli, 222 West Lancaster Avenue, Ardmore, PA 19426 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted with release of No. 2 fuel oil. The future use of the site is residential/commercial.

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

**Proposed Turkey Hill Minit Market No. 289**, Hazle Township, **Luzerne County**. Christopher Candela, ATC Associates, Inc., 920 Germantown Pike, Suite 200, Plymouth Meeting, PA 19462 has submitted a Notice of Intent to Remediate (on behalf of his client, Turkey Hill Minit Markets, 257 Centerville Road, Lancaster, PA 17603), concerning the remediation of groundwater found or suspected to have been impacted by lead and bis (2-ethylhexyl) phthalate. The applicant proposes to remediate the site to meet the Statewide Health Standard. Future use of the site will be nonresidential. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future.

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

**Columbia Gas of Pennsylvania Service Center**, Gettysburg Borough, **Adams County**. ENSR, 2 Technology Park Drive, Westford, MA 01866-3140, on behalf of NiSource Corporate Services Company, 300 Frieberg Parkway, Westborough, MA 01581-3900; and Gettysburg Borough, 59 East High Street, Gettysburg, PA 17325, submitted a Notice of Intent to Remediate concerning remediation of soils and groundwater on adjacent properties that may be contaminated with PAHs. The applicant seeks to remediate the site to a combination of the Statewide Health and Background Standards.

**Ronald Crosson Residence**, Bratton Township, **Mifflin County**. Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, on behalf of Ronald Crosson, 674 Pine Glenn Road, Lewistown, PA 17044 and State Farm, P. O. Box 172, Concordville, PA 19331, submitted a Notice of Intent to Remediate site soils contaminated with No. 2 fuel oil. The applicant seeks to remediate the site to the Residential Statewide Health Standard. The site is and will remain a residence.

**Warriors Mark Fuel Tanker Release**, Warriors Mark Township, **Huntingdon County**. ATC Associates, 101 Allegheny Street, Hollidaysburg, PA 16643, on behalf of Sel-Lo Oil, R. D. 2, Box 629, Altoona, PA 16601, submitted a Notice of Intent to Remediate site soils contaminated with gasoline that was released in a truck accident. The applicant intends to remediate the site to the Statewide

Health Standard, and the site will remain as a support embankment for the roadway.

**Bellwood Ambulance Service Facility**, Antis Township and Bellwood Borough, **Blair County**. ATC Associates, Inc., 101 Allegheny Street, Hollidaysburg, PA 16643, on behalf of Bellwood Ambulance Service, 601 North Third Street, Bellwood, PA 16617, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with gasoline. The site will continue to operate as a limited medical transportation facility.

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

**Makdad Industrial Supply (Keystone Refrigeration)**, Sandy Township, **Clearfield County**, ATC Associates, Inc., 103 North Meadows Drive, Suite 215, Wexford, PA 15090 on behalf of Roger McCoy, 245 East Mountain Road, Port Matilda, PA 16870 has submitted a Notice of Intent to Remediate soil contaminated with lead and groundwater contaminated with benzene, ethylbenzene, naphthalene, 1,2,4-TMB and 1,3,5-TMB. The applicant proposes to remediate the site to meet the Site-Specific Standard. The intended future use of the property is nonresidential (commercial or industrial).

**MECx—Red Rock Job Corp.**, Cherry Township, **Sullivan County**, Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of MECx, LLC, 1112 Presidential Drive, Quakertown, PA 18951 has submitted a Notice of Intent to Remediate soil contaminated with No. 2 heating oil. The applicant proposes to remediate the site to meet the Statewide Health Standard. The site will remain a right-of-way area.

#### DETERMINATION FOR APPLICABILITY FOR MUNICIPAL WASTE GENERAL PERMITS

**Applications for Determination of Applicability for General Permit received. Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and/or the Beneficial Use of Municipal Waste.**

*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**General Permit Application No. WMGM028SW004. Magellan LFG Monroeville, LLC**, 5160 Parkstone Drive, Chantilly, VA 20151. Magellan LFG Monroeville, LLC, 602 Thomas Street Extension, Monroeville, PA 15146. Determination of Applicability application requesting coverage under existing Department of Environmental Protection's General Permit No. WMGM028 for conversion of landfill gas to high Btu pipeline quality natural gas at a municipal waste landfill in Monroeville Borough, **Allegheny County**, was received in the Regional Office on April 11, 2008.

**General Permit Application No. WMGM028SW005. Magellan LFG Monroeville, LLC**, 5160 Parkstone Drive, Chantilly, VA 20151. Magellan LFG Valley, LLC, 801 Raymaley Road, Harrison City, PA 15636. Determination of Applicability application requesting coverage under the existing Department of Environmental Protection's (Department) General Permit No. WMGM028 for conversion of landfill gas to high Btu pipeline quality natural gas at a municipal waste landfill in Shade Township, **Somerset County**, was received in the Regional Office on April 11, 2008.

Comments concerning the application should be directed to Carl Spadaro, Acting Facilities Manager, Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222-4745. Persons interested in obtaining more information about the general permit application may contact the Department's Southwest Regional Office at (412) 442-4000. TDD users may contact the Department through the Pennsylvania Relay Service (800) 654-5984. Public comments must be submitted within 30 days of this notice and may recommend revisions to, and approval or denial of the application.

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

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

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

**Permit ID No. 101571. Mostoller Landfill, Inc.,** 7095 Glades Pike, Somerset, PA 15501. Mostoller Landfill, 7095 Glades Pike, Somerset, PA 15501. Application for revision of grading plan in pads 6 and 7 of a municipal waste landfill in Somerset and Brothersvalley Townships, **Somerset County** was received in the Regional Office on April 9, 2008.

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

**Permit Application No. 100361. Rustick, LLC, 19** Ness Lane, Kane, PA 16735, Sergeant Township, **McKean County**. The application is a major permit modification for tonnage increase and western expansion at the McKean County Landfill. The application was submitted to the Department of Environmental Protection (Department) on October 31, 2007 and was subject to the Local Municipality Involvement Process (LMIP). The LMIP took place on February 6, 2008. The Phase 1 portion of the application was found to be administratively complete by the Northwest Regional Office on March 18, 2008.

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

### **AIR QUALITY**

#### **PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS**

##### **NEW SOURCES AND MODIFICATIONS**

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all

the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

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

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

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

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984. Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act (act) and regulations adopted under the act.

#### **PLAN APPROVALS**

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

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

**58-302-008: Donald Dean & Sons, Inc.** (P. O. Box 246, Montrose, PA 18801) for installation of a wood fired boiler at their facility in Bridgewater Township, **Susquehanna County**.

**35-318-094: Gentex Optics, Inc.** (P. O. Box 336, Carbondale, PA 18407) for installation of a new Regenerative Thermal Oxidizer to control emissions at their facility in Fell Township, **Lackawanna County**.

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

**06-05066G: Exide Technologies** (P. O. Box 14294, Reading, PA 19612-4294) for modification of the secondary lead smelter furnaces in Laureldale Borough/Muhlenberg Township, **Berks County**. The modification involves a



request to change the permit limits on the water flow rate through the wetted scrubbers controlling the furnaces. The furnaces are subject to 40 CFR Part 60, Subpart L, Standards of Performance for New Stationary Sources and Part 63, Subpart X, National Emission Standards for HAPs.

**22-03052C: HNI Corp.** (325 Mountain Road, Halifax, PA 17032) for construction of three spray booths for stove parts coating operation in Jackson Township, **Dauphin County**.

**67-05115A: Recycling Technologies International, LLC** (76 Acco Drive, York, PA 17404) for installation of five dust collection systems for rubber particulate collection during rubber tire reclamation at their Acco Drive facility in York Township, **York 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.*

**26-00573A: Johnson Matthey, Inc.** (456 Devon Park Drive, Wayne, PA 19087) for installation of catalyst production facility in Smithfield Borough, **Fayette County**.

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

**10-346B: Scrap Salvage and Surplus, Inc.** (690A Glenwood Way, Butler, PA 16001) for installation of a baghouse to control PM emissions from torch cutting operations in Center Township, **Butler County**.

**20-040E: Advanced Cast Products, Inc.** (18700 Mill Street, Meadville, PA 16335) for construction of a new sand mold casting line in Vernon Township, **Crawford County**. This is a Title V facility.

**25-124C: Mayer Brothers Construction Co.** (1225 West 18th Street, Erie, PA 16502) for modification of an existing hot mix asphalt plant to burn No. 5 fuel oil as an alternate fuel in Erie City, **Erie County**.

**25-179B: Erie Sewer Authority** (68 Port Access Road, Erie, PA 16507-2202) for modification of the pressure drop range across the two scrubbers that control the incinerators in Erie City, **Erie County**. This is a Title V facility.

**62-032C: Ellwood National Forge—Irvine Plant** (One Front Street, Irvine, PA 16329) for installation of two new gas neutralizer emissions control devices on the existing four nitride furnaces in Brokenstraw Township, **Warren County**. This is a Title V facility.

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

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

**01-05029C: Reliant Energy Wholesale Generation, LLC** (121 Champion Way, Canonsburg, PA 15317) for modifications to several conditions contained in plan approval No. 01-05029 which addresses the natural gas-fired 900 MW combined cycle electric generating facility at the Hunterstown Station in Straban Township, **Adams County**. The modifications to the existing plan approval include: deletion of the auxiliary boiler operating hour

restriction, visible emission restriction during periods of startup and shutdown, a definition of warm startup and conditions to address combustion turbine run back and startup trip events. The facility is subject to the following: 40 CFR Part 60, Subpart GG—Standards of Performance for Stationary Gas Turbines; 40 CFR Part 60, Subpart Da—Standards of Performance for Electric Utility Steam Generating Units; and 40 CFR Part 60, Subpart Dc—Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.

**67-02004B: P. H. Glatfelter Co.** (228 South Main Street, Spring Grove, PA 17362-0500) to receive comments on the proposed Reasonably Available Control Technology Plan and amendment to the State Implementation Plan (SIP) for the P. H. Glatfelter Co. in Spring Grove Borough, **York County**. The proposed SIP revision does not adopt any new regulations. It incorporates the requirements that include emission limitations for the significant VOC sources at the plant. The Department of Environmental Protection will hold one public hearing on Wednesday, May 28, 2008, at the Department of Environmental Protection, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110, from 9 a.m. until all scheduled comments are received. Persons wishing to present testimony should contact Brian Wetzel, Southcentral Regional Office at (717) 705-4882. Written comments may be submitted to the Southcentral Regional Office until June 11, 2008.

**67-05004N: P. H. Glatfelter Co.** (228 South Main Street, Spring Grove, PA 17362-0500) for replacement of two Head Air Foils with pressure type air bars on their facility's Blade Coater in Spring Grove Borough, **York County**. VOC emissions are expected to increase by 1.27 tpy. The plan approval will include monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

**67-05115A: Recycling Technologies International, LLC** (76 Acco Drive, York, PA 17404) for construction of a new processing facility to recycle rubber tires controlled by five dust collection systems for rubber particulate collection during rubber tire reclamation in York Township, **York County**. The facility's potential annual emissions for PM are estimated to be 43.2 tpy. The plan approval will contain monitoring, testing, recordkeeping, reporting and work practice conditions to ensure the facility complies with the applicable air quality requirements.

#### Public Hearings

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

**67-02004B: P. H. Glatfelter Co.** (228 South Main Street, Spring Grove, PA 17362-0500) to receive comments on the proposed Reasonably Available Control Technology Plan and amendment to the State Implementation Plan (SIP) for the P. H. Glatfelter Co. in Spring Grove Borough, **York County**. The proposed SIP revision does not adopt any new regulations. It incorporates the requirements that include emission limitations for the significant VOC sources at the plant. The Department of Environmental Protection will hold one public hearing on Wednesday, May 28, 2008, at the Department of Environmental Protection, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110, from 9 a.m. until all scheduled comments are received. Persons wishing to present testimony should contact Brian Wetzel,

Southcentral Regional Office at (717) 705-4882. Written comments may be submitted to the Southcentral Regional Office until June 11, 2008.

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

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

**23-00046: Container Research Corp.** (Hollow Hill Road, Glen Riddle, PA 19037) for operation of one boiler unit and two paint spray booths in Aston Township, **Delaware County**. The main emissions from this facility are VOCs. This action is a renewal of the original State-only Operating Permit (Synthetic Minor), which was issued in September, 2002. The renewal contains conditions including monitoring, recordkeeping and reporting requirements 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.*

**55-00017: Modular Structures of PA, Inc.** (P. O. Box 407, Selinsgrove, PA 17870) for the operation of a modular home manufacturing facility in Monroe Township, **Snyder County**.

The facility incorporates various modular home manufacturing operations, including a framing operation, a plumbing operation, an interior finishing operation and an exterior finishing operation, as well as two spray booths, a 1.76 mmBtu/hr propane-fired heater, a .45 mmBtu/hr wood-fired heater and 13 small natural gas-fired space heaters (with a total combined heat input of 1.675 mmBtu/hr). The PM emissions from the spray booths are controlled by spray booth filters.

The facility has the potential to emit up to 25 tons of VOCs, 5.17 tons of VHAPs, 2.41 tons of NO<sub>x</sub>, 1.95 tons of CO, .71 ton of PM/PM<sub>10</sub> and .05 ton of SO<sub>x</sub> per year.

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 previously contained in Operating Permits 55-399-004 and 55-399-004A.

The conditions previously contained in Operating Permit 55-399-004 include:

1. Conditions limiting the VOC emissions from the facility to no more than 25 tpy and requiring the maintenance of records of the identity, quantity and VOC content of the VOC-containing materials used in the facility.

The conditions previously contained in Operating Permit 55-399-004A include:

2. A condition limiting the VOC emissions from the facility's two spray booths to no more than 6.0 tpy.

3. A condition limiting the VOC content of all stains applied in the spray booths to no greater than 6.8 pounds per gallon.

4. A condition requiring all stains applied in the two spray booths to be applied by brush, roller or wiping cloth and all other coating or finishing materials to be applied with a high volume low pressure spray system.

5. A condition prohibiting the use in the spray booths of any materials containing methylene chloride, 1,1,1-trichloroethane or greater than .5% formaldehyde, by weight.

6. A condition prohibiting the application of coating or finishing materials in a spray booth which is not equipped with a full set of spray booth filters.

7. Conditions requiring all solvents used for spray line cleaning to be flushed into a closed container, requiring all containers of cleanup solvent to be closed except when in actual use and prohibiting the disposal of waste cleanup solvents by means of evaporation.

8. A condition requiring the maintenance, and periodic reporting, of records of the identity, quantity and VOC content of all voc-containing materials used in the spray booths.

The Department additionally proposes to incorporate the following new condition into the operating permit to be issued:

9. A condition requiring the semi-annual submission of reports of the identity, quantity and VOC content of all VOC-containing materials used in the facility each month.

## COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments, objections or requests for informal conferences on applications may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the district mining office indicated before an application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based

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

Written comments or objections should contain the name, address and telephone number of the person

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH <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: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas; active areas disturbed by coal refuse disposal activities; and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

*California District Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.*

**Permit Number 30831303 and NPDES Permit No. PA0013511, Cumberland Coal Resources, LP**, (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to renew the permit for the Cumberland Mine in Whiteley, Center, Franklin, Greene, Perry and Wayne Townships, **Greene County** and related NPDES permit. No additional discharges. Application received October 9, 2007.

*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.

**11930102 and NPDES No. PA02129393. 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 auger and beneficial use of fly ash mine in Dean Township, **Cambria County**, affecting 275.8 acres. Receiving streams: Little Laurel Run, UNT to Clearfield Creek and Clearfield Creek classified for the following uses: CWF

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

#### *Coal Applications Received*

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

and WWF. There are no potable water supply intakes within 10 miles downstream. Application received March 21, 2008.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**16920107 and NPDES Permit No. PA0211435. RFI Energy, Inc.** (P. O. Box 162, Sligo, PA 16255). Renewal of an existing bituminous surface strip, tippel refuse disposal and beneficial use of coal ash operation in Perry Township, **Clarion County** affecting 274.0 acres. Receiving streams: UNTs to Cherry Run, classified for the following use: CWF. There are no potable surface water supply intakes 10 miles downstream. Application for reclamation only. Application received April 4, 2008.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**17080104 and NPDES No. PA0256757. P & N Coal Company, Inc.** (P. O. Box 332, Punxsutawney, PA 15767). Commencement, operation and restoration of a bituminous coal surface mine, including auger and mining, in Ferguson Township, **Clearfield County**, affecting 234.0 acres. Receiving stream: Snyder Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. The application includes a stream encroachment to mine through and restore UNTs to Snyder Run and conduct mining activities within 100 feet of Snyder Run. Application received March 11, 2008.

**17990111 and NPDES No. PA0238341. Larry D. Baumgardner Coal Company, Inc.** (P. O. Box 186, Lanse, PA 16849), revision of an existing bituminous surface mine for an Insignificant Permit Boundary Correction in Decatur Township, **Clearfield County**, affecting 109.2 acres. Receiving streams: Laurel Run to Moshannon Creek to West Branch Susquehanna River, classified for the following uses: CWF, WWF. There are no potable water supply intakes within 10 miles downstream. Application received March 26 2008.

**17040105 and NPDES No. PA0243795. R. B. Contracting** (160 R. B. Contracting Lane, Curwensville, PA 16833), transfer of an existing bituminous surface mine from W. Ruskin Dressler (P. O. Box 39, Rockton, PA 15856), located in Brady Township, **Clearfield County**, affecting 63.9 acres. Receiving stream: East Branch Mahoning Creek, classified for the following use: HQ. There are no potable water supply intakes within 10 miles downstream. Application received March 28, 2008.

**17050109 and NPDES No. PA0256293. Forcey Coal, Inc.** (P. O. Box 225, Madera, PA 16661), revision of an existing bituminous surface mine to increase the mining area to 77.9 acres in Bloom Township, **Clearfield County**, affecting 116.0 acres. Receiving streams: UNT to Little Anderson Creek and UNT to Bell Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 28, 2008.

*Noncoal Applications Returned*

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**53070802. Jeremy Tucker** (102 Card Creek Road, Roulette, PA 16746). Commencement, operation and restoration of a bluestone operation in Roulette Township, **Potter County**, affecting 5.0 acres. Receiving streams: Laninger Creek, tributary to Allegheny River. Application received July 13, 2007. Application returned March 19, 2008.

*Noncoal Applications Received*

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

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	35 mg/l	70 mg/l	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.

*Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.*

**25010302. A.C.A. Sand & Gravel, LLC** (P. O. Box 16, Corry, PA 16407). Revision to an existing sand and gravel operation in Concord Township, **Erie County** affecting 124.6 acres. Receiving stream: None. There are no potable surface water supply intakes within 10 miles downstream. Revisions to include an increase in permit acre from 121 to 124.6 acres and a premining land use of cropland and forestland to a postmining land use of unmanaged water impoundment and the fringe areas surrounding the lake to be considered unmanaged natural habitat. Application received April 7, 2008.

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

**45880301C2 and NPDES Permit No. PA0594113. Tarheel Quarry, Inc.** (2000 Highway 35, Morgan, NJ 08879), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Tobyhanna Township, **Monroe County**, receiving stream: UNT to Lehigh River, classified for the following use: HQ-CWF. Application received April 8, 2008.

**FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401**

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

of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

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

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

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

**WATER OBSTRUCTIONS AND ENCROACHMENTS**

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

**E46-1025. Weis Markets Inc.**, 1000 South 2nd Street, P. O. Box 471, Sunbury, PA 17801, Douglass Township, **Montgomery County**, ACOE Philadelphia District.

To construct and maintain a super market which will include the realignment of a water course segment of an UNT to Swamp Creek (TSF) by:

1. Filling 30 feet of the UNT and relocating 40 feet of the UNT.
2. Stabilizing and regarding 160 feet of the UNT to Swamp Creek.

This project is located approximately 250 feet southeast of the intersection of Route 100d and SR 63 (Sassamansville, PA USGS Quadrangle N: 14.2 inches; W: 0.2 inch) in Douglas Township, Montgomery County.

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E54-333. Steven Macbeth**, 108 Berger Lane, Hamburg, PA 19526, in Port Clinton Borough, **Schuylkill County**, United States Army Corps of Engineers, Philadelphia District.

To construct and to maintain a steel foot bridge having a span of 29 feet and an underclearance of 7.5 feet across Rattling Run Creek (CWF). The project is located 0.2 mile west and 0.6 mile south of the intersection of SR 0061 and Clinton Street (Auburn, PA Quadrangle N: 14.78 inches; W: 3.43 inches).

**E40-687. Randall and Robin Mark**, 251 Machell Avenue, Dallas, PA 18612, in Harveys Lake Borough, **Luzerne County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a 430 sq. ft. addition to an existing 1,000 sq. ft. boat dock including a 476 sq. ft. boathouse on the existing dock in Harveys Lake (HQ-CWF). The project is located 2.0 mile west and 0.9 mile north of the intersection of SR 0118 and SR 0415 (Harveys Lake, PA Quadrangle N: 19.25 inches; W: 4.50 inches).

**E35-417. Department of Transportation, Engineering District 4-0**, 55 Keystone Industrial Park, Dunmore, PA 18512, in Roaring Brook Township, **Lackawanna County**, United States Army Corps of Engineers Baltimore District.

To construct and maintain a 275 foot long 42 inch diameter corrugated stream enclosure in a tributary to Roaring Brook (CWF). The project is located at SR 0084, Segment 0024, Offset 1911 (Olyphant, PA Quadrangle N: 1.9 inches; W: 11.1 inches).

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

**E01-281. R & J Builders, Inc., Gary Jackson**, 50 Citizens Way, Suite 200, Frederick, MD 21701, Cumberland Township, **Adams County**, ACOE Baltimore District.

To fill in 0.06 acre of a de minimis wetland in order to construct a home located along the north side of Fairfield and Fairplay Roads (Fairfield, PA Quadrangle N: 13.5 inches; W: 2.75 inches, Latitude: 39° 49' 28"; Longitude: 77° 16' 11") in Cumberland Township, Adams County.

**E06-635: Westrum Land Development, Joe Benyo**, 370 Commerce Drive, Suite 100, Fort Washington, PA 19034-2619, Ruscombmanor Township, **Berks County**, ACOE Philadelphia District

To construct and maintain an 18.0-inch diameter RCP outfall structure impacting 0.003 acre of wetlands. Also to remove dual 64.0 foot long, 24.0-inch diameter RCP stormwater culverts and to install and maintain a 24.3 foot long, 36.0-inch RCP pipe, impacting 0.005 acre of wetlands, and to remove a 44.0-foot long, 18.0-inch, RCP, and to replace it with a 62.1 foot long, 15.0-inch RCP, impacting 0.021 acre of wetlands, both for the purpose of conveying stormwater across Erhardt Lane. In addition, the existing Erhardt Lane will be widened, impacting an area of 0.008 acre of wetlands, and another area of 0.011 acre of wetlands. The proposed project will impact a total of 0.048 acre of PFO EV wetlands associated with an UNT to Furnace Creek (CWF) for the purpose of constructing an age-qualified, active adult residential community located off of SR 662 (Fleetwood, PA Quadrangle N: 8.00 inch; W: 9.75 inches, Latitude: 40° 25' 03" N; Longitude: 79° 49' 12" W) in Ruscombmanor Township, Berks County.

**E36-837: Mitch Newman, D. R. Horton Inc.**, 700 East Gate Drive, Suite 110, Mt. Laurel, NJ 08054-3810, East Hempfield Township, **Lancaster County**, ACOE Baltimore District.

To construct and maintain a 36.0-foot wide three span bridge having a normal span of 36.0 feet, and an underclearance of 8.0 feet, and two 6.0-foot wide pedestrian ford crossings, each having a length of 36.0 feet, all impacting Millers Run (CWF) for the purpose of constructing a residential subdivision near the intersection of SR 741 and McGovernville Road (Lancaster, PA Quadrangle N: 12.7 inches; W: 16.0 inches, Latitude 40° 04' 10"; Longitude 76° 31' 50") in East Hempfield Township, Lancaster County.

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

**E65-922. Blue Mountain Homes LMB, Inc.**, P. O. Box 488, Greensburg, PA 15601. To restore a previously relocated tributary to Jack's Run (WWF) in Hempfield Township, **Westmoreland County**, Pittsburgh ACOE District (Greensburg, PA Quadrangle N: 12.7 inches; W: 4.60 inches, Latitude 40° 19' 11"; Longitude 79° 31' 59"). The applicant proposes to restore in a different location approximately 50' of a previously relocated tributary to Jack's Run (WWF). The project is located approximately 25' north of Caddy Drive and 390' west of Essex Drive.

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

**E25-719, Gary T. Brotherson**, 1801 West 8th Street, Erie, PA 16505. Groin structures, concrete ramps, sea wall, fill material and floodway activity, in Millcreek Township, **Erie County**. ACOE Pittsburgh District (Swanville, PA Quadrangle N 42° 6' 17.8"; W 80° 10' 2.3").

The applicant proposes to construct and maintain seven low-profile groin structures, at elevation below (lakeward of) the Ordinary High Water Mark (OHWM), on the following properties: Gary T. Brotherson properties (Tax ID Numbers 33-6-19-117, identified as the location of Proposed Groin 1; Tax ID 33-6-19-116, designated as Lot 4, identified as the location of Proposed Groin 2; Tax ID 33-6-19-110, designated as Lot 9, identified as the location of Proposed Groin 3; Tax ID 33-6-19-107, designated as

Lot 13, identified as the location of Proposed Groin 4; Tax ID 33-6-19-114, designated as Lot 20, identified as the location of Proposed Groin 5), located at the Forest Park Beach Subdivision in Millcreek Township; Janet Haggerty property (Tax ID Number 33-6-19-97.01, designated as Lot 23, identified as the location of Proposed Groin 6), located at the Forest Park Beach Subdivision in Millcreek Township; and, John Gerbracht property (Tax ID Number 33-6-19 designated as Lot 27, identified as the location of Proposed Groin 7), located at the Forest Park Beach Subdivision in Millcreek Township. The groins would be constructed of 2 foot by 2 foot by 6 foot (2' by 2' by 6') concrete blocks, pinned to the shale bedrock.

In addition, the applicant proposes to construct and place eight concrete ramps, 12 feet by 18 feet (12' by 18') each, on the east and west sides of the landward ends of Proposed Groins 1—4, located partially or entirely lakeward of the OHWM. Ramps are proposed to be constructed on properties owned by Gary T. Brotherson (Tax ID Numbers 33-7-19-144.19 and 33-6-19-117 for ramps associated with Proposed Groin 1; Lot 3—5, for ramps associated with Proposed Groin 2; Lot 8 and Lot 9, for ramps associated with Proposed Groin 3; and, Lot 12 and 13, for ramps associated with Proposed Groin 4).

The applicant further proposes the construction and placement of a concrete seawall, the portion of which is located lakeward of the OHWM, to be attached to the landward end of Proposed Groins 1—4, and the 12' by 18' concrete ramps. The portion of this seawall located lakeward of the OHWM, would extend a lateral distance along the Lake Erie shoreline of 205 feet, from an area near Proposed Groin 2 on the east side, westerly past Proposed Groin 3, and terminate at a location west of Proposed Groin 4. A proposed concrete stairway is also located on the Proposed Groin 4/seawall/ramp interface. The portion of the seawall located lakeward of the OHWM will intersect with property owned by Gary T. Brotherson (Lot 5) on the east, westward onto property owned by Angelo Arduini (Tax ID Number 33-6-19-113, designated as Lot 6 and Lot 7) and then further west across properties owned by Gary T. Brotherson (Lot 8—13).

The applicant also proposes to construct a portion of three foundation structures, lakeward of the OHWM, on Lots designated as Lot 8—13. This construction will include the placement of 2,250 square feet of fill in this area, which is approximately 830 cubic yards of clean fill, landward of the proposed seawall, but lakeward of the OHWM, for a lateral distance along the Lake Erie shoreline of 205 feet.

Proposed Groin 1 would extend into Lake Erie a distance not to exceed 45 feet from the OHWM, to the Ordinary Low Water Mark (OLWM), but not lakeward of that elevation. A portion of the west ramp at Proposed

Groin 1 would also be located lakeward of the OHWM a distance of 2 feet. Proposed Groin 2 would extend into Lake Erie a distance not to exceed 37 feet from the OHWM, to the OLWM, but not lakeward of that elevation. A portion of the east and west ramps at Proposed Groin 2 would also be located lakeward of the OHWM a distance of 4 feet and 12 feet, respectively. Proposed Groin 3 would extend 55 feet from the OHWM, to the OLWM, but not lakeward of that elevation. Both east and west ramps at Proposed Groin 3 would be located lakeward of the OHWM. Proposed Groin 4 would extend 64 feet from the OHWM, to the OLWM, but not lakeward of that elevation. Both east and west ramps would be located lakeward of the OHWM. The total area of disturbance in this area, between Proposed Groin 1 to Proposed Groin 4, lakeward of the OHWM, including the placement of groins, ramps, steps, fill, and foundations, would be 4,970 square feet.

Proposed Groin 5 would extend lakeward 57 feet from the OHWM, to an elevation landward of the OLWM. Proposed Groin 6 would extend lakeward 32 feet from the OHWM, to an elevation landward of the OLWM. Proposed Groin 7 would extend lakeward 14 feet, 6 inches from the OHWM, to an elevation landward of the OLWM. The total area of disturbance in this area, between Proposed Groin 5 to Proposed Groin 7, would be 770 square feet. All groins are proposed to be no higher than 18 inches above the Lake Erie nearshore bottom profile.

The project also involves to remove the existing bridge, and to construct and maintain a bridge over Marshall Run with a clear span of 20 feet and an underclearance of approximately 5.8 feet and to construct and maintain a retaining wall with fill with the floodway of Marshall Run, and to construct and maintain utility line crossings of Marshall Run. Marshall Run is a perennial stream classified as a CWF and MF.

#### ENVIRONMENTAL ASSESSMENT

*Cambria District: Environmental Program Manager,  
286 Industrial Park Road, Ebensburg, PA 15931-4119.*

**EA0409-002. Department of Environmental Protection,** Bureau of Abandoned Mine Reclamation, Cambria Office, 286 Industrial Park Road, Ebensburg, PA 15931. Abandoned Mine Land Reclamation Project, in South Beaver Township, **Beaver County,** Pittsburgh ACOE District.

The applicant proposes to backfill an abandoned surface mine, which includes a total of 2,600 linear feet of dangerous highwall. The project will include the backfilling of 0.274 acre of PEM wetland and 1.70 acres of open water that have developed within the open surface mine pit. Proposed mitigation includes 0.444 acre of wetland and 0.500 acre of open water (New Galilee Quadrangle N: 1.5 inches; W: 16.0 inches).

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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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*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>
PA0055352 (Sew)	Berks Properties 3613 Seisholtzville Road Hereford, PA 18056	Berks County Hereford Township	West Branch of the Perkiomen Creek 3-E	Y
PA0020851 (Sew)	Hyndman Borough Municipal Authority P. O. Box 445 Hyndman, PA 15545-0445	Bedford County Hyndman Borough	Wills Creek 13-A	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>
PA0091138 Sewage	Cecil Township Municipal Authority 3599 Millers Run Road Cecil, PA 15321	Washington County Cecil Township	Chartiers Creek	Y
PA0217697 Sewage	RoxCoal, Inc. 1576 Stoystown Road P. O. Box 149 Friedens, PA 15541	Somerset County Jenner Township	UNT of Roaring Run	Y
PA0098299 Sewage	East Haven Developments, LLC 212 Snyder Road Donegal, PA 15628	Westmoreland County Donegal Township	Drainage Swale Tributary to Fourmile Run	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>
PA0221872	Universal Stainless & Alloy Products, Inc. 121 Caldwell Street Titusville, PA 16354-2055	City of Titusville Crawford County	Oil Creek Outfalls 001, 006 and 007 Church Run Outfall 005 16-E	Y
PA0103519	Whitehall Camp and Conference Center, Inc. 2724 West Crawford, Connellsville, PA 15425	Richland Township Venango County	UNT to Richey Run 16-G	Y
PA0033049	Bureau of Design P. O. Box 3060 Harrisburg, PA 17105-3060	Pine Creek Township Jefferson County	UNT to Fivemile Run 17-C	Y
PA0033073	Department of Transportation Rest Area 26 P. O. Box 3060 Harrisburg, PA 17105-3060	Washington Township Jefferson County	Fivemile Run 17-C	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. PA0057088**, IW, **Exelon Generation Company**, 300 Exelon Way, Kennett Square, PA 19348, Falls Township, **Bucks County**.

The following notice reflects changes to the notice published in the January 12, 2008, *Pennsylvania Bulletin*:

An effluent limit of 0.05 mg/l (Daily Maximum) for a chemical additive, Spectrus CT1300, has been added for Outfall 001 in the final permit.

**NPDES Permit No. PA0244322**, Industrial Waste, **Naval Facilities—Mid Atlantic (NAVFAC)**, 4911 South Broad Street, PNBC Building 679, Philadelphia, PA 19112. This proposed facility is located in Warminster Township, **Bucks County**.

Description of Proposed Action/Activity: Approval to discharge treated groundwater from an air stripping tower serving the former NWAC Warminster facility to a UNT to Little Neshaminy Creek in Watershed 2F.

**NPDES Permit No. PA0244317**, Industrial Waste, **Wilcox Auto Salvage, Inc.**, 241 Old Mill Road, Sellersville, PA 18960. This proposed facility is located in West Rockhill Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the discharge of stormwater with industrial activities into Three Mile Run in Watershed 2D—Tohickon Creek.

**NPDES Permit No. PA0058670**, Industrial Waste, **JDM Materials Company**, 851 County Line Road, Huntingdon Valley, PA 19006. This proposed facility is located in Plymouth Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge stormwater into a UNT to the Schuylkill River in Watershed 3F.

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

**NPDES Permit No. PA0040380**, Sewage, **Country Roads Mobile Home Park**, 811 Rose Stop Road, New Castle, PA 16101. This proposed facility is located in Shenango Township, **Lawrence County**.

Description of Proposed Action/Activity: This application was for a new NPDES (Part I) Permit for an existing treated nonmunicipal sewage discharge and WQM permit transfer to the current owner-operator.



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


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

**WQM Permit No. 4507406**, Sewerage, **Pleasant Valley School District**, Route 115, Brodheadsville, PA 18322. This proposed facility is located in Chestnuthill Township, **Monroe County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit for expansion of the existing wastewater treatment and spray irrigation system serving the Brodheadsville Campus.

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

**WQM Permit No. WQG01670801**, Sewage, **Norma J. Bair**, 6196 Lewisberry Road, Dover, PA 17315. This proposed facility is located in Conewago Township, **York County**.

Description of Proposed Action/Activity: Construction/Operation of a small flow sewage treatment system to serve her single-family residence.

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

**WQM Permit No. 3008201**, Industrial Waste, **Allegheny Energy Supply Company, LLC**. This proposed facility is located in Monongahela Township, **Greene County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of flue gas desulfurization scrubber blowdown WWTP.

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

**WQM Permit No. WQG02150807**, Sewerage, **Kennett Township**, 801 Burrows Road, Chadds Ford, PA 19317. This proposed facility is located in Kennett Township, **Chester County**.

Description of Action/Activity: Construct a pump station and force main from the development to an existing manhole.

**WQM Permit No. 4675406**, Sewerage, Amendment, **Borough of Ambler**, 122 East Butler Avenue, Ambler, PA 19002-4476. This proposed facility is located in Ambler Borough, **Montgomery County**.

Description of Action/Activity: A hydraulic rerate of the facility to include a maximum monthly average flow of 8.0 mgd.

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**IV. NPDES Stormwater Discharges from MS4 Permit Actions**


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**V. NPDES Waiver Stormwater Discharges from MS4 Actions**


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


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

*NPDES*

<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI014607010	National Park Service Valley Forge National Historic Park 1400 Outer Line Drive King of Prussia, PA 19406-1009	Montgomery	Upper Merion Township	Schuylkill River CW Valley Creek EV

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

*NPDES*

<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024807011	LaFayette College Markle Hall Easton, PA 18042	Northampton	Forks Township	Bushkill Creek HQ-CWF
PAI023907029	Allentown School District 1301 Sumner Avenue Allentown, PA 18102	Lehigh	City of Allentown	Trout Creek HQ-CWF
PAI025807001	Department of Transportation Engineering District 4-0 55 Keystone Industrial Park Dunmore, PA 18512	Susquehanna	Forest City Borough	Susquehanna River HQ-CWF
PAI021306006	PENCOR Wireless Comm., Inc. P. O. Box 134 613 Third Street Palmerton, PA 18071	Carbon	Penn Forest Township	Berry Run EV
PAS10S046R2	S.I.D.E. Corporation P. O. Box 1050 Blakeslee, PA 18610	Monroe	Tobyhanna Township	Tobyhanna Creek HQ-CWF

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023907021	Andrew J. Watson (AJW, Inc.) 4966 Schochary Road New Tripoli, PA 18066	Lehigh	Weisenberg Township	Switzer Creek HQ-CWF, MF
PAI023908001	Department of Transportation Engineering District 5-0 1002 Hamilton Street Allentown, PA 18103-1013	Lehigh	Upper Macungie Township	Little Lehigh Creek HQ-CWF

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

*Westmoreland County Conservation District, Center for Conservation Education, 211 Donohoe Road, Greensburg, PA 15601, (724) 837-5271.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056507003	Mt. Pleasant Township Municipal Authority 208 Poker Road Mammoth, PA 15664	Westmoreland	Mt. Pleasant Township	Hurst and Boyer Runs, Sewickley Creek WWF, HQ-CWF

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

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

### **List of NPDES and/or Other General Permit Types**

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Small Flow Treatment Facilities
PAG-5	General Permit for Discharges From Gasoline Contaminated 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*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Bensalem Township Bucks County	PAG2000907136	Liberty Heritage Homes, LLC 119 Fairway Drive Langhorne, PA 19047	UNT Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Nockamixon Township Bucks County	PAG2000906062	Edward McArdle 4223 Wismer Road Carversville, PA 18913	Tributary Gallows Run CWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Middletown Township Bucks County	PAG2000908006	Pennswood Village 1382 Newtown-Yardley Road Newtown, PA 18940	Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bensalem Township Bucks County	PAG2000908008	Neshaminy Mall Joint Venture, LP 707 Neshaminy Mall Bensalem, PA 19020	Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bensalem Township Bucks County	PAG2000907073	Archdiocese of Philadelphia 111 South 38th Street Philadelphia, PA 19104	Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Parkesburg Borough Chester County	PAG2001508021	Westminster Place At Parkesburg, LP 439 East King Street Lancaster, PA 17602 Arthur Funk and Sons, Inc. 1405 Birch Road Lebanon, PA 17042	Little Buck Run Brandywine Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Schuylkill Township Chester County	PAG2001507070	Pitter Patter Learning Academy, LLC 301 Wartman Road Collegeville, PA 19426	French Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Swarthmore Borough Delaware County	PAR10J2161R	Swarthmore College 500 College Avenue Swarthmore, PA 19081	Crum Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Horsham Township Montgomery County	PAG2004608023	Endurance Real Estates Group, LLC One Bala Avenue Suite 502 Bala Cynwyd, PA 19004	Park Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Franconia Township Montgomery County	PAG20046031631	WB Homes, Inc. 404 Sumneytown Pike Suite 200 North Wales, PA 19454	Indian Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
New Hanover Township Montgomery County	PAG20046040771	Heritage Steeplechase, LP 2500 York Road Jamison, PA 18929	UNT Swamp Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Providence Township Montgomery County	PAG2004607169	Audubon Land Development 2620 Egypt Road Norristown, PA 19403	Perkiomen Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Dublin Township Montgomery County	PAG2004607171	Upper Dublin School District 1580 Ft. Washington Avenue Maple Glenn, PA 19002	Wissahickon Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Merion Township Montgomery County	PAG2004608009	Pinemar Building Company, Inc. 402 West Lancaster Avenue Haverford, PA 19041	Mill Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

## NOTICES

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<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Skippack Township Montgomery County	PAG2004607189	Gorski Engineering, Inc. 1 Iron Bridge Drive Collegeville, PA 19426	UNT Skippack Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015107043	Drexel University 3201 Arch Street Philadelphia, PA 19104	Schuylkill River WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Jenkins Township Wyoming Borough Luzerne County	PAG2004007040	Department of Transportation Engineering District 4-0 Attn: Ricahrd Cochrane 55 Keystone Industrial Park Dunmore, PA 18512	Susquehanna River WWF	Luzerne County Conservation District (570) 674-7991
Derry and South Hanover Townships Dauphin County	PAG2002207063	Commissioner Jeffrey T. Haste P. O. Box 1295 Harrisburg, PA 17108-1295	Spring Creek (east) Swatara Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Bern Township Berks County	PAG2000608006	Ron Harbonic Willow Hollow Golf Course 1753 Panther Valley Road Pine Grove, PA 17963	Tulpehocken Creek WWF-CWF-TSF	Berks County Conservation District 1238 County Welfare Road Suite 200 Leesport, PA 19533-9710 (610) 372-4657, Ext. 201
North Middleton Township Cumberland County	PAG2002107051	William Bashore Lexington Land Developers Corp. 336 West King Street Lancaster, PA 17603	Conodoguinet Creek WWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 (717) 240-7812
Lower Allen Township Cumberland County	PAG2002107052	Lower Allen Township Daniel Flint 1993 Hummel Avenue Camp Hill, PA 17011	Yellow Breeches Creek CWF	Cumberland County Conservation District 310 Allen Road Suite 301 Carlisle, PA 17013 (717) 240-7812
Hollidaysburg Borough Blair County	PAG2000708002	Hollidaysburg Area School District 201 Jackson Street Hollidaysburg, PA 16648	Brush Run WWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Peach Bottom Township York County	PAG2006708014	Robert Holweck Delta Ventures, LLC 2700 Philadelphia Road Edgewood, MD 21040	Muddy Creek—Susquehanna TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
York Township York County	PAG2006707083	Matt Derose 2700 Mount Rose Avenue York, PA 17402	Mill Creek—Lower Susquehanna WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
North Woodbury Township Blair County	PAG2000708004	Homewood at Martinsburg, PA, Inc. 430 South Market Street Martinsburg, PA 16662	UNT to Plum Creek WWF	Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
East St. Clair Township Bedford County	PAG2000508001	New Enterprise Stone & Lime Co., Inc. P. O. Box 77 New Enterprise, PA 16664	UNT to Dunnings Creek WWF	Bedford County Conservation District 702 West Pitt Street Fairlawn Court Suite 4 Bedford, PA 15522 (814) 623-7900
Carroll Township York County	PAG2006708019	Vernon Anderson 1613 South Mountain Road Dillsburg, PA 17019	Dogwood Run NL	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Fawn Township York County	PAR10Y582R	Dale Torbert 405 Throne Road Fawn Grove, PA 17321	Muddy Creek TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
West St. Clair Township Bedford County	PAG2000508005	Department of Transportation 1620 North Juniata Street Hollidaysburg, PA 16648	Dunning Creek WWF	Bedford County Conservation District 702 West Pitt Street Fairlawn Court Suite 4 Bedford, PA 15522 (814) 623-7900
Smithfield Township Huntingdon County	PAG2003108001	Department of General Services Bureau of Engineering and Architecture 18th and Herr Streets Harrisburg, PA 17125	Juniata River WWF	Huntingdon County Conservation District 10605 Raystown Road Suite A Huntingdon, PA 16652-9603 (814) 627-1627
Montour County Anthony Township	PAG2004708003	Ben Detweiler 79 Fairview Road Turbotville, PA 17772	Middle Branch of Chillisquaque Creek WWF	Montour County Conservation District 112 Woodbine Lane Suite 2 Danville, PA 17821 (570) 271-1140
Union County Mifflinburg Borough	PAG2006008003	Steven B. Beller Mifflinburg Borough 333 Chestnut Street Mifflinburg, PA 17844	Buffalo Creek CWF	Union County Conservation District Union County Government Center 155 North 15th Street Lewisburg, PA 17837 (570) 524-3860
Beaver County City of Beaver Falls	PAG2000408003	Jeff Woda Connolly Park, LLC 229 Huber Village Road Westerville, OH 43081	Walnut Bottom Run WWF	Fayette County Conservation District (724) 438-4497
Cambria County Cresson Township	PAG2001108003	Sister Virginia Bertschi Mt. Aloysius College 7373 Admiral Peary Highway Cresson, PA 16630	UNT Little Conemaugh River CWF	Cambria County Conservation District (814) 472-2120

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Fayette County North Uniontown and Dunbar Townships	PAG2002608007	Anya Schrier Columbia Gas of Pennsylvania 501 Technology Drive Canonsburg, PA 15317	UNT to Redstone Creek WWF Redstone Creek WWF	Fayette County Conservation District (724) 438-4497
Fayette County Georges Township	PAG2002608008	Fayette Industrial Fun P. O. Box 2101 Uniontown, PA 15401	Georges Creek WWF	Fayette County Conservation District (724) 438-4497
Indiana County White Township Indiana Borough	PAG2003208002	Department of General Services 28th and Herr Streets Harrisburg, PA 17120	Stoney Run CWF	Indiana County Conservation District (724) 463-8547
Borough of Edinboro Erie County	PAG2002508004	Edinboro University of PA Sports Dome Edinboro University of PA 219 Meadville Street Edinboro, PA 16444	Conneauttee Creek TSF	Erie Conservation District (814) 825-6403
City of Erie Erie County	PAG2002508005	Saint Mary's Home of Erie Replacement Beds Saint Mary's Home of Erie 607 East 26th Street Erie, PA 16504	Presque Isle Bay Lake Erie CWF	Erie Conservation District (814) 825-6403
Washington Township Jefferson County	PAG2103308003	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476	UNT CWF to Wolf Run CWF	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476 (717) 783-1311

*General Permit Type—PAG-3*

<i>Facility Location: 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>
Hanover Township Wilkes-Barre City Luzerne County	PAR602209	Allan Industries P. O. Box 999 I-81 and Blackman Street Wilkes-Barre, PA 18703-0999	Drainage Ditch and Mines	DEP—NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
North Union Township Fayette County	PAR806103	BAE Systems Land & Armaments, LP 2198 University Drive Lemont Furnace, PA 15456-1026	Tributary Gist Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-4*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Lancaster County Providence Township	PAG043871	Thomas and Rachel Wolf 533 Snyder Hollow Road New Providence, PA 17560	Huber Run CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
York County Conewago Township	PAG043872	Norma J. Bair 6196 Lewisberry Road Dover, PA 17315	Laurel Run WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Buffington Township Indiana County	PAG046120	Cory C. Widmar P. O. Box 78 575 Dilltown Heights Road Dilltown, PA 15929	UNT to Blacklick Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Black Lick Township Indiana County	PAG046272	John A. Sarnosky 175 Muddy Run Road Blairsville, PA 15717	UNT to Blacklick Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Adams Township Cambria County	PAG046367	Raymond G. Katrancha 145 Pipeline Road P. O. Box 276 Dunlo, PA 15930	UNT of Sulphur Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Greenfield Township Erie County	PAG048515	Joseph W. Martin 8730 Dougan Road North East, PA 16428	UNT to Seven Mile Creek 15-7M	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Washington Township Erie County	PAG048583	Frank A. Concobly 1501 Lewis Road Waterford, PA 16441	UNT to Little Conneauttee Creek 16-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
South Pymatuning Township Mercer County	PAG048576	Travis M. Young 2721 Gull Lane Transfer, PA 16154	UNT to the Shenango River 20-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Hayfield Township Crawford County	PAG049408	Evan Hasko 1133 Belmont Drive Meadville, PA 16335	UNT to Cussewago Creek 16-D	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Waterford Township Erie County	PAG048843	Brandon T. Sherwood 12665 Plank Road Waterford, PA 16441-9023	UNT to French Creek 16-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Conneaut Township Erie County	PAG049412	Faith Baptist Church of Albion P. O. Box 234 Albion, PA 16401	UNT to Conneaut Creek 15-CC	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

NOTICES

1995

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Fairview Township Erie County	PAG048896	Francis P. Foti 4601 Uhlman Road Fairview, PA 16415-2116	UNT to Walnut Creek 15-WC	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Summit Township Butler County	PAG049418	Gloria Curtis 312 Freeport Road Butler, PA	UNT to Coal Run 20-C	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Worth Township Mercer County	PAG049421	Brian J. Drew and Karen S. Philson 1077 Jackson Center-Polk Road Stoneboro, PA 16153	UNT to South Sandy Creek 16-G	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
<i>General Permit Type—PAG-5</i>				
<i>Facility Location: 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 Delaware County	PAG050049	Robert E. Rule Motiva Enterprises, LLC Shell Oil Products US P. O. Box 1243 Waynesboro, VA 22980-1243	UNT to Stony Creek	Southeast Regional Office Water Management 2 East Main Street Norristown, PA 19401 (484) 250-5970
Hilltown Township Bucks County	PAG050060	HL Garges Oil Company 4802 Old Bethlehem Pike Telford, PA 18969	Mill Creek	Southeast Regional Office Water Management 2 East Main Street Norristown, PA 19401 (484) 250-5970
Lower Pottsgrove Township Montgomery County	PAG050061	Gary Rossman Sanatoga Oil Company 95 Marilyn Parkway Rochester, NY 14624	Sprogles Run	Southeast Regional Office Water Management 2 East Main Street Norristown, PA 19401 (484) 250-5970
Snyder Township Jefferson County	PAG058304	Luke's Auto Service 3312 Route 219 Brockway, PA 15824	UNT to Little Toby Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Summit Township Erie County	PAG058306	Erie Petroleum, Inc. 1502 Greengarden Road Erie, PA 16502	Walnut Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Greene Township Erie County	PAG058307	United Refining Company of Pennsylvania P. O. Box 780 Warren, PA 16365	UNT to Four Mile Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942



<i>Facility Location: 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>
North Beaver Township Lawrence County	PAG058312	Tic Toc Food Mart, Inc. One Center 60 New Castle, PA 16102	Hickory Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Eldred Borough McKean County	PAG058313	Witter Gas & Oil Company, Inc. P. O. Box 367 Port Allegany, PA 16743	Barden Brook	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Cranberry Township Butler County	PAG058315	Cranberry Township 2525 Rochester Road Suite 400 Cranberry, PA 16066	UNT to Brush Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
North East Township Erie County	PAG058317	Travel Centers of America 24601 Center Ridge Road Westlake, OH 44145-5634	UNT to Twenty Mile Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Erie City Erie County	PAG058319	United Refining Company of Pennsylvania P. O. Box 780 Warren, PA 16365	UNT to Walnut Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
New Vernon Township Mercer County	PAG058324	McQuistons Truckstop 606 Georgetown road Hadley, PA 16130	UNT to Little Shenango River	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Zelienople Borough Butler County	PAG058325	United Refining Company of Pennsylvania P. O. Box 780 Warren, PA 16365	UNT to Connoquenessing Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Cornplanter Township Venango County	PAG058328	Pennzoil Quaker State Company 260 Elm Street P. O. Box 99 Oil City, PA 16301	Oil Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Union Township Lawrence County	PAG058329	Guttman Oil Company 200 Speers Road Belle Vernon, PA 15012	UNT to Shenango River	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Springfield Township Mercer County	PAG058333	Joe's Service 1808 Perry Highway Volant, PA 16156	UNT to Neshannock Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

## NOTICES

1997

<i>Facility Location: 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>
Franklin City Venango County	PAG058336	United Refining Company of Pennsylvania P. O. Box 780 Warren, PA 16365	French Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Sugar Creek Borough Venango County	PAG058337	Pennzoil Quaker State Company 260 Elm Street P. O. Box 99 Oil City, PA 16301	Allegheny River	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Clarion Township Clarion County	PAG058341	Heath Oil Company P. O. Box 1128 Oil City, PA 16301	Trout Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
North Beaver Township Lawrence County	PAG058343	J. J. Kennedy Petroleum Products, Inc. P. O. Box 159 Petersburg, OH 44454-0159	UNT to Hickory Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Erie City Erie County	PAG058345	Holmes Exxon Car Wash 3906 Peach Street Erie, PA 16509	UNT to Mill Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Bloomfield Township Crawford County	PAG058348	TNT Enterprises, Inc. 21779 Highway 8 Centerville, PA 16404	Oil Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Millcreek Township Erie County	PAG058349	Erie Petroleum, Inc. 1502 Greengarden Road Erie, PA 16502	UNT to Mill Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Warren City Warren County	PAG058351	Erie Petroleum, Inc. 1502 Greengarden Road Erie, PA 16502	Allegheny River	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Perry Township Mercer County	PAG058353	Wagler's Camp Perry 2554 Perry Highway Clarks Mills, PA 16114	UNT to Little Shenango River 20-A	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Saint Marys Township Elk County	PAG058354	Delullo's Car Wash and Market 19 John Street St. Marys, PA 15857	Elk Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

<i>Facility Location: 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>
Warren City Warren County	PAG058355	Erie Petroleum, Inc. 1502 Greengarden Road Erie, PA 16502	Allegheny River	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Hayfield Township Crawford County	PAG058356	The Estate of Leonard Hatzo c/o Emil M. Spadafore, Jr. Attorney at Law 935 Market Street Meadville, PA 16335	UNT to Cussewago Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Rouseville Borough Venango County	PAG058357	Pennzoil-Quaker State Company P. O. Box 99 Oil City, PA 16301-0099	Oil Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Hermitage Township Mercer County	PAG058358	RMMs Food Mart 1904 Shadyside Drive Hermitage, PA 16148	Magargee Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Millcreek Township Erie County	PAG058361	Erie Petroleum, Inc. 1502 Greengarden Road Erie, PA 16502	UNT to Mill Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Karns City Borough Butler County	PAG058362	Rottman's Service 300 Willow Road Karns City, PA 16041	South Branch Bear Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Butler Township Butler County	PAG058363	Handee Marts, Inc. 714 Warrendale Road Gibsonia, PA 15044	UNT to Sullivan Run 20-C	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Slippery Rock Borough Butler County	PAG058364	Sheetz, Inc. 5700 Sixth Avenue Altoona, PA 16602-1111	UNT to Slippery Rock Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Butler Township Butler County	PAG058365	Sheetz, Inc. 5700 Sixth Avenue Altoona, PA 16602-1111	Sawmill Run 20-C	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Titusville City Crawford County	PAG058366	United Refining Company of Pennsylvania P. O. Box 780 Warren, PA 16365	Pine Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

## NOTICES

1999

<i>Facility Location: 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>
Jones Township Elk County	PAG058367	Wilcox Garage Marvin Street Wilcox, PA 15807	UNT to West Branch Clarion River	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Sheakleyville Borough Mercer County	PAG058370	Chess Services, Inc. 3220 Perry Highway Sheakleyville, PA 16151	Mill Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Sandy Creek Township Venango County	PAG058373	Department of Transportation District 1-5 Venango County 1460 Pittsburgh Road Franklin, PA 16323	Morrison Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
North East Township Erie County	PAG058374	Erie Petroleum, Inc. 1502 Greengarden Road Erie, PA 16502	UNT to Twenty Mile Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Harborcreek Township Erie County	PAG058376	Travel Centers of America 24601 Center Ridge Road Westlake, OH 44145-5634	UNT to Seven Mile Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Stoneboro Borough Mercer County	PAG058378	Dye's Service Station P. O. Box 185 Stoneboro, PA 16153	Sawmill Run 16-G	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Springfield Township Mercer County	PAG058371	Michael Kristyak Kristyak's Service Plaza 1895 Leesburg/Grove City Road Grove City, PA 16137	UNT of Black Run 20-C	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Summit Township Butler County	PAG058346	McKitten Service Station 686 Glenwood Way Butler, PA 16001	Bonnie Brook	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
City of Titusville Crawford County	PAG058359	Golden Car Wash, Inc. 206 South Martin Street Titusville, PA 16354	Oil Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Pittsfield Township Warren County	PAG058350	United Refining Company of Pennsylvania P. O. Box 780 Warren, PA 16365	UNT to Brokenstraw Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*Facility Location:  
Municipality &  
County*Summit Township  
Erie County*Permit No.*  
PAG058372*Applicant Name & Address*  
United Refining Company of  
Pennsylvania  
P. O. Box 780  
Warren, PA 16365*Receiving Water/Use*  
Summit Township  
Municipal Storm  
Sewers to Walnut  
Creek*Contact Office &  
Phone No.*  
DEP—NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA  
16335-3481  
(814) 332-6942*General Permit Type—PAG-7**Facility Location &  
Municipality*

Narrowsburg, NY

*Permit No.*  
PAG079901*Applicant Name & Address*  
Lang EnviroVentures, Inc.  
60 Lake Street  
Narrowsburg, NY 12764*Site Name &  
Location*Lang  
EnviroVentures, Inc.  
60 Lake Street  
Narrowsburg, NY  
12764*Contact Office &  
Phone No.*BWSWM  
(717) 787-8184*General Permit Type—PAG-8 (SSN)**Facility Location:  
Municipality &  
County*Lower Milford  
Township  
Lehigh County*Permit No.*  
PAG082201  
PAG082203  
PAG070003  
PAG080008  
PAG083501  
PAG080002  
PAG083535  
PAG083551  
PAG083517  
PAG089903  
PAG083596  
PAG083510  
PAG082211  
PAG083506  
PAG083522  
PAG083515  
PAG083502  
PAG089904  
PAG083547  
PAG080006  
PAG083540  
PABIG9903  
PAG083547  
PAG083600  
PAG083565  
PAG073508  
PAG070005  
PAG080003  
PAG083825  
PAG083542  
PAG080004  
PAG083518  
PAG089905  
PAG083556  
PAG080018  
PAG083573*Applicant Name & Address*  
Synagro  
1605 Dooley Road  
P. O. Box B  
Whiteford, MD 21160*Site Name &  
Location*Michael Crossley  
Farm  
Yost Lane  
Lower Milford  
Township  
and  
Entler Irrevocable  
Trust  
Entler Farm  
Butternut Road  
Lower Milford  
Township*Contact Office &  
Phone No.*DEP—NERO  
2 Public Square  
Wilkes-Barre, PA  
18711-0790  
(570) 826-2511

**NOTICES**

**2001**

*General Permit Type—PAG-8 (SSN)*

<i>Facility County/Municipality</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name</i>	<i>Contact Office &amp; Phone No.</i>
Conemaugh Township Indiana County	Synagro 3239 Route 981 New Alexandria, PA 15670	Auen No. 1 Farm	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-8*

<i>Facility Name</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Facility Municipality and County</i>	<i>Contact Office &amp; Phone No.</i>
Vanport Township Municipal Authority	PAG086113	Vanport Township Municipal Authority 285 River Avenue Vanport, PA 15009	Independence Township Beaver County	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-9*

<i>Facility Location &amp; County/Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
Hempfield Township Westmoreland County	PAG096102	A Septic Tank Service 1406 Rolling Acres Road Latrobe, PA 15650	Hillis Farm 1049 Cody Road Hunker, PA 15639	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-10*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Monongahela Township Greene County	PAG106117	Allegheny Energy Supply Co., LLC 800 Cabin Hill Drive Greensburg, PA 15601-1689	Monongahela River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-12*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Lower Oxford Township Chester County	PAG120001	Tim McMichael 791 Street Road Oxford, PA 19363-1135	7K Pequea	Southeast Regional Office Watershed Management 2 East Main Street Norristown, PA 19401 (484) 250-5970

## 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

**Permit No. 0908502, Minor Amendment, Public Water Supply.**

Applicant	<b>Springtown Water Authority</b> 5885 Road 412 Riegelsville, PA 18077
Township	Springfield
County	<b>Bucks</b>
Type of Facility	PWS
Consulting Engineer	Anderson Engineering Associates, Inc. 306 North 5th Street Perkasie, PA 18944
Permit to Construct Issued	April 14, 2008

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

**Permit No. 3480046, Operations Permit, Public Water Supply.**

Applicant	<b>Bethlehem Authority</b> 10 East Church Street Bethlehem, PA 18018
County	Lehigh Township <b>Northampton</b>

Type of Facility	PWS
Consulting Engineer	Philip McLachlan, P. E. Malcolm Pirnie, Inc. 111 South Independence Mall East Suite 1010 Philadelphia, PA 19106

Permit to Operate Issued	April 9, 2008
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*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit No. 0108501, Public Water Supply.**

Applicant	<b>The York Water Company</b>
Municipality	Oxford Township
County	<b>Adams</b>
Type of Facility	Oxford Booster Pump Station
Consulting Engineer	Mark S. Snyder, P. E. The York Water Company 130 East Market Street P. O. Box 15089 York, PA 17405-7089

Permit to Construct Issued	April 7, 2008
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**Permit No. 2108502 MA, Minor Amendment, Public Water Supply.**

Applicant	<b>Pennsylvania American Water</b>
Municipality	Silver Spring Township
County	<b>Cumberland</b>
Type of Facility	Casutic Tank Replacement.
Consulting Engineer	1—Not Available
Permit to Construct Issued	April 10, 2008

**Operations Permit** issued to **United Water Pennsylvania**, 7670061, Newberry Township, **York County** on April 3, 2008 for the operation of facilities approved under Construction Permit No. 6702514.

**Operations Permit** issued to **Village Greens Golf Inc.**, 7360626, Strasburg Township, **Lancaster County** on April 10, 2008 for the operation of facilities approved under Construction Permit No. 3605512.

**Operations Permit** issued to **South Middleton Township Municipal Authority**, 7210050, South Middleton Township, **Cumberland County** on April 14, 2008 for the operation of facilities approved under Construction Permit No. 2107505.

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

**Permit No. 4106502—Operation, Public Water Supply.**

Applicant	<b>Lycoming County Water and Sewer Authority</b>
Township or Borough	Muncy and Fairfield Townships
County	<b>Lycoming</b>

Responsible Official Christine Maggi, Executive Director  
Lycoming County Water and Sewer Authority  
216 Old Cement Road  
Montoursville, PA 17754

Type of Facility Public Water Supply—Operation

Consulting Engineer N/A

Permit Issued Date April 10, 2008

Description of Action Operation of the new public water system to serve portions of Fairfield and Muncy Townships, including the Lycoming Mall. The system will consist of the following components: a source of supply, known as Well No. 1; an onsite sodium hypochlorite generation system; a pH adjustment system; a 316,000 gallon finished water storage tank and distribution lines.

**Permit No. M.A. 1789—Construction and Operation, Public Water Supply.**

Applicant **Borough of Troy**

Township or Borough Troy Borough

County **Bradford**

Responsible Official Daniel J. Close, Manager  
Borough of Troy  
110 Elmira Street  
Troy, PA 16947

Type of Facility Public Water Supply—Construction and Operation

Consulting Engineer David D. Walters, P. E.  
Larson Design Group  
1000 Commerce Park Drive  
Suite 201  
Williamsport, PA 17701

Permit Issued Date April 15, 2008

Description of Action Construction and Operation of the new pole building covering the existing 190,000 gallon reservoir.

**Permit No. MA-5994502—Operation, Public Water Supply.**

Applicant **Mansfield University**

Township or Borough Mansfield Borough

County **Tioga**

Responsible Official Richard Nelson  
Mansfield University  
Brooks Maintenance Building  
115 Sherwood Street  
Mansfield, PA 16933

Type of Facility Public Water Supply—Operation

Consulting Engineer N/A

Permit Issued Date April 15, 2008

Description of Action Operation of sodium permanganate chemical feed system for organics oxidation.

**Permit No. MA—Operation, Public Water Supply.**

Applicant **Mansfield University**

Township or Borough Mansfield Borough

County **Tioga**

Responsible Official Richard Nelson  
Mansfield University  
Brooks Maintenance Building  
115 Sherwood Street  
Mansfield, PA 16933

Type of Facility Public Water Supply—Operation

Consulting Engineer N/A

Permit Issued Date April 15, 2008

Description of Action Minor Amendment (issued June 25, 2004) approves operation of the liquid sodium hydroxide and polyphosphate chemical feed facilities for corrosion control in compliance with the Lead and Copper Rule.

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

**Permit No. 2607503, Public Water Supply.**

Applicant **Municipal Authority of Westmoreland County**  
124 Park and Pool Road  
New Stanton, PA 15672

Borough or Township **Hempfield and East Huntingdon Townships**

County Westmoreland

Type of Facility Booster station and tank

Consulting Engineer

Permit to Construct Issued April 4, 2008

**Operations Permit** issued to **Municipal Authority of the City of New Kensington**, 920 Barnes Street, P. O. Box 577, New Kensington, PA 15068, (PWSID No. 5650070) City of New Kensington, **Westmoreland County** on April 11, 2008 for the operation of facilities approved under Construction Permit No. 6504501.

**Operations Permit** issued to **Beaver Falls Municipal Authority**, 1425 Eighth Avenue, Beaver Falls, PA 15010, (PWSID No. 5040012) Big Beaver Borough, **Beaver County** on April 11, 2008 for the operation of facilities approved under Construction Permit No. 0405502.

**Operations Permit** issued to **Gallitzin Water Authority**, 411 Convent Street, Gallitzin, PA 16641, (PWSID No. 4110011) Gallitzin Borough, **Cambria County** on April 14, 2008 for the operation of facilities approved under Construction Permit No. 1107503.

**Permit No. 5608501MA, Minor Amendment, Public Water Supply.**

Applicant **Conemaugh Township Municipal Authority**  
Box 429  
113 South Main Street  
Davidsville, PA 15928

Borough or Township Jenner Township

County **Somerset**



Type of Facility Water storage tanks  
 Consulting Engineer The EADS Group, Inc.  
 450 Aberdeen Drive  
 Somerset, PA 15501

Permit to Construct April 8, 2008  
 Issued

**Permit No. 3007502MA, Minor Amendment, Public Water Supply.**

Applicant **East Dunkard Water Association**  
 P. O. Box 241  
 SR88  
 Dilliner, PA 15327

Borough or Township Dunkard Township  
 County **Greene**

Type of Facility Temporary water booster pump station

Consulting Engineer Dakota Engineering Associates, Inc.  
 Etna Technical Center  
 Suite 200  
 35 Wilson Street  
 Pittsburgh, PA 15223

Permit to Construct April 14, 2008  
 Issued

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

**Permit No. 1007502, Public Water Supply.**

Applicant **H & H Property Investments, LLC**  
**d/b/a Perry Lake Estates MHP**

Township or Borough Lancaster Township  
 County **Butler County**

Type of Facility Public Water Supply

Consulting Engineer Kurt H. Todd, P. E.  
 The Gateway Engineers, Inc.  
 201 South Main Street  
 Suite 200  
 Butler, PA 16001

Permit to Construct April 11, 2008  
 Issued

**Permit No. 2507506, Public Water Supply.**

Applicant **Camp Eriez on the Lake**

Township or Borough Girard Township  
 County **Erie County**

Type of Facility Public Water Supply

Consulting Engineer Steven R. Halmi, P. E.  
 Deiss & Hami Engineering  
 105 Meadville Street  
 Edinboro, PA 16412

Permit to Construct April 15, 2008  
 Issued

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 2

**The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a Site-Specific Standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

**Pier 60, City of Philadelphia, Philadelphia County.** Bill Schmidt, P. E., Pennoni Associates, Inc., 300 Market Street, 2nd Floor, Philadelphia, PA 19104 on behalf of James L. Dougherty, Philadelphia Entertainment Development Partner, 39 Norwich-Westerly Road, Mashanutket, CT 06338 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with PAH's, lead and arsenic. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Tompson Residence, Borough of Bristol, Bucks County.** Richard Trimpi, Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 on behalf of Anthony Tompson, 232 Franklin Street, Bristol, PA 19007 has submitted a Final Report concerning remediation of

site soil contaminated with petroleum. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Wawa Convenience Store, Towamencin Township County.** Keith D'Ambrosio, Whitestone Associates, Inc., 1600 Manor Drive, Suite 220, Chalfont, PA 18914 on behalf of Matthew Winter, Wawa, Inc., 260 Baltimore Pike, Wawa, PA 19063 has submitted a Final Report concerning remediation of site groundwater contaminated with MTBE. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Warrington Shop Center, Warrington Township, Bucks County.** Thomas Jones, Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Joan D'Agostino, Juniper Warrington Associates, 624 Harpers Lane, Huntington Valley, PA 19006 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with chlorinate solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

**Endless Mountain Health Systems, Montrose Borough, Susquehanna County.** Karl Pfizenmayer, Storb Environmental, Inc., 410 North Easton Road, Willow Grove, PA 19090 has submitted a Final Report (on behalf of his client, Endless Mountain Health Systems, 3 Grow Avenue, Montrose, PA 18801), concerning the remediation of soils and groundwater found to have been impacted by No. 2 fuel oil as a result of a storage tank incident. The report was submitted to document attainment of the Statewide Health Standard for both soils and groundwater.

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

**Former SKF USA, Inc. Facility, City of Altoona, Blair County.** Environmental Standards, Inc., 1140 Valley Forge Road, Valley Forge, PA 19482-0810, on behalf of SKF USA, Inc., 1111 Adams Avenue, Norristown, PA 19403-2403 and 800 Logan Boulevard, LP, P. O. Box 2566, Altoona, PA 16603, submitted a combined remedial investigation, risk assessment and Final Report concerning remediation of site groundwater impacted by petroleum hydrocarbons and chlorinated solvents from both onsite and offsite sources. The report is intended to document remediation of the site to the Site-Specific Standard and is enrolled in the One Cleanup Program between DEP and EPA.

**Ronald Crosson Residence, Bratton Township, Mifflin County.** Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073, on behalf of Ronald Crosson, 674 Pine Glenn Road, Lewistown, PA 17044 and State Farm, P. O. Box 172, Concordville, PA 19331, submitted a final report concerning remediation of site soils contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to the Residential Statewide Health Standard.

**Schoppert Residence, Fairview Township, York County.** Environmental Standards, 1140 Valley Forge Road, Valley Forge, PA 19482, on behalf of Michelle Schoppert, 727 Old Quaker Road, Lewisberry, PA 17339 and Lewis Environmental Group, 155 Railroad Plaza, Royersford, PA 19468, submitted a final report concerning remediation of site soils contaminated with No. 2 fuel oil

released from an aboveground storage tank. The report is intended to document remediation of the site to the Statewide Health Standard.

**Conestoga Wood Specialties, East Earl Township, Lancaster County.** Hafer Environmental Services, Inc., P. O. Box 4418, Reading, PA 19606, on behalf of Conestoga Wood Specialties, 245 Reading Road, Earl, PA 17519, submitted a remedial investigation report concerning remediation of site soils and groundwater contaminated with No. 2 fuel oil. The applicant is seeking to remediate the site to a combination of Statewide Health and Site-Specific Standards.

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

**MECx—Red Rock Job Corp., Cherry Township, Sullivan County, Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857** on behalf of MECx, LLC, 1112 Presidential Drive, Quakertown, PA 18951 has submitted a Final Report within 90 days of the release concerning remediation of site soil contaminated with No. 2 heating 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 contamina-

tion, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

**Harvey Gray, Inc.**, Upper Makefield Township, **Bucks County**. Tarek Selim, Penn E & R, 2755 Bergey Road, Hatfield, PA 19440, Tom Imperato, Toll Brothers, Inc., 250 Gibraltar Road, Horsham, PA 19044 on behalf of Harvey Gray, Harvey Gray, Inc., 1708 Fite Ter, Langhorne, PA 19047 has submitted a Final Report concerning the remediation of site groundwater and soil contaminated with PAH's. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on April 2, 2008.

**142 Pennsylvania Avenue Site**, Lower Merion Township, **Montgomery County**. Michael Gonshor, Roux Associates, Inc., 1222 Forest Parkway, Suite 190, West Deptford, NJ 08066 on behalf of Joann Magnatta, Main Line Health Real Estate, LP, 937 Haverford Road, Bryn Mawr, 19010 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department of Environmental Protection on March 24, 2008.

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

**Synthetic Thread Facility**, City of Bethlehem, **Lehigh County**. Thomas Martinelli, JMT Environmental Technologies, Inc., P. O. Box 22044, Lehigh Valley, PA 18002-2044 submitted a Final Report (on behalf of his client, Alan France, 903 Chestnut Street, Emmaus, PA 18049), concerning the remediation of site soils found to have been impacted by petroleum related compounds as the result of releases from three underground storage tanks containing No. 2 heating oil. The report demonstrated attainment of the Statewide Health Standard for soils and was approved on April 15, 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. 101680. Waste Management Disposal Service of Pennsylvania, Inc.**, 1000 New Ford Mill Road, Morrisville, PA 19067, the GROWS North Landfill, located in Falls Township, **Bucks County**. This amended waste management permit is for the following: adding the Echo Point Sand and Gravel Facility as an offsite borrow area; relocating and redesigning the public convenience center and, modifying the Radiation Protection Action Plan by relocating the isolation staging area. The latter two are covered under the Waste Management Disposal Services of Pennsylvania, Inc.'s GROWS Landfill permit and utilized jointly with Waste Management Disposal Services of Pennsylvania, Inc.'s GROWS Landfill and Waste Management of Pennsylvania, Inc.'s Tullytown Resource Recovery Facility Landfill. The permit was issued by the Southeast Regional Office on April 7, 2008.

**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 amended waste management permit is for the following: adding the Echo Point Sand and Gravel Facility as an offsite borrow area; relocating and redesigning the public convenience center and, modifying the Radiation Protection Action Plan by relocating the isolation staging area. The latter two are covered under the Waste Management Disposal Services of Pennsylvania, Inc.'s GROWS Landfill permit and utilized jointly with Waste Management Disposal Services of Pennsylvania, Inc.'s GROWS North Landfill and Waste Management of Pennsylvania, Inc.'s Tullytown Resource Recovery Facility Landfill. The permit was issued by the Southeast Regional Office on April 7, 2008.

**Permit No. 101494. Waste Management of Pennsylvania, Inc.**, 1000 New Ford Mill Road, Morrisville, PA 19067, the Tullytown Resource Recovery Facility Landfill, located in Falls Township and Tullytown Borough, **Bucks County**. This amended waste management permit is for the following: adding the Echo Point Sand and Gravel Facility as an off-site borrow area; relocating and redesigning the public convenience center and, modifying the Radiation Protection Action Plan by relocating the isolation staging area. The latter two are covered under the Waste Management Disposal Services of Pennsylvania, Inc.'s GROWS Landfill permit and utilized jointly with Waste Management Disposal Services of Pennsylvania, Inc.'s GROWS Landfill and GROWS North Landfill. The permit was issued by the Southeast Regional Office on April 7, 2008.

**Permit No. 101494. Waste Management of Pennsylvania, Inc.**, 1000 New Ford Mill Road, Morrisville, PA 19067. This permit modification is for the relocation of portions of existing utilities (including leachate force main, condensate drain pipe and gas pipeline) and construction of a service road at the Tullytown Resource Recovery Facility located in Falls Township and the Borough of Tullytown, **Bucks County**. The permit modification was issued by the Southeast Regional Office on April 7, 2008.

#### **HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES**

**Permits issued, suspended, expired, denied, revoked, reinstated or returned under the Solid Waste Management Act of July 7, 1980 (P. L. 380, No. 97) (35 P. S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage or Disposal Facility.**

*Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706.*

**PAR000514182. National Standard, LLC**, 1631 Lake Street, Niles, MI 49120. Post Closure Permit issued on April 25, 2008 for National Standard, LLC's Mount Joy Site, located at 1000 East Main Street, Mount Joy, PA 17552, Mount Joy Borough, **Lancaster County**.

## 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.*

**09-310-079GP: KPK Development Co.** (1082 Temperance Lane, Richboro, PA 18954) on April 11, 2008, to operate a portable nonmetallic mineral processing plant in Falls Township, **Bucks County**.

**09-329-009GP: KPK Development Co.** (1082 Temperance Lane, Richboro, PA 18954) on April 11, 2008, to operate a diesel or No. 2 fuel-fired IC engines in Falls Township, **Bucks County**.

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

**64-310-021GP3: E. R. Linde Construction** (9 Collan Park, Honesdale, PA 18431) on April 14, 2008, to construct and operate a Portable Crushing Operation with watersprays at their site in Palmyra Township, **Wayne County**.

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

**GP3-67-03124C: Kinsley Construction, Inc.** (P. O. Box 2886, York, PA 17405-2886) on April 10, 2008, for Portable Nonmetallic Mineral Processing Plants under GP3 in East Manchester Township, **York County**.

**GP9-67-03124C: Kinsley Construction, Inc.** (P. O. Box 2886, York, PA 17405-2886) on April 10, 2008, for Diesel or No. 2 Fuel-fired Internal Combustion Engines under GP9 in East Manchester Township, **York County**.

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

**GP5-26-00572: Texas Keystone, Inc.** (560 Epsilon Drive, Pittsburgh, PA 15238-2837) general permit (GP-5) is effective April 4, 2008, to allow for the operation of a natural gas compressor site. The facility is located in Wharton Township, **Fayette County**. Authorization to operate under this GP will expire on April 4, 2013.

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

**GP-25-996A: Advanced Finishing USA** (7410 Klier Drive East, Fairview, PA 16415) on April 8, 2008, for two burnoff ovens (BAQ-GPA/GP-4) in Fairview Township, **Erie County**.

**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

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

**46-0041E: Bluegrass Folding Carton Company, LLC** (1035 Longford Road, Phoenixville, PA 19460) on April 10, 2008, to install a new offset lithographic press in its Oaks Plant at 1035 Longford Road, Upper Providence Township, **Montgomery County**. This plan approval will authorize the construction of the press and the transfer and use of VOC emission reduction credits. The press is described in the Applicant's application of December 12, 2007.

Based on the information provided by the Applicant and Department of Environmental Protection's (Department) own analysis, the installation of the press has a potential to emit 12.5 tpy of VOCs. Due to this proposed installation, there is a net increase of 36.26 tons of VOC emissions at this facility calculated for a 10-year period in accordance with 25 Pa. Code § 127.203(a)(2).

Copies of the application, the Department's analyses and other documents used in evaluation of the application are available for public inspection during normal business hours at the address to follow.

To assure compliance with the applicable standards, the Department will place the following conditions on the plan approval:

This Plan Approval is issued to the permittee for the installation of a sheetfed, nonheatset, offset lithographic print press, No. 3 Press.

*25 Pa. Code § 127.208—ERC Use and Transfer Requirements*

The permittee shall use 47.14 tons from 107.5 tons VOC ERC, generated in 2005 from permanent shut down of its North Wales Plant, to offset the net VOC emission increase of 36.26 tons. Any remaining ERC will expire on June 1, 2015, unless used in accordance with 25 Pa. Code § 127.208.

*25 Pa. Code § 27.210—Offset Ratios*

The permittee shall provide VOC ERC at a 1.3:1.0 ratio to offset the VOC net emissions increase of 36.26 tons as per 25 Pa. Code §§ 127.203(b)(1)(ii), 127.205(3) and 127.210.

*25 Pa. Code § 127.25—Compliance Requirement*

The No. 3 Press shall be installed, maintained and operated in accordance with the plans submitted with the application and as approved herein.

*25 Pa. Code § 127.12b—Plan Approval Terms and Conditions*

**Emission Restrictions**

1. The total VOC from No. 3 Press shall not exceed 12.5 tpy in a 12-month rolling sum.

2. The permittee shall meet one of the following requirements for the fountain solution used on the press:

a. Maintain the as applied VOC content of the fountain solution at or below 5.0% by weight, or

b. Maintain the as applied VOC content of the fountain solution at or below 8.5% by weight and refrigerate the fountain solution to 60° F or less, or

c. Maintain the as applied VOC content of the fountain at or below 10.0% by weight and refrigerate the fountain solution to 55° F or less.

3. The permittee shall meet one of the following requirements for blanket and roller cleaning solutions used on the press:

a. VOC content, as applied, is less than or equal to 30% by weight; or

b. VOC composite partial vapor pressure, as used, is less than or equal to 10mmHg at 68° F.

4. Except specialty inks, the VOC content in the inks, as applied, shall not exceed 30% by weight.

#### Testing Requirements

1. The permittee shall determine the VOC content of fountain solution by one of the following procedures:

a. Analysis by USEPA Method 24 of a fountain solution sample, or

b. Calculation which combines USEPA Method 24 analytical VOC content data for the concentrated materials used to prepare the press ready fountain solution and records of the proportions in which they are mixed. The calculation shall only be performed once for each press ready fountain solution and kept in the form of a batch log. The analysis of the concentrated fountain solution may be performed by the suppliers of those materials.

2. The permittee shall determine the VOC content or VOC composite partial vapor pressure of cleaning solutions by one of the following procedures:

a. Analysis by USEPA Method 24 of a cleaning solution sample for VOC content or by an appropriate method for composite partial vapor pressure; or

b. Calculation which combines USEPA Method 24 analytical VOC content data for the concentrated materials used to prepare the press ready cleaning solution and records of the proportions in which they are mixed. The calculation shall only be performed once for each press ready cleaning solution and kept in the form of a batch log. The analysis of the concentrated cleaning solution may be performed by the suppliers of those materials; or

c. Calculation for VOC composite partial vapor pressure which combines analytical VOC vapor pressure data for the concentrated materials used to prepare the press ready cleaning solution and records of the proportions in which they are mixed. The analysis and vapor pressure determinations of the concentrated materials may be performed by the suppliers of the materials.

#### Monitoring Requirements

If using an automatic blanket wash system that mixes cleaning solution at the point of application, the permittee must demonstrate compliance with the VOC limitations for the blanket cleaning solutions and shall document that flow meters or fixed volume spray systems result in the VOC content of the mixed solution complies with the VOC content in the blanket cleaning solutions.

#### Recordkeeping Requirements

1. The permittee shall collect and record the applicable information specified below:

a. The ink usage in pounds or gallons in a monthly basis; the percent by weight VOC and HAP content, as

applied and, an estimate of VOC and HAP emissions. Alternately, the ink with the highest VOC and HAP content may be used to represent all inks used by the press.

b. The fountain solution and additive usage in pounds or gallons in a monthly basis; the percent by weight or weight to volume ration (lbs/gal) VOC and HAP content and, an estimate of VOC and HAP emissions.

c. The blanket and roller cleaning solution usage in pounds or gallons in a monthly basis; the percent by weight or weight to volume ration (lbs/gal) VOC and HAP content and, an estimate of VOC and HAP emissions.

d. For each month of operation, an estimate of VOC and HAP emissions during the latest 12 months.

2. The records shall be maintained at the facility for a minimum of 5 years and shall be made available to an authorized Department representative at any time during normal work hours.

#### Work Practice Requirements

1. The permittee shall keep all solvent containers closed at all times unless filling, draining, or performing cleanup operations.

2. The permittee shall keep all solvent laden shop towels in a closed container when not being used.

Any person wishing to provide the Department with additional information they believe should be considered prior to the issuance of the Plan Approval may submit the information to the address shown below. Each written comment shall include the following:

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

2) Identification of the proposed Plan Approval No. 46-0041E.

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

Requests for a public fact finding conference or hearing may also be made by writing the Department at the address to follow. A public conference may be held, if the Department in its discretion decides that such a conference is warranted on the basis of the information received. All persons who have submitted comments or have requested a conference will be notified of the decision to hold such a conference by publication in this newspaper or the *Pennsylvania Bulletin*, or by telephone, where the Department determines such notification by telephone is sufficient.

Francine Carlini  
Regional Manager  
Air Quality  
Department of Environmental Protection  
Southeast Regional Office  
2 East Main Street  
Norristown, PA 19401

For additional information, contact Xiaoyin Sun at (484) 250-5072.

**46-0262A: Penn Color, Inc.** (2755 Bergey Road, Hatfield, PA 19440) for installation of 10 new pieces of equipment including: two high intensity mixers, two baker perkins', three premix dispersers, one extruder and three dust collectors (pigment manufacturing equipment) at the Penn Color, Inc., pigment dispersion manufacturing facility located at 2755 Bergey Road, Hatfield, PA 19440, Hatfield Township, **Montgomery County**. The

installation of pigment manufacturing equipment may result in the emissions of: 0.7 tpy of PM with an aerodynamic diameter of 2.5 micrometer or smaller, 0.7 tpy of PM and 6.3 tpy of VOCs. 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.

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

**33-178A: Triangle Suspension Systems, Inc.** (1 Meter Street, Punxsutawney, PA 15767) on April 9, 2008, to install two dip tanks and associated hoods fans at the facility site in Punxsutawney Borough, **Jefferson County**. This is not a Title V facility.

**42-158M: Temple-Inland-Mt. Jewett** (R. R. 1, Hutchins Road, Mt. Jewett, PA 16740) on April 9, 2008, to modify the secondary tube dryer system at their facility in Mt. Jewett, **McKean County**. This is a Title V facility.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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

**09-0102B: Clean Earth of Southeast Pennsylvania, Inc.** (7 Steel Road East, Morrisville, PA 19067) on April 7, 2008, to operate an increase the limits on emissions in Falls Township, **Bucks County**.

**09-0127A: Bracalente Manufacturing Company, Inc.** (20 West Creamery Road, Trumbauersville, PA 18970) on April 4, 2008, to operate eight degreasers in Trumbauersville Borough, **Bucks County**.

**23-0003E: ConocoPhillips Company** (4101 Post Road, Trainer, PA 19061) on April 7, 2008, to operate a gasoline and diesel desulfurization in Trainer Borough, **Delaware County**.

**46-0108A: Highway Materials, Inc.** (1750 Walton Road, Blue Bell, PA 19422) on April 4, 2008, to operate a cyclone and baghouse-asphalt in Marlborough Township, **Montgomery County**.

**09-0048C: Haines & Kibblehouse, Inc.** (2052 Lucon Road, Skipack, PA 19474) on April 4, 2008, to operate a batch asphalt plant in Hilltown Township, **Bucks County**.

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

**19-00006C: Del Monte Corporation** (6670 Low Street, Bloomsburg, PA 17815) on April 11, 2008, to increase the allowable ink usage rate and associated VOC and VHAP emission limits for a packaging area associated with a pet food manufacturing line from 14 gallons, .051 ton and .015 ton, respectively, in any 12-consecutive month period to 62 gallons, .21 ton and .063 ton, respectively, in any 12-consecutive month period in South Centre Township, **Columbia County**.

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

**42-158K: TIN, Inc.** (149 Temple Drive, Kane, PA 16735) on April 10, 2008, for the addition of the board breaker in Sergeant Township, **McKean County**.

**Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110, Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**06-05034: Texas Eastern Transmission, LP** (P. O. Box 1642, Houston, TX 77251-1642) on April 8, 2008, to operate a natural gas transmission and storage facilities in Washington Township, **Berks County**. This is a renewal of the Title V operating permit.

**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.*

**15-00067: Herr Foods, Inc.** (273 Old Baltimore Pike, Nottingham, PA 19362) on April 10, 2008, for a Non-Title V Facility, State-only, Synthetic Minor Permit in West Nottingham Township, **Chester County**. Herr Foods, Inc. is a manufacturing-food preparations facility. The sources of emissions include boilers and product lines. The company took an emission limit of 24.9 tpy of NOx. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

**46-00161: Reading Material, Inc.—Sanatoga Asphalt Plant** (394 Sanatoga Road, Pottstown, PA 19446) on April 10, 2008, for operation their batch asphalt plant in Lower Pottsgrove Township, **Montgomery County**. The permit is for a non-Title V (State-only) facility. The Sanatoga Asphalt Plant is a 6-ton batch plant consisting of a dryer, knockout box, baghouse and stack. As part of the existing plant, the company operates a 30-ton recycled asphalt pavement crushing and screening operation and a portable nonmetallic mineral processing plant. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**23-00050: Crozer Keystone Health Systems—Taylor Hospital** (175 East Chester Pike, Ridley Pike, PA 19078) on April 11, 2008, for a Non-Title V Facility, State-only, Natural Minor Permit in Ridley Park Township, **Delaware County**. The sources of emissions are five boilers and two emergency generators. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

**09-00046: RJM Manufacturing, Inc.—d/b/a TaraTape** (250 Canal Road, Fairless Hills, PA 19030) on April 11, 2008, for renewal of Title V Operating Permit No. 09-00046, originally issued on January 8, 2001 in Falls Township, **Bucks County**. Based on a facility-wide VOC limit of 24.9 tpy, the permit type has been changed from Title V to State-only (Synthetic Minor). The State-only Operating Permit (SOOP) is for the operation of three (30 coating lines) two flexographic presses, an extruder and other miscellaneous sources, as well as a catalytic oxidizer that controls VOC emissions from one of the coating lines. The renewed SOOP will include monitoring, recordkeeping, reporting and work practice re-

quirements designed to keep the facility operating within all applicable air quality requirements. In addition to the change in permit type, the following major changes will be addressed in the renewed SOOP:

The phrase "d/b/a TaraTape" has been added to the owner name.

The following sources and emission points, along with corresponding source capacity and throughput listings, permit maps, conditions and emission restrictions, have been removed from Sections A (Site Inventory List), D (Source Level Requirements) and F (Emission Restriction Summary), of the SOOP, as applicable:

Source ID	Source Name
031	Space Heaters (7)
102	North Mix Tank
103	South Mix Tank
104	Hot Melt Boiler
109	Hot Water Heater for Storage Cabinet
S03	North Mix Tank Stack
S04	South Mix Tank Stack
S05	Hot Melt Boiler Stack
S10	Hot Water Heater for Storage Cabinet Stack
Z01	Fugitive Emissions

The following source and emission point, along with corresponding source throughput listing, permit map and conditions, have been added to Sections A (Site Inventory List) and D, of the SOOP, as applicable:

Source ID	Source Name
111	Cold Parts Cleaner
Z11	Cold Parts Cleaner Fugitive Emissions

A fuel material location for natural gas has been added as Source ID FML01.

The requirements of 40 CFR 60, Subpart RR and 25 Pa. Code § 129.52 have been moved from Section C, of the SOOP, to Section D, of the SOOP, where applicable.

The stack testing requirement for the catalytic oxidizer has been modified such that the only pollutant required to be tested for is VOCs.

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

**22-03053: ConAgra Foods, Inc.** (99 2nd Street, Highspire, PA 17034-1005) for operation of a flour mill in Highspire Borough, **Dauphin County**. This is a renewal of the State-only operating permit.

**31-03002: New Enterprise Stone and Lime Co., Inc.** (P. O. Box 77, New Enterprise, PA 16664-0077) on April 8, 2008, to operate a limestone crushing plant in Spruce Creek Township, **Huntingdon County**.

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

**65-00599: St. Vincent College—Latrobe Campus** (300 Fraser Purchase Road, Latrobe, PA 15650-2667) on April 4, 2008, to operate two dual fired (coal and natural gas) boilers at their Latrobe Campus in Latrobe, **Westmoreland County**. Emissions from the facility are all below criteria pollutant thresholds.

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

**27-00019: Department of Corrections—SCI at Forest** (1 Woodland Drive, Marienville, PA 16239) on April 3, 2008, the Department re-issued a Natural Minor Operating Permit for their facility in Jenks Township, **Forest County**. The facility's primary emissions are from the four boilers used to provide comfort heat and hot water to the facility.

**33-00116: PW Hardwood, LLC** (11424, Route 36, Brookville, PA 15825) on April 9, 2008, for a re-issuance of a Natural Minor Permit to operate a sawmill, planing equipment and drying kilns in Rose Township, **Jefferson County**. The significant sources are wood burning boilers two, natural gas fired boiler, 200 HP Boiler, grinder, planing operation, eight wood drying kilns with two predryers, edger-grading shed and parts washer. The facility is natural minor because the emission of the pollutants is less than Title V threshold.

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

**N07-002: General Electric International, Inc., Philadelphia Service Center** (1040 East Erie Avenue, Philadelphia, PA 19124) for repair of industrial transformers, retrofitting and refilling of railroad transformers, large motor repair and rental of energy producing and HVAC equipment City of Philadelphia, **Philadelphia County**. The facility's air emission sources include three paint booths, rail bay open coating, surface coating operations outside paint booths for a motor generator department, nine particulate sources, eight combustion units each rated at less than 2 mmBtu/hr and two cold cleaning degreaser. The facility's air emission control devices include two dust collectors, a cyclone and surface coating filters for particulate capture.

**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.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.*

**46-0024D: McNeil Consumer and Specialty Pharmaceuticals** (7050 Camp Hill Road, Fort Washington, PA 19034) on April 15, 2008, for operation of a 25 mmBtu/hr Johnston Boiler No. 3 (Source ID B07) and the permanent shutdown of a 12.5 mmBtu/hr Superior Boiler No. 3 (Source ID B04) at their facility in Whitemarsh Township, **Montgomery County**. The facility is a non-Title V facility with site-wide emission limits for applicable criteria air pollutants. This boiler is subject to 40 CFR Part 60 Subpart Dc—Standards of Performance (NSPS) for Small Industrial-Commercial-Institutional Stream Generating Units. This unit is equipped with low NOx burner and flue gas recirculation to control emissions of NOx. The Operating Permit contains additional recordkeeping and operating restrictions 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.*

**17-00053: Nydree, LLC** (1191 Venture Drive, Forest, VA 24551) on April 8, 2008, in accordance with the administrative amendment requirements of 25 Pa. Code § 127.450, to transfer the permit from Prism Enterprises,

LLC, d/b/a Permagrain, to Nydree, LLC in Karthaus Township, **Clearfield County**.

**Operating Permits Denied, Terminated, Suspended or Revoked under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.431 and 127.461.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Janine Tulloch-Reid, Facilities Permitting Chief, (484) 250-5920.*

**46-00135: Remney—The Pallet Company** (3090 Wentling Schoolhouse Road, East Greenville, PA 18041) on April 10, 2008, the operating permit has been revoked as the facility has ceased operation on October 9, 2007 in Upper Hanover Township, **Montgomery County**.

**15-00116: E.I. Dupont de Nemours and Co.** (500 Eagleview Boulevard, Exton, PA 19341) on April 10, 2008, the operating permit has been withdrawn as the facility satisfies the exemption criteria for an operating permit in Uwchlan Township, **Chester 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.*

**Permit Number 03861601 and NPDES Permit No. PA0215449, McVile Mining Company**, (301 Market Street, Kittanning, PA 16201), to renew the permit for the McVile Coal Preparation Plant in South Buffalo Township, **Armstrong County** and related NPDES permit. No additional discharges. Application received October 10, 2007. Permit issued April 9, 2008

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

**03010103 and NPDES Permit No. 0202991. Rosebud Mining Company** (301 Market Street, Kittanning, PA 16201). Renewal permit for continued mining and reclamation of an existing bituminous surface mine, located in Kiskiminetas and Conemaugh Townships, **Armstrong and Indiana Counties**, affecting 145.6 acres. Receiving streams: UNT to Long Run and Sulpher Run to the Kiskiminetas River. Renewal application received January 31, 2008. Renewal permit issued April 11, 2008.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**14960101 and NPDES No. PA0220388. River Hill Coal Company, Inc.** (P. O. Box 141, Kylertown, PA 16847), permit renewal for the continued operation and restoration of a bituminous surface mine in Snow Shoe Township, **Centre County**, affecting 48.5 acres. Receiving streams: (1) UNTs to Black Moshannon Creek; (2) UNTs to North Fork of Beech Creek, classified for the following uses: (1) HQ-CWF; (2) CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 21, 2007. Permit renewed March 18, 2008.

**17070114 and NPDES No. PA0256633. AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650). Commencement, operation and restoration of a bituminous surface mine in Girard Township, **Clearfield County**, affecting 119.4 acres. Receiving streams: Bald Hill Run to UNTs to Bald Hill Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 10, 2007. Permit issued April 7, 2008.

**17030111 and NPDES No. PA0243558. AMFIRE Mining Co., LLC** (One Energy Place, Latrobe, PA 15650), permit renewal for the continued operation and restoration of a bituminous surface mine in Decatur/Boggs Townships, **Clearfield County**, affecting 52.5 acres. Receiving stream: UNTs to Little Laurel Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received February 12, 2008. Permit issued April 4, 2008.

**17870129 and NPDES No. PA0116190. Sky Haven Coal, Inc.** (5510 State Park Road, Penfield, PA 15849), renewal and revision of an existing bituminous surface mine to correct Insignificant Boundary in Morris Township, **Clearfield County**, affecting 498.3 acres. Receiving streams: Emigh Run to Moshannon Creek and UNT to Laurel Run to Moshannon Creek to West Branch Susquehanna River, classified for the following uses: CWF and WWF. There are no potable water supply intakes within 10 miles downstream. Application received January 17, 2008. Revision withdrawn April 3, 2008. Renewal issued April 3, 2008.

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

**35970201R2. APHC II, Inc.**, (148 Adams Avenue, Scranton, PA 18503), renewal of an existing anthracite coal refuse reprocessing operation in the City of Scranton, **Lackawanna County** affecting 26.8 acres, receiving stream: none. Application received June 18, 2007. Renewal issued April 9, 2008.

*Noncoal Permits Actions*

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

**Permit No. 4273SM2 and NPDES Permit No. PA0212547. H. B. Mellott Estate, Inc.**, 100 Mellott Drive, Suite 100, Warfordsburg, PA 17267, renewal of NPDES permit, Bethel Township, **Fulton County**. Receiving streams: UNT to Tonoloway Creek classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received January 30, 2008. Permit issued April 7, 2008.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*



**08070806. Timothy Mark McGavin** (R. R. 4, Box 4050, Meshoppen, PA 18630), commencement, operation and restoration of a bluestone quarry operation in Tuscarora Township, **Bradford County**, affecting 3.0 acres. Receiving streams: UNT to Little Tuscarora Creek. Application received June 27, 2007. Permit issued March 21, 2008.

**17072801. Sky Haven Coal, Inc.** (5510 State Park Road, Penfield, PA 15849), commencement, operation and restoration of a topsoil and shale quarry operation in Lawrence Township, **Clearfield County**, affecting 6.0 acres. Receiving streams: UNT to West Branch Susquehanna River, tributary to Susquehanna River. Application received July 23, 2007. Permit issued March 21, 2008.

**08980817. Upham Farms** (HC 34, Box 20, LeRaysville, PA 18829), transfer of an existing bluestone quarry permit from Charles E. Johnson (R. R. 1, Box 250-A, Towanda, PA 18848). The site is located in Pike Township, **Bradford County** and affects 3.0 acres. Receiving streams: William Creek, Gaylord Creek. Application received October 4, 2007. Permit issued March 24, 2008.

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

**64072807. Keystone Bluestone, Inc.**, (214 Exchange Street, Susquehanna, PA 18847), commencement, operation and restoration of a quarry operation in Scott Township, **Wayne County** affecting 5.0 acres, receiving stream: none. Application received July 10, 2007. Permit issued April 8, 2008.

**58070844. Keith M. Wiseman**, (1015 Stanton Road, Wilmington, DE 19808), commencement, operation and restoration of a quarry operation in Liberty Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received July 13, 2007. Permit issued April 8, 2008.

**58070857. Jeffrey A. Gunn**, (R. R. 2, Box 2632, Hallstead, PA 18822), commencement, operation and restoration of a quarry operation in Harford Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received October 11, 2007. Permit issued April 8, 2008.

**58070870. Edward M. Cox, Jr.**, (R. R. 3, Box 161, Montrose, PA 18801), commencement, operation and restoration of a quarry operation in Harmony Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received December 7, 2007. Permit issued April 9, 2008.

**58080812. Gary D. Wood**, (R. R. 4, Box 225, Montrose, PA 18801), commencement, operation and restoration of a quarry operation in Dimock Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received February 4, 2008. Permit issued April 9, 2008.

**58070865. James W. Donahue and Jonathan W. Weaver**, (R. R. 2, Box 766, Susquehanna, PA 18847), commencement, operation and restoration of a quarry operation in Rush Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received November 1, 2007. Permit issued April 10, 2008.

## ACTIONS ON BLASTING ACTIVITY APPLICATIONS

**Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151–161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

### *Blasting Permits Actions*

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

**21084117. Newville Construction Services, Inc.**, 408 Mohawk Road, Newville, PA 17241-9424, blasting activity permit issued for pool/pond development in Silver Spring Township, **Cumberland County**. Blasting activity permit end date is March 30, 2009. Permit issued March 31, 2008.

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

**36084140. Keystone Blasting Service**, (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for Homestead Investments in Clay Township, **Lancaster County** with an expiration date of June 30, 2008. Permit issued April 7, 2008.

**36084141. Warren's Excavating & Drilling, Inc.**, (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for utilities on Sun Valley Drive in Mt. Joy Township, **Lancaster County** with an expiration date of April 1, 2008. Permit issued April 7, 2008.

**36084142. Warren's Excavating & Drilling, Inc.**, (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for The Crossing at Rocky Springs in West Lampeter Township, **Lancaster County** with an expiration date of April 1, 2009. Permit issued April 7, 2008.

**38084107. Warren's Excavating & Drilling, Inc.**, (P. O. Box 1022, Honey Brook, PA 19344), construction blasting at 102 Fairview Circle in West Cornwall Township, **Lebanon County** with an expiration date of April 1, 2009. Permit issued April 7, 2008.

**48084105. Silver Valley Drilling & Blasting, Inc.**, (HCR 1 702, Route 209N), construction blasting for Prologics Park in Lower Nazareth Township, **Northampton County** with an expiration date of April 15, 2009. Permit issued April 7, 2008.

**51084101. Ed Wean Drilling & Blasting, Inc.**, (112 Ravine Road, Stewartsville, NJ 08886), construction blasting for Dobson Run Tunnel Shaft in the City of Philadelphia, **Philadelphia County** with an expiration date of February 4, 2009. Permit issued April 7, 2008.

**52084104. Hayduk Enterprises, Inc.**, (257 Riverside Drive, Factoryville, PA 18419), construction blasting for Hemlock Farms Development in Porter, Dingman and Blooming Grove Townships, **Pike County** with an expiration date of April 30, 2009. Permit issued April 7, 2008.

**09084104. Eastern Blasting Co., Inc.**, (1292 Street Road, New Hope, PA 18938), construction blasting for Steskal Tract in Richland Township, **Bucks County** with an expiration date of April 5, 2009. Permit issued April 8, 2008.

**45084115. Hayduk Enterprises, Inc.**, (257 Riverside Drive, Factoryville, PA 18419), construction blasting for

Greenwood Acres in Tunkhannock Township, **Monroe County** with an expiration date of April 30, 2009. Permit issued April 8, 2008.

**52084105. Hayduk Enterprises, Inc.**, (257 Riverside Drive, Factoryville, PA 18419), construction blasting for Pocono Ranch Lands in Lehman Township, **Pike County** with an expiration date of April 30, 2009. Permit issued April 8, 2008.

**36084143. Keystone Blasting Service**, (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Homestead Investments in Clay Township, **Lancaster County** with an expiration date of June 30, 2008. Permit issued April 9, 2008.

**54084104. Warren's Excavating & Drilling, Inc.** (P. O. Box 1022, Honey Brook, PA 19344), construction blasting at the High Ridge Industrial Park in Cass Township, **Schuylkill County** with an expiration date of April 1, 2009. Permit issued April 9, 2008.

**36084144. Warren's Excavating & Drilling, Inc.**, (P. O. Box 1022, Honey Brook, PA 19344), construction blasting for the Village Square Commons in East Donegal Township, **Lancaster County** with an expiration date of April 1, 2009. Permit issued April 10, 2008.

**36084147. Keystone Blasting Service**, (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for a single dwelling in West Earl Township, **Lancaster County** with an expiration date of June 30, 2008. Permit issued April 10, 2008.

**38074108. Brubacher Excavating, Inc.**, (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Bycrete Expansion in Jackson Township, **Lebanon County** with an expiration date of March 31, 2009. Permit issued April 10, 2008.

#### ABANDONED MINE RECLAMATION

*Cambria Office: 286 Industrial Park Road, Ebensburg, PA 15931-4119, (814) 472-1800.*

Bond Forfeiture	
Contract Awarded	DMF 016-101.1
Location	Huston Township <b>Clearfield County</b>
Description	<b>Bark Camp Stream Enclosure Removal Project</b> Gobbler Knob South Mining Permit No. 268M016
Contractor	Berner Construction, Inc. 1101 Quarry Road Gap, PA 17527
Amount	\$204,359.00
Date of Award	April 4, 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.

#### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E15-781. West Whiteland Township**, 222 North Pottstown Pike, Exton, PA 19341, West Whiteland Township, **Chester County**, ACOE Philadelphia District.

To construct and maintain a new pedestrian bridge required to connect an existing sidewalk along eastbound culvert of Lincoln Highway over Valley Creek (CWF-MF). The new 60-foot span bridge is 8.0 feet wide. The low chord of the new bridge is located above the FEMA 100-year flood plain elevation.

The site is located approximately 200 feet southwest of the intersection of Exton Square Parkway and Lincoln Highway (Downingtown, PA, USGS Quadrangle N: 5.1 inches; W: 0.1 inch).

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

**E01-279: TimBar Packaging and Display Corporation**, 148 North Penn Street, Hanover, PA 17331, New Oxford Borough, **Adams County**, ACOE Baltimore District.

To place and maintain fill in 0.11 acre of Palustrine Forested (PFO) wetland within the watershed of a UNT to the South Branch Conewago Creek (WWF) (McSherrystown, PA Quadrangle N: 20.3 inches; W: 8.5 inches, Latitude: 39° 51' 42"; Longitude: 77° 03' 38"), for the purpose of constructing a parking lot and associated loading dock for the expansion of Timbar Corporation, east of the South College Street and Stone Road intersection in New Oxford Borough, Adams County. The applicant will provide 0.22 acre of replacement wetland onsite.

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

**E02-1578. North Fayette Township**, 400 North Branch Road, Oakdale, PA 15071. To construct a culvert in North Fayette Township, **Allegheny County**, Pittsburgh ACOE District (Clinton, PA Quadrangle N: 9.3 inches; W: 1.1 inches, Latitude: 40° 25' 34"; Longitude: 80° 15' 28). To construct and maintain a 48 inch diameter culvert (depressed 6.0 inches below the natural stream bed) approximately 80.0 feet in length in a UNT to Half Crown Run (WWF) to provide access to the Yard Waste Compost Site. The project is located on the north side of Kelso Road, approximately 3,500.0 feet north from the intersection of Kelso and Patridge Roads and will impact approximately 80.0 linear feet of stream channel.

**E32-477. LMC Enterprises and Heritage Oaks, LP** 1 Highpoint Place, P. O. Box 399, Indiana, PA 15701-3251. To place and maintain fill in wetlands in White Township, **Indiana County**, Pittsburgh ACOE District (Indiana, PA Quadrangle N: 22.4"; W: 7.9", Latitude: 40° 37' 23"; Longitude: 79° 11' 00"). To place and maintain fill in 0.19 acre of wetlands in the McCarthy Run Watershed and to place and maintain fill in approximately 400 feet of a UNT to McCarty Run (CWF) for the purpose of constructing two office/apartment buildings. The project is located at the eastern corner of Philadelphia Street and Heritage Run Road. To compensate for the stream impacts the applicant shall provide approximately 400 feet of stream mitigation located approximately 500 feet downstream of the project area in a UNT to McCarthy Run (CWF). To compensate for the wetland impacts, the applicant has made a payment to the Wetland Replacement Fund.

**E63-594. Tanger Properties Limited Partnership**, Greensboro, NC 27408-7616. To widen SR 1041 and add a ramp to Interstate 79 in North and South Strabane Townships, **Washington County**, Pittsburgh ACOE District (Washington East, PA Quadrangle N: 17.00 inches; W: 6.0 inches, Latitude: 40° 13' 30"; Longitude: 80° 12' 50"). To construct and maintain a 25' extension to an existing 98' long concrete box culvert (with 15' of wing wall and 9' of rip-rap scour protection), a 31' extension and 60' of outlet protection to an existing 320' elliptical plate culvert and to extend an existing 131' long culvert 13' upstream (with a 14' wing wall and 5' of rip-rap inlet protection) and 11' downstream (with 9' of wing wall and 6' of rip-rap scour protection), all on a UNT to Chartiers Creek (WWF) and to remove the existing structure and to construct and maintain a 46.5' wide bridge having a single 70' span and including 49' of wing wall and scour

protection, over Chartiers Creek (WWF), to install 96' of storm drain, to place and maintain fill and excavate rock basins in the floodplain of a UNT to Chartiers Creek and to place fill in approximately 0.03 acre of wetland (PEM) for the purpose of widening SR 1041 (Racetrack Road) and adding a ramp to Interstate 79 in North Strabane and South Strabane Townships, **Washington County**. To compensate for the unavoidable impacts to wetlands, the permittee has made a contribution to the Pennsylvania Wetlands Replacement Project.

**E65-445-A1. Toro Development Company**, 100 Sandune Drive, Pittsburgh, PA 15232. To construct two road crossings in the Municipality or Murrysville, **Westmoreland County**, Pittsburgh ACOE District (Murrysville, PA Quadrangle N: 20.2 inches; W: 10.0 inches, Latitude: 40° 29' 08"; Longitude: 79° 41' 49"). To operate and maintain the existing 60-inch diameter stream enclosure 340.0 feet in length, to construct and maintain two road crossings consisting of a bottomless arch culvert 86.0 feet in length having a span of 9.6 feet with an underclearance of 4.1 feet and an arch culvert 105.0 feet in length having a span of 9.6 feet with an underclearance of 4.1 feet in a UNT to Humm's Run (TSF) and to place and maintain fill in an deminimis area of wetlands (<0.01 acres) for the purpose of expanding and providing access to the existing Murry Ridge Corporate Center. The project is located on the south side of Golden Mile Highway (SR 286) just south from the intersection of Golden Mile Highway (SR 286), just south from the intersection of Golden Mile Highway (SR 286) and Logan Ferry Road.

#### ENVIRONMENTAL ASSESSMENTS

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.*

**D15-119EA. Willistown Township**, 688 Sugartown Road, Malvern, PA 19355. Willistown Township, **Chester County**, ACOE Philadelphia District. Project proposes to breach and remove Okehocking Dam across Ridley Creek (HQ-TSF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 750 lineal feet of stream channel. The dam is located approximately 5,000 feet northeast of the intersection of West Chester Pike (SR 003) and Garrett Mill Road (Media, PA Quadrangle Latitude: 39° 58' 05"; Longitude: 75° 29' 00").

## 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>
08-36-003	Richland Partners, LLC d/b/a Leffler Energy P. O. Box 659 Douglassville, PA 19518 Attn: Barry D. Miller	Lancaster	Mount Joy Township	3 ASTs storing Petroleum Products	60,000 gallons total

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**SPECIAL NOTICES**


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*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

Department Received **NPDES No. PAI-2318-08-001**

PA Game Commission  
15 South Route 44 Highway  
P. O. Box 5038  
Jersey Shore, PA

For earth disturbance during reclamation of an abandoned bituminous surface mine in West Keating Township, **Clinton County**, affecting 111.0 acres. Receiving streams: Little Birch Island Run and Sugar Camp Run, tributaries to West Branch Susquehanna River; classified for the following use: HQ-CWF. Application received February 19, 2008.

**Request for Comment and Notice of Public Meeting  
For the Proposed Total Maximum Daily Load  
(TMDL) for Craig Run Watershed in  
Armstrong and Indiana Counties**

*Greensburg District Mining Office: Armbrust Building, 8205 Route 819, Greensburg, PA 15601.*

The Department of Environmental Protection (Department) is holding a public meeting on May 28, 2008, beginning at 2 p.m. at the Greensburg District Office in Greensburg, PA to discuss and accept comments on a proposed TMDL. The proposed TMDL was established in accordance with the requirements of the 1996 Section 303(d) of The Clean Water Act. One stream segment in the Craig Run Watershed has been identified as impaired on the 1996 Pennsylvania 303(d) list due to high concentrations of metals; additional segments were identified in 1998, 2002, 2004 and 2006. The listed segment and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
46415	Craig Run	1.0

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—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the 20th century. The effects of this are still present. The TMDL consists of load allocations, which are made to nonpoint sources of pollution and waste load allocations, which are made to permitted point sources.

The TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a dataset based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals, sediment and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected throughout 2005 and 2006.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Scott Bradley at (724) 925-5519 between 8 a.m. and 3 p.m., Monday through Friday, at Greensburg District Mining Office, Armbrust Building, 8205 Route 819, Greensburg, PA 15601. E-mail will be received at [sbradley@state.pa.us](mailto:sbradley@state.pa.us). Directions to the meeting place can also be obtained through this contact.

The proposed 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 June 26, 2008. Persons who plan to make a presentation at the public meeting should notify the Department no later than 3 p.m. Friday, May 23rd. The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval.

**Request for Comment and Notice of Public Meeting  
For the Proposed Total Maximum Daily Load  
(TMDL) for Fallen Timber Run Watershed in  
Allegheny County**

*Greensburg District Mining Office: Armbrust Building, 8205 Route 819, Greensburg, PA 15601.*

The Department of Environmental Protection (Department) is holding a public meeting on May 28, 2008 beginning at 1 p.m. at the Greensburg District Office in Greensburg, PA to discuss and accept comments on a proposed TMDL. The proposed TMDL was established in accordance with the requirements of the 1996 Section 303(d) of The Clean Water Act. One stream segment in the Fallen Timber Run Watershed has been identified as impaired on the 1996 Pennsylvania 303(d) list due to high concentrations of metals; additional segments were identified in 1998, 2002, 2004 and 2006. The listed segment and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
39537	Fallen Timber Run	4.41

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—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the 20th century. The effects of this are still present. The TMDL consists of load allocations, which are made to nonpoint sources of pollution and waste load allocations, which are made to permitted point sources.

The TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a dataset based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals, sediment and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected throughout 2006 and 2007.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Scott Bradley at (724) 925-5519 between 8 a.m. and 3 p.m., Monday through Friday, at Greensburg District Mining Office, Armbrust Building, 8205 Route 819, Greensburg, PA 15601. E-mail will be received at scbradley@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 June 26, 2008. Persons who plan to make a presentation at the public meeting should notify the Department no later than 3 p.m. Friday, May 23rd. The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval.

**Request for Comments and  
Notice of Public Meeting for the  
Proposed Total Maximum Daily Loads  
(TMDLs) Developed for the Harbridge  
Run Watershed**

The Department of Environmental Protection (Department) is holding a public meeting on May 28, 2008, at 11 a.m., at Greensburg District Mining Office, Armbrust Building, 8205 Route 819, Greensburg, PA. The purpose of the meeting is to discuss and accept comments on the proposed TMDLs developed for the Harbridge Run Watershed in Westmoreland County. In accordance with the requirements of Section 303(d) of The Clean Water Act, stream segments in Harbridge Run have been identified as impaired due to siltation from abandoned mining activities.

The proposed TMDLs set allowable loadings for sediment in Harbridge Run in order for the stream to meet water quality standards. The TMDLs set allowable loading rates for metals and sediment at specified points in the watersheds. All of the allocations made in these TMDLs are load allocations made to nonpoint sources of pollution.

The data and all supporting documentation used to develop the proposed TMDLs are available from the Department. The proposed TMDL and information on the TMDL program can be viewed on the Department's web site at [www.dep.state.pa.us](http://www.dep.state.pa.us) (Keyword: TMDL). To request a copy of any of the TMDLs, contact Tom Kovalchuk, Armbrust Building, 8205 Route 819, Greensburg, PA, at (724) 925-5520 or [tkovalchuk@state.pa.us](mailto:tkovalchuk@state.pa.us).

Written comments will be accepted at the previous address and must be postmarked no later than 60 days from the date of this bulletin notice. The Department will

consider all comments in developing the final TMDL, which will be submitted to U.S. Environmental Protection Agency for approval.

[Pa.B. Doc. No. 08-797. Filed for public inspection April 25, 2008, 9:00 a.m.]

**Bid Opportunity**

**DMF 013-139.1, Mine Drainage Control Project, Doverspike Brothers Coal Company, Dora 6, Perry Township, Jefferson County.** The principal items of work and approximate quantities include 1,700 linear feet of Directional Drilling, 275 linear feet of 8 inch diameter Stainless Steel Collar Pipe, four 8 inch Stainless Steel Ball Valves, 1,500 linear feet of 4 inch diameter High Density Polyethylene Pipe, two Venturi-Style Aerators, 9,600 cubic yards of Grading, 1,000 linear feet of PVC Vent Pipe, 1,940 square yards of Impervious Lining (PVC), 500 linear feet of 12 inch diameter PVC Pipe, 1,030 linear feet of Chain Link Fence and 1.2 acres of seeding. This project also includes Floating Baffles with Curtain, Inlet Water Level Control Structure and Stilling Well and Outfall Structure. This project issues on April 25, 2008, and bids will be opened on May 29, 2008, at 2 p.m. Bid documents cost \$10 per set and will not be mailed until payment has been received. Contact the Construction Contracts Section at (717) 787-7820 or [joelmiller@state.pa.us](mailto:joelmiller@state.pa.us) for more information on this bid.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 08-798. Filed for public inspection April 25, 2008, 9:00 a.m.]

**Solar Workgroup Meeting**

The Solar Workgroup will hold a meeting on May 1, 2008, at 10 a.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The Solar Workgroup consists of members from the solar industry and local government officials. The purpose of the meeting is to provide a forum for the industry members and local government officials to discuss potential issues that may arise as solar installations become more prevalent Statewide. The meeting will stimulate information sharing and possible development of tools and resources to facilitate the deployment of solar installations.

The agenda and materials for the May 1, 2008, meeting will be available at the meeting. Questions concerning this meeting should be directed to Libby Dodson, Office of Energy and Technology Deployment, Division of Energy Promotion, 400 Market Street, Harrisburg, PA 17101, (717) 772-8907, [ldodson@state.pa.us](mailto:ldodson@state.pa.us).

Persons with a disability who require accommodations to attend the May 1, 2008, meeting of the Solar Workgroup should contact Libby Dodson directly at (717) 772-8907 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department of Environmental Protection may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 08-799. Filed for public inspection April 25, 2008, 9:00 a.m.]

## United States Nuclear Regulatory Commission and the Commonwealth; Notice of Agreement

Effective March 31, 2008, the Commonwealth entered into an Agreement with the United States Nuclear Regulatory Commission (NRC) to assume regulatory authority over certain radioactive materials in the Commonwealth. Under the Agreement, as authorized by the Federal Atomic Energy Act of 1954 and State Radiation Protection Act of 1984 (35 P. S. §§ 7110.101—7110.703), the NRC transferred to the Commonwealth the responsibility for licensing, rulemaking, inspection and enforcement activities for: (1) radioactive byproduct materials produced as a result of processes related to the production or utilization of special nuclear material (SNM); (2) uranium and thorium source materials; (3) SNM in quantities not sufficient to form a critical mass; and (4) accelerator-produced or other radioactive materials under NRC jurisdiction as provided by the Energy Policy Act of 2005.

Approximately 700 licenses, mostly for medical and industrial uses of radioactive material, were transferred to the Commonwealth's jurisdiction under the Agreement. The Department of Environmental Protection (Department), Bureau of Radiation Protection is the lead program administrator for the Commonwealth under the Agreement. The NRC will retain jurisdiction over regulation of commercial nuclear power reactors, uranium enrichment facilities, research reactors, uranium mill tailings, import or export of radioactive material, licensing for ocean disposal of low-level radioactive waste and Federal facilities using radioactive materials in the State. In addition, NRC will retain authority for the review, evaluation and approval of certain sealed sources and devices containing radioactive materials manufactured in the State and distributed throughout the country.

In response to the Commonwealth's application for Agreement Status, the NRC reviewed the Commonwealth's radiation control program to ensure it was adequate to protect public health and safety and was compatible with the NRC's program for regulating the radioactive materials covered in the Agreement. A notice announcing the NRC's proposed Agreement with the Commonwealth was published for public comment in the *Federal Register* on June 18, 2007 (72 FR 33541), June 25, 2007 (72 FR 34728), July 2, 2007 (72 FR 36069) and July 9, 2007 (72 FR 37268). During the public comment period, which concluded on July 18, 2007, the NRC received input from two individuals on the proposal; however, the comments did not contain any new information to change the NRC's analysis of the integrity and adequacy of the Commonwealth's radiation control program.

For further information concerning the Agreement, visit the Department's web site at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keyword: Radiation Protection) or contact Ben Seiber, Bureau of Radiation Protection at (717) 787-2480, [bseiber@state.pa.us](mailto:bseiber@state.pa.us).

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 08-800. Filed for public inspection April 25, 2008, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Application of Central Penn Endoscopy Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Central Penn Endoscopy Center has requested an exception to the requirement of 28 Pa. Code § 569.35 (relating to general safety precautions).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, [paexcept@health.state.pa.us](mailto:paexcept@health.state.pa.us).

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 08-801. Filed for public inspection April 25, 2008, 9:00 a.m.]

### Application of Main Line Hospitals—Lankenau for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Main Line Hospitals—Lankenau has requested an exception to the requirement of 28 Pa. Code § 123.25(2) (relating to regulations for control of anesthetic explosion hazards).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, [paexcept@health.state.pa.us](mailto:paexcept@health.state.pa.us).

The facility is requesting a waiver of the comment period, as set forth in 28 Pa. Code § 51.33(c).

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M. D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 08-802. Filed for public inspection April 25, 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 § 205.28(c)(3) (relating to nurses' station).

The Kepler Home, Inc.  
44 South Main Street  
Elizabethville, PA 17023

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.36(h) (relating to bathing facilities).

Sayre House, Inc.  
1001 North Elmer Avenue  
Sayre, PA 18840

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.67(k) (relating to electric requirements for existing and new construction).

Phoebe Berks Health Care Center, Inc.  
1 Heidelberg Drive  
Wernersville, PA 19565

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 wish 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).

CALVIN B. JOHNSON, M. D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 08-803. Filed for public inspection April 25, 2008, 9:00 a.m.]

### Notice of EMSOF Funding Priorities

Under 28 Pa. Code §§ 1001.22 and 1001.23 (relating to criteria for funding; and allocation of funds), the Department of Health (Department) gives notice of priorities for the distribution by the regional emergency medical services (EMS) councils of funding from the Emergency Medical Services Operating Fund (EMSOF) for the fiscal year beginning July 1, 2008, and ending June 30, 2009.

EMSOF moneys are to be used to provide funding to maintain, improve and develop the quality of the EMS system within this Commonwealth. The Department finds that EMSOF is not sufficient to fully fund the EMS system. Therefore, it gives notice, under 28 Pa. Code § 1001.22(d), that recipients of EMSOF funding from regional EMS councils may be required to contribute

funds toward all purchases, acquisitions and projects for which the Department permits the use of EMSOF moneys.

Each regional EMS council shall prioritize the distribution of its EMSOF allocation based upon the Statewide EMS Development Plan and its regional EMS development plan, subject to the funding priorities set forth in this notice. By October 30, 2008, the regional EMS councils shall notify the providers and other appropriate entities of the established funding priorities, the application process, acquisition documentation requirements and processing deadlines. Each regional EMS council must complete all documents required for the distribution of EMSOF funding by June 30, 2009.

The Department may increase the amount of the initial payment or reimbursement from EMSOF based upon the EMS development plans (State and regional) or documented financial hardship of a provider of EMS. A provider of EMS that seeks additional funds due to financial hardship shall be required to submit a financial disclosure statement and other documentation deemed necessary by the Department.

A provider of EMS applying for EMSOF funding must be in full compliance with all regulations, policies and priorities of the State and regional EMS systems.

Funds for purchases, acquisitions and projects for the fiscal year beginning July 1, 2008, and ending June 30, 2009, must be expended by the regional EMS council by June 30, 2009, unless a written request for an extension of time, not to exceed 90 calendar days, is submitted by the regional EMS council and approved by the Department prior to June 30, 2009.

#### *Funding Priorities:*

These priorities are not ranked. The priorities must be considered before there is any regional distribution of EMSOF moneys for initiatives that are not listed. All funding must be distributed consistent with the regional and Statewide EMS development plans. Consequently, if the priorities in this notice have been funded and additional funding is available, the request to use EMSOF money towards nonpriority items must still be supported by the Statewide and regional EMS development plans.

- Development or improvement of an organizational risk management program (safety measures, hazard recognition/mitigation and the necessary organizational structure and support processes) proposed by an ambulance service. Proposals for funding must be comprehensive and include safe vehicle operations. Approval by the Department is required prior to funding.

- Recruitment and retention programs, including scholarships/tuition reimbursement for first responder (FR), emergency medical technician (EMT) and paramedic training in areas with high prehospital personnel vacancy rates as determined by the regional EMS council and approved by the Department.

- Equipment required to meet basic life support (BLS) and advanced life support (ALS) ambulance service licensure.

- Capnography equipment (especially wave-form end-tidal CO<sub>2</sub> monitors).

- An ambulance for ambulance services that is older than 10 years or has more than 200,000 miles on it. Limit to one per fiscal year.

- Software/computer equipment to enable services to collect and transmit EMS patient care reports electronically.

- Quality assurance/improvement program.
- EMS personnel protective respiratory equipment approved by the Department to protect the EMS practitioner from communicable diseases transmitted from person to person through airborne mechanisms.
- Costs associated with investigating a potential merger or consolidation of services. These costs include but are not limited to consulting fees, studies, legal fees, and statistical analysis.
- Costs associated with the actual merger or consolidation of services.
- Funding will be provided for the additional cost of reflective chevron markings on back of a new ambulance purchased by an ambulance service.

When two or more ambulance companies have consolidated, for the first 5 years after the ambulance companies completed consolidation the entity may be deemed eligible to receive funding not to exceed the amount of the combined total for which the individual companies would have been eligible had they not consolidated.

*Emergency Preparedness and Response Funding Requests*

Emergency preparedness and response funding requests must be based on local and response roles of services, regional needs, and needs identified by threat vulnerability analysis. Purchases must be coordinated with county emergency, fire service, HAZMAT and hospital organizations in the applicant's service area to assure interoperability and to prevent duplication. Funding requests related to response to all hazard and emergency preparedness must have a clear connection to the regional EMS catastrophic plan and the regional EMS development plan. Priority will be given to fund the ambulance services in each region that have committed to participating in the EMS strike team capability project and respond to requests for EMS, both interstate and intrastate, as identified in the State and regional mass casualty plans.

*Provider Equipment*

Purchases by providers of EMS are not limited to equipment. If an EMS provider requests EMSOF moneys to purchase equipment, the Eligible Provider Equipment List identifies equipment for which EMSOF funds will be made available to purchase. This chart identifies the types of providers of EMS eligible for equipment purchases supported by EMSOF funding and the maximum allowable cost upon which the EMSOF contribution will be calculated.

EMSOF funds will fund 60% of the maximum allowable cost of an equipment item for rural providers and will fund 50% of the maximum allowable cost of an equipment item for nonrural providers. An eligible provider is responsible for the balance of the purchase price. The provider may purchase an item for an amount that exceeds the maximum allowable cost, but the provider will be responsible for any amount exceeding that figure. The last two columns of the chart identify the percentage of EMSOF contribution towards the purchase price, up to the maximum allowable cost of the item, based upon whether the provider operates in a rural or nonrural area.

*Paramedic Examinations*

Funding may be provided to services to cover the cost of the State written test for paramedic certification taken by their personnel at 100% of the cost of two examination attempts up to a maximum allowable cost of \$300 per person.

Questions regarding the Eligible Provider Equipment List or other matter addressed in this notice should be directed to Joseph W. Schmider, Director, Bureau of Emergency Medical Services, Department of Health, 1032 Health and Welfare Building, Seventh and Forster Streets, Harrisburg, PA 17120, (717) 787-8740. Speech or hearing impaired persons may use VTT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984. Persons with a disability who require an alternative format of this notice (for example, large print, audiotape, Braille) should contact Joseph W. Schmider at the previously listed address or telephone numbers.

**ELIGIBLE PROVIDER EQUIPMENT LIST**

EQUIPMENT DESCRIPTION	LIFE EXPECTANCY	ELIGIBLE PURCHASE FOR:				ALLOWABLE COSTS <sup>1</sup>	NON	RURAL
		ALS	ALS/SQ	BLS	QRS		(50%)	(60%)
EKG Monitor/Defibrillator with Pacer	5 years	Y	Y	N	N	12,000	6,000	7,200
12 Lead EKG <sup>2</sup>	5 years	Y	Y	N	N	20,000	10,000	12,000
Automated External Defibrillator (AED)	5 years	N	N	Y <sup>3</sup>	Y <sup>3</sup>	1,500	750	900
Oxygen Equipment (any combination) Cylinder Demand Valve w/Hose and Mask Regulator (combination or constant flow) Case	5 years	Y	Y	Y	Y	500	250	300
Capnography Equipment	3 years	Y	Y	N	N	3,000	1,500	1,800
CPAP Ventilation Portable Equipment	5 years	Y	Y	N	N	1,500	750	900
Pulse Oximeter	5 years	Y	Y	Y	N	700	350	420



EQUIPMENT DESCRIPTION	LIFE EXPECTANCY	ELIGIBLE PURCHASE FOR:				ALLOWABLE COSTS <sup>1</sup>	NON	RURAL
		ALS	ALS/SQ	BLS	QRS		(50%)	(60%)
Nitrous Oxide Delivery System	5 years	Y	Y	N	N	2,000	1,000	1,200
Intravenous Infusion Pumps	5 years	Y	Y	N	N	2,000	1,000	1,000
Adult /Pediatric Intubation Kits	5 years	Y <sup>8</sup>	Y <sup>8</sup>	N	N	600	300	360
Transtracheal Jet Insufflators (TTJ)	5 years	Y	Y	N	N	200	100	120
Splinting/Immobilization Devices (any combination) Backboard Cervical Immobilization Device Splints (rigid, traction, and the like)	3 years	Y	Y	Y	Y	500	250	300
Stairchair 300 lb capacity	3 years	Y	N	Y	N	2,000	1,000	1,200
Stairchair 500 lb capacity	5 years	Y	N	Y	N	2,650	1,325	1,590
Stretcher 300 lb capacity	5 years	Y	N	Y	N	4,000	2,000	2,400
Stretcher 700 lb capacity	5 years	Y	N	Y	N	11,500	5,750	6,900
Stretcher/Chair Combination	5 years	Y	N	Y	N	700	350	420
Suction (portable, battery operated)	3 years	Y	Y	Y	Y	900	450	540
Ventilator, Automatic (per Department of Health guidelines)	5 years	Y <sup>4</sup>	Y <sup>4</sup>	Y <sup>5</sup>	Y <sup>5</sup>	3,000	1,500	1,800
Ambulance with chevron marking on back of unit	—	Y	N	Y	N		15,000	20,000
Chevron	—	Y	Y	Y	Y	1,500	750	900
Squad/Response Vehicle with chevron marking on back of unit	—	N	Y	N	Y	—	7,500	9,000
Data Collection Software/technology <sup>6</sup>	—	Y	Y	Y	Y	1,700	850	1,020
Data Collection Hardware <sup>7</sup>	3 years	Y	Y	Y	Y	2,000	1,000	1,200
Radio, Mobile (two per vehicle)	5 years	Y <sup>9</sup>	Y <sup>9</sup>	Y <sup>9</sup>	Y <sup>9</sup>	5,000	2,500	3,000
Radio, Portable (one per vehicle per year)	5 years	Y <sup>9</sup>	Y <sup>9</sup>	Y <sup>9</sup>	Y <sup>9</sup>	5,000	2,500	3,000
Triage Vest with reflection stripes meeting ANSI national standards	5 years	Y	Y	Y	Y	150	75	90
Triage System	5 years	Y	Y	Y	Y	750	375	450
Alerting Equipment (5 per service @ \$400 each)	5 years	Y <sup>9</sup>	Y <sup>9</sup>	Y <sup>9</sup>	Y <sup>9</sup>	2,000	1,000	1,200
Vehicle Safety Monitoring Systems	5 years	Y	Y	Y	Y	3,500	1,750	2,100
Personal Protective Equipment/Turnout Gear: Helmet, Coat, Pants, Boots, Protection Vest meeting ANSI national standards (one set per provider) Respiratory Protection from communicable diseases	5 years	Y	Y	Y	Y	1,200	600	720
Protective Ballistic Vest	5 years	Y	Y	Y	Y	1,000	500	600

EQUIPMENT DESCRIPTION	LIFE EXPECTANCY	ELIGIBLE PURCHASE FOR:				ALLOWABLE COSTS <sup>1</sup>	NON RURAL (50%)	RURAL (60%)
		ALS	ALS/SQ	BLS	QRS			
Global Positioning System Receiver 1 per licensed Ambulance or recognized QRS vehicle	5 years	Y	Y	Y	Y	500	250	275
Traffic Safety Equipment	5 years	Y	Y	Y	Y	2,500	1,250	1,500
Large Patient Moving/Carrying Device	10 years	Y	Y	Y	Y	3,000	1,500	1,800
Self Contained Breathing Apparatus (2 per licensed vehicle)	10 years	Y	Y	Y	Y	3,000	1,500	1,800
EMT-P Testing (Written)	—	Y	Y	N	N	300	300	300

<sup>1</sup> All figures are dollar amounts for each item of equipment.

<sup>2</sup> Amount includes \$1,000 for communications package. Receiving facility must have appropriate communications capabilities.

<sup>3</sup> Must be an approved AED service or part of regional planning, and AED medical director required.

<sup>4</sup> Completion of approved training program required.

<sup>5</sup> Completion of approved training program required and BLS service medical director approval required.

<sup>6</sup> Must be a Department-approved software program, version and vendor.

<sup>7</sup> Data collection hardware may include computer, modem, printer, backup device, and battery system.

<sup>8</sup> Must be durable equipment, not disposable equipment.

<sup>9</sup> Must be compatible with regional and State EMS communications plan.

CALVIN B. JOHNSON, M. D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 08-804. Filed for public inspection April 25, 2008, 9:00 a.m.]

### Pennsylvania Cancer Control, Prevention and Research Advisory Board Meeting

The Pennsylvania Cancer Control, Prevention and Research Advisory Board, established under the Pennsylvania Cancer Control, Prevention and Research Act (35 P. S. § 5633), will hold a meeting on Wednesday, June 25, 2008, from 8:30 a.m. to 2 p.m., at the Dixon University Center, 2986 North Second Street, Harrisburg, PA 17110.

For additional information, contact Kathleen A. Zitka, Chief, Department of Health, Comprehensive Cancer Control Section, Room 1011, Health and Welfare Building, Harrisburg, PA at (717) 787-5251.

Persons with disabilities who wish to attend the meeting and requiring an auxiliary aid, service or other accommodation should contact Kathleen A. Zitka at (717) 787-5251 or for speech and/or hearing impaired persons at V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

This meeting is subject to cancellation without notice.

CALVIN B. JOHNSON, M. D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 08-805. Filed for public inspection April 25, 2008, 9:00 a.m.]

## HOUSING FINANCE AGENCY

### 2009 Low Income Housing Tax Credit Allocation Plan Public Hearing

The Housing Finance Agency (Agency), as the Administrator of the Federal Low Income Housing Tax Credit Program for the Commonwealth, provides notice of a public hearing to obtain public comment on the proposed 2009 Low Income Housing Tax Credit Allocation Plan. This public hearing will be held at 9 a.m. on Thursday, May 1, 2008, at the Housing Finance Agency, 211 North Front Street, Harrisburg, PA. Copies of the proposed allocation plan are available upon written request at the following address, by phone at (717) 780-3948 or through the Agency's web site at [www.phfa.org](http://www.phfa.org).

Persons with a disability and wish to attend this meeting and require an auxiliary aid, service or other accommodation to participate should contact the Secretary by Wednesday, April 30, 2008, to discuss how the Agency may best accommodate their needs.

Individuals wishing to comment on the plan but unable to attend the scheduled hearing are invited to provide written comments to the address shown no later than Wednesday, April 30, 2008, Manager, Tax Credit Program, Housing Finance Agency, P. O. Box 8029, Harrisburg, PA 17105-8029, TTY for hearing impaired (717) 780-1869.

Written comments must be submitted prior to the date of the scheduled hearing or at the public hearing. Persons

who plan to attend the public hearing should contact the Agency at (717) 780-3948.

BRIAN A. HUDSON,  
*Executive Director*

[Pa.B. Doc. No. 08-806. Filed for public inspection April 25, 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 Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
7-422	Environmental Quality Board Diesel Vehicle Idling; and Auxiliary Power Systems 38 Pa.B. 229 (January 12, 2008)	3/17/08	4/16/08

#### **Environmental Quality Board Regulation #7-422 (IRRC #2658)**

#### **Diesel Vehicle Idling; and Auxiliary Power Systems**

**April 16, 2008**

We submit for your consideration the following comments on the proposed rulemaking published in the January 12, 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 Environmental Quality Board (EQB) to respond to all comments received from us or any other source.

#### **1. General—Need; Reasonableness; Implementation procedures; Feasibility.**

##### *Compliance Assistance Plan*

The Preamble describes a Compliance Assistance Plan which will include an educational component to inform the regulated community about idling restrictions and the availability of financial assistance programs for the purchase or lease of mobile idling reduction equipment. We support this approach and request that, in the Preamble to the final-form regulation, the EQB provide detailed information on the scope of financial assistance programs available, the actual availability of the financial assistance, to whom the assistance is available and how to apply for the financial assistance.

##### *Need for the regulation*

In our conversations with the trucking industry, it is clear that the current cost of fuel is reducing idling substantially without regulation. The management of these companies is currently focused on the cost of fuel and reducing wasteful fuel consumption practices such as idling. Some are tracking the use of fuel by each indi-

vidual driver. In light of these cost driven changes, the EQB should explain why this regulation is needed.

##### *Identifying a violation*

At the core of this regulation is the simple concept of limiting idling to five minutes in an hour. This accomplishes an improvement to air quality by simply turning off an engine when it is not needed. However, the regulation is complicated regarding affected vehicles and exemptions. First, it is difficult to identify what vehicles are affected. The definition of "commercial motor vehicle" specifies a weight of vehicle affected but also includes factors unrelated to emissions, such as the number of passengers, compensation and transporting hazardous materials. Second, the undefined term "diesel-powered" is used in the body of the regulation in combination with "commercial motor vehicle." Third, after it is determined that the vehicle is a "diesel-powered commercial motor vehicle," a vehicle could be exempt based on several conditions including:

- Whether the vehicle is "model year 2007 or newer and exhibits a label" issued by the California Air Resources Board (CARB);
- Whether "the outside air temperature at the location of the vehicle is less than 40° F or greater than 75° F";
- Whether the vehicle "is parked at a location equipped with stationary idle reduction technology that is available for use";
- Whether idling is necessary for a vehicle "to operate work-related operations other than propulsion";
- Whether idling is necessary "to operate defrosters, heaters, air conditioners or cargo refrigeration equipment . . . to prevent a safety or health emergency and not for the purpose of a rest period"; and
- Whether there is a mechanical problem that qualifies for exemption.

While the exemptions are individually reasonable, taken in total, the regulation presents a complicated process both in determining what vehicles are affected and what exemptions may apply. The EQB should explain what alternatives it considered to limit idling and why this complicated regulatory scheme was chosen as the best way to limit idling and enforce its provisions to accomplish the stated goal to improve air quality.

#### *Uniformity between states*

The Preamble states:

Idling restrictions have been adopted by 14 states, the District of Columbia and many local jurisdictions, including this Commonwealth's two most populated urban areas, Philadelphia and Allegheny Counties. The Federal government does not regulate commercial highway diesel vehicle idling, and generally considers the regulation of these vehicles in use to be the prerogative of state government. In March 2006, recognizing that reducing unnecessary diesel vehicle idling would be a public health benefit and that a multiplicity of state and local rules was a "barrier to greater implementation of idling control technologies," the EPA released a model state idling law. (EPA Model State Idling Law, EPA420-S-06-001) The model was a result of five workshops across the country in which affected stakeholders participated.

In written comments provided on the regulation and in discussions with commentators, it is clear that the regulated community seeks a uniform regulation between states to ease compliance.

Unfortunately, while the EPA provided a framework with its Model State Idling Law, portions of the EPA's model cause concerns related to our criteria for determining whether a regulation is in the public interest. For example, see our comment on the definition of "commercial motor vehicle." (Issue 2 relating to Section 121.1) The EPA Model State Idling Law document says that this definition was reached by a consensus of stakeholders that recommended a weight classification to determine applicability. However, the EPA's definition includes factors extraneous to the weight of the vehicle and emissions, such as hauling hazardous materials. We further note that the exemptions included in the EQB's regulation differ in several instances from those in the EPA Model State Idling Law. The EQB should explain whether this regulation is consistent with the states that already have idling restrictions and particularly with neighboring states. The EQB should also explain whether it believes complete uniformity among states is being accomplished based on the EPA Model State Idling Law. If the requirements among states are not uniform, the EQB should explain what efforts it is making to coordinate development of a regulation that is as uniform as possible with other states.

#### *Enforcement*

The Preamble describes widespread vehicle idling in Pennsylvania. The Regulatory Analysis Form, Question (20a) states that vehicles idle in Pennsylvania to avoid idling restrictions in New York and New Jersey. While a compliance assistance plan may accomplish some degree of reduction, it is not clear how the regulation will be enforced to the degree needed to accomplish air quality improvement. As noted in these comments, Section 126.612(c)(2) makes a vague reference to an "other enforcing agency," but it is not clear what that is. Can the Department of Environmental Protection alone dedicate enough resources to enforce this regulation? Does the

EQB expect other law enforcement agencies to enforce idling restrictions among their other duties, particularly given the complicated process required to identify a violation? The EQB should explain how this regulation will be enforced to accomplish air quality improvement.

#### *Other exemptions*

Commentators requested several additional exemptions for unique and specific circumstances. Again, although overall the regulation is complicated, many exemptions are individually reasonable. If the EQB determines numerous exemptions are needed, it should also consider commentators' requests for exemptions in situations such as transportation of special needs children, public utility work in extreme weather, idling as part of the manufacturer operating requirements and periodic stops required for waste collection.

## **2. Section 121.1. Definitions.—Reasonableness; Need; Clarity.**

### *Commercial motor vehicle*

This definition is not clear for several reasons.

First, the Preamble states this definition was "adapted from 49 CFR 390.5." As explained below, portions of this definition do not appear to be relevant to emissions from vehicles. This definition would be much simpler to understand, comply with and enforce if it only designated a weight limit and a number of passengers. The EQB should explain why a definition applicable to Federal Motor Carrier Safety Regulations under the United States Department of Transportation, used verbatim, is the most appropriate way to define and regulate vehicle emissions in Pennsylvania.

Second, we see no need to use the word "commercial" in the term because emissions occur regardless of whether the vehicle is engaged in commerce or not. The EQB should explain why the word "commercial" is needed to designate vehicles affected by the regulation.

Third, Paragraph (i) states:

The vehicle has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater.

Different weights are considered within Paragraph (i), but not all terms are defined. The term "gross vehicle weight rating" is defined in existing regulation and the term "gross combination weight rating" is defined in the proposed regulation. However, the terms "gross vehicle weight" and "gross combination weight" are not defined in this regulation and are therefore ambiguous. For example, the regulation does not state whether the term "gross vehicle weight" includes the load or not, whereas the defined terms make that specification. We recommend that the EQB review and explain the need for four different weight ratings in Paragraph (i). If it determines four different weight ratings are needed, it should define "gross vehicle weight" and "gross combination weight" in the final-form regulation.

Fourth, Paragraph (iv) states:

The vehicle is used in transporting material found by the Secretary of the United States Department of Transportation to be hazardous under 49 U.S.C. § 5103 (relating to general regulatory authority) and transported in a quantity requiring placarding under regulations prescribed by the Secretary of the United States Department of Transportation under 49 CFR,

Subtitle B, Chapter I, Subchapter C (relating to hazardous materials regulations).

Why did the EQB include transporting hazardous materials and placarding as determinative factors in the scope of vehicles that must comply with emission standards?

Finally, Paragraph (ii) includes a vehicle transporting more than eight passengers for compensation and Paragraph (iii) includes a vehicle transporting more than 15 passengers not for compensation. What constitutes “compensation”? The regulation would be clearer if it only specified a number of passengers and did not involve compensation. We recommend that the EQB also take into consideration the existing definition in Section 121.1 of “passenger car,” defined as “a motor vehicle designed primarily for transportation of persons and having a design capacity of 12 persons or less.” The EQB should explain why the regulation needs two provisions based on the number of passengers and conditioned on compensation.

#### *Undefined terms*

We recommend defining the following terms which are used in the regulation, but are not defined:

- “Bus terminal” is used in Subsection 126.612(d).
- “Passenger bus” is used in Paragraph 126.612(a)(2).
- “School bus” is used in Paragraph 126.612(a)(11).
- “Stationary idling technology” is used in Paragraph 126.612(a)(1).

### **3. Section 126.601. Applicability.—Reasonableness; Clarity.**

#### *Diesel-powered commercial motor vehicle*

Beginning in this section and used thereafter, the regulation uses the phrase “diesel-powered commercial motor vehicles.” In addition to our comment on the definition of “commercial motor vehicle,” the regulation does not define the phrase “diesel-powered.” The regulation should clearly establish what a “diesel-powered” vehicle is because it establishes who must comply with the regulation.

#### *Owners and operators of “locations”*

The Preamble describes the locations in Section 126.601 as follows:

The locations affected include, for example, warehouses, terminals, truck stops, other retail locations, schools, parking lots, rest areas and roadway rights-of-way. The proposed rulemaking would regulate idling at off-road sites by highway vehicles, but not by construction, agricultural or other off-road vehicles or equipment, or by locomotives, marine vessels or aircraft.

The intent described in the Preamble is not reflected in the language of the regulation. We agree with commentators who expressed uncertainty as to whether their equipment or situations fall under the regulation. We also question what actions are required when the regulation places the burden of compliance on the owner or operator of a “location.” How can they act responsibly, recognizing they may not own the vehicle? Other commentators expressed concern that this might affect emission limitations on a facility. We recommend rewriting Section 126.601 to take into consideration public comment on this provision and to clearly state the applicability of the regulation.

### **4. Section 126.611. Idling restriction.—Reasonableness.**

This section states “No person subject to this subchapter may cause *or allow* the engine . . . to idle for more than 5 minutes in a 60-minute period. . . .” (Emphasis added.) As noted in our comment on “owners and operators of locations” in Section 126.601, in many instances the person the regulation charges with preventing idling is not the driver or owner of the idling vehicle. How can a person reasonably comply if the person, who by regulation cannot allow a vehicle to idle, is not able to enter, take action to turn off the idling vehicle, or could be otherwise liable for damage to the vehicle or its contents? The EQB should explain the reasonableness of this requirement for persons who are not operating the vehicle and what measures must be taken to comply. In addition, the EQB should also explain how this provision will affect a facility already subject to air quality regulations or permits relating to emissions.

### **5. Section 126.612. Exemptions.—Statutory authority; Need; Reasonableness; Feasibility; Clarity.**

*Outside temperature less than 40° F or greater than 75° F*

The exemption in Paragraph (a)(1) is conditioned upon the outside air temperature. The exemption allows idling when “the outside temperature at the location of the vehicle is less than 40° F or greater than 75° F.” We support an exemption that allows time for owners and operators to install alternative means of heating and cooling sleeping berths. We also support allowing drivers to rest comfortably so that they can drive safely through the Commonwealth.

Our concern lies with the reasonableness and feasibility of this provision. As written, a violation could automatically occur due to a natural temperature fluctuation at dusk or dawn. If a driver in good faith allows the vehicle to idle under this exemption, an outside temperature increase or decrease would automatically cause a violation of this provision. Compliance should not require a driver trying to rest to also monitor the outside temperature during the rest period. We recommend that the EQB rewrite this provision so that drivers can reasonably comply.

*Stationary idle reduction technology that is available for use*

The exemption in Paragraph (a)(1) also states: “This exemption does not apply if the vehicle is parked at a location equipped with stationary idle reduction technology that is available for use.” As written, the regulation automatically triggers a violation when stationary idle reduction technology becomes available for use. This places a burden on a driver to monitor the availability of stationary idling technology during a rest period. We recommend rewriting this provision to continue the exemption for the full rest period if the stationary idling technology is not available at the time the driver begins the rest period.

#### *Model year 2007 or newer engine*

Subsection (b) states:

The restriction on idling in § 126.611 does not apply to a vehicle that has a model year 2007 or newer engine and exhibits a label issued by CARB under 13 CCR 1956.8(a)(6)(C) (relating to exhaust emissions standards and test procedures—1985 and subsequent model heavy-duty engines and vehicles) showing that the vehicle’s engine meets an optional NOx idling emission standard.

This is a wholesale exemption from the idling reduction requirement for these newer vehicles. Despite the reduction in some emissions from these newer vehicles, unnecessary idling of these vehicles still produces emissions which are as unnecessary as emissions from older model vehicles. The EQB should explain why it is in the public interest to allow newer vehicles to idle without restriction, particularly when idling is deemed unnecessary for other vehicles.

If the EQB believes this exemption is in the public interest, the regulation should explain what meets the requirement that the vehicle "exhibits a label issued by CARB." If the label is in the door frame or otherwise not visible from outside the vehicle, the driver would have to be woken up to demonstrate the exemption is valid. The regulation should specify in what way(s) this label must be displayed to facilitate compliance with and enforcement of the regulation without interrupting the driver's rest period.

*Other enforcing agency*

Paragraph (c)(2) allows the vehicle owner or operator to verify a mechanical problem to "the Department or other enforcing agency." The phrase "other enforcing agency" is vague. The regulation should specify who has authority to enforce this regulation and accept verification of a mechanical problem.

*Statutory authority for Subsection (d)*

The EQB cites the Air Pollution Control Act as statutory authority for this regulation. Subsection (a) of 35 P. S. § 4012 (relating to powers reserved to political subdivisions) of the Air Pollution Control Act states:

Nothing in this act shall prevent counties, cities, towns, townships or boroughs from enacting ordinances with respect to air pollution which will not be less stringent than the provisions of this act, the Air Pollution Control Act or the rules and regulations promulgated under this act or the Clean Air Act. . . .

Subsection (d) of the regulation states:

A county, city, town, township, borough or local air authority with idling regulations in existence before \_\_\_\_\_ (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rule-making.) may approve alternative compliance plans for bus terminals to minimize idling.

Unless the EQB can establish that Subsection (d) is consistent with its statutory authority, we recommend deleting Subsection (d) in its entirety.

**6. Sections 126.701. Applicability and 126.702. Auxiliary power systems.—Possible conflict with other regulations.**

Sections 126.701 and 126.702 only require a "model year 2007 or newer engine" and do not include the requirement specified in Section 126.612(b) for "a label issued by CARB under 13 CCR 1956.8(a)(6)(C)." Why do these requirements differ?

ARTHUR COCCODRILLI,  
*Chairperson*

[Pa.B. Doc. No. 08-807. Filed for public inspection April 25, 2008, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Application for Approval to Merge

Excess Reinsurance Company, a Delaware domiciled stock property insurance company, has submitted a Plan of Merger, whereby it proposes to merge with Northwestern Insurance Company, a Pennsylvania domiciled stock property insurance company. The survivor of the merger would be Excess Reinsurance Company. The filing was made under 15 Pa.C.S. §§ 1101—4162 (relating to Business Corporation Law of 1988), 15 Pa.C.S. §§ 1921—1932, 15 P. S. §§ 21205—21207; and The Insurance Company Act of 1921 (40 P. S. §§ 991.1401—991.1413). Persons wishing to comment on the grounds of public or private interest in this merger 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*. Written statements must include name, address and telephone number of the author, 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 and the relevant facts upon which it is based. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

JOEL SCOTT ARIO,

*Acting Insurance Commissioner*

[Pa.B. Doc. No. 08-808. Filed for public inspection April 25, 2008, 9:00 a.m.]

### Application for Approval to Reinsure the Entire Book of Business of a Domestic Insurer

Apollo Mutual Fire Insurance Company, a Pennsylvania domiciled mutual property insurance company, has submitted an application for approval to reinsure and assume the entire book of business of Pine Creek Mutual Fire Insurance Company of Armstrong County, also a Pennsylvania domiciled mutual property insurance company. The filing was submitted under section 319.1 of The Insurance Company Act of 1921 (40 P. S. § 442.1). Persons wishing to comment on the grounds of public or private interest in this merger are invited to submit a written statement to the Insurance Department (Department) within 14 days from the date of this issue of the *Pennsylvania Bulletin*. Written statements must include name, address and telephone number of the author, 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 and the relevant facts upon which it is based. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

JOEL SCOTT ARIO,

*Acting Insurance Commissioner*

[Pa.B. Doc. No. 08-809. Filed for public inspection April 25, 2008, 9:00 a.m.]

**GEICO General Insurance Company; Automobile, Motorcycle and Umbrella Liability Manual Revision; Rate Filing**

On April 4, 2008, the Insurance Department (Department) received from GEICO General Insurance Company a filing for the proposed rate level and rule changes for Automobile, Motorcycle and Umbrella Liability Manuals.

The company requests an overall 3.7% increase amounting to \$2,212,000 annually, to be effective May 8, 2008, for new business and June 23, 2008, for renewal business.

Unless formal administrative action is taken prior to June 3, 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). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg Regional Office.

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [xlu@state.pa.us](mailto:xlu@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 08-810. Filed for public inspection April 25, 2008, 9:00 a.m.]

**HealthAmerica HMO—All Service Areas—Western, Central and Southeastern; Demographic Rating Methodology; Applicability—Group Size 2+; Rate Filing**

On April 7, 2008, the Insurance Department (Department) received a filing from HealthAmerica to update the demographic factors used in the Demographic Rating Methodology for all new and renewing Commercial HMO Group Business. The revised rating factors include industry factors, age/gender factors and area factors. The proposed effective date is October 1, 2008.

Unless formal administrative action is taken prior to July 10, 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). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg, Pittsburgh and Philadelphia Regional Offices.

Interested parties are invited to submit written comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square,

Harrisburg, PA 17120, [csandersjo@state.pa.us](mailto:csandersjo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

JOEL SCOTT ARIO,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 08-811. Filed for public inspection April 25, 2008, 9:00 a.m.]

**Wendy Latunik, M. D.; Prehearing**

**Appeal of Wendy Latunik, M. D. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM08-04-004**

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law) 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure).

On or before April 23, 2008, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's February 25, 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 May 14, 2008, at 1:30 p.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before April 22, 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 May 2, 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 May 9, 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 Joel Cortes, Human Resources Analyst at (717) 783-2168.

JOEL SCOTT ARIO,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 08-812. Filed for public inspection April 25, 2008, 9:00 a.m.]

**3M Redevelopment, Inc.; Hearing**

**Appeal of 3M Redevelopment, Inc. under the Storage Tank and Spill Prevention Act; Underground Storage Tank Indemnification Fund; USTIF File No. 06-083(M); Doc. No. UT08-03-045**

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and any other relevant procedure provisions of law.

A prehearing telephone conference shall be held on May 7, 2008, at 10 a.m. A hearing shall occur on June 10, 2008, at 1 p.m., in the Administrative Hearings Office, Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102. Motions preliminary to those at hearing, protests, petitions to intervene, notices of appearance or notices of intervention, if any, must be filed with the Hearings Administrator at the previously listed address on or before April 24, 2008. Answers to petitions to intervene, if any, shall be filed on or before May 1, 2008.

On or before April 23, 2008, each party shall file with the Administrative Hearings Office a prehearing statement which shall contain: (1) a comprehensive statement of undisputed facts to be stipulated between the parties; (2) a statement of additional contended facts; (3) names and address of witnesses along with the specialties of experts to be called; (4) a list of documents to be used at the hearing; (5) special evidentiary or other legal issues; and (6) the estimated time for the party's case. Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with a copy of any report generated by an expert witness designated on the prehearing statement. Any report subsequently received from a party's expert witness prior to hearing shall be supplied to the other party within 2 business days. Copies of expert reports need not be filed with the Administrative Hearings Office. Experts will be permitted to testify only on matters substantially contemplated by reports supplied to the other party in accordance with this paragraph.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, contact Joel Cortes, Human Resources Analyst at (717) 783-2168.

JOEL SCOTT ARIO,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 08-813. Filed for public inspection April 25, 2008, 9:00 a.m.]

### **The Travelers Home and Marine Insurance Company; Private Passenger Automobile; Rate and Rule Revisions; Rate Filing**

On March 31, 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 6.3% increase amounting to \$7.224 million annually, to be effective July 1, 2008.

Unless formal administrative action is taken prior to May 30, 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."

A copy of the filing is also available for public inspection, by appointment, during normal working hours at the Department's Harrisburg Regional Office.

Interested parties are invited to submit written comments, suggestions or objections to Michael P. 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,  
*Acting Insurance Commissioner*

[Pa.B. Doc. No. 08-814. Filed for public inspection April 25, 2008, 9:00 a.m.]

## **LIQUOR CONTROL BOARD**

### **Expiration of Leases**

The Liquor Control Board seeks the following new site:

Philadelphia County, Wine & Spirits Store #0905, Philadelphia, PA.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 10,000 net useable square feet of new or existing retail commercial space within a 1 mile radius of Routes 202 and 179, Solebury Township, Bucks County.

*Proposals Due:* May 8, 2008, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Henry Blocker, (215) 482-9670

Philadelphia County, Wine & Spirits Store #5101, Philadelphia, PA.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space in a 1/4 mile radius of Wayne and Cheltenham Avenues in Philadelphia County.

*Proposals Due:* May 5, 2008, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Henry Blocker, (215) 482-9670

Philadelphia County, Wine & Spirits Store #5110, Philadelphia, PA.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 6,000 net useable square feet of new or existing retail commercial space in a 1/4 mile radius of 60th Spruce Streets in Philadelphia County.

*Proposals Due:* May 5, 2008, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Henry Blocker, (215) 482-9670

Philadelphia County, Wine & Spirits Store #9116, Philadelphia, PA.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space in a 1/4 mile radius of 20th and Market Streets in Philadelphia County.



*Proposals Due:* May 5, 2008, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Henry Blocker, (215) 482-9670  
 PATRICK J. STAPLETON, III,  
*Chairperson*

[Pa.B. Doc. No. 08-815. Filed for public inspection April 25, 2008, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Extension of the Fuel Cost Recovery Surcharge

Public Meeting held  
April 9, 2008

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

*Extension of the Fuel Cost Recovery  
Surcharge Special Permission 28207*

#### Order

*By the Commission:*

Tristate Household Goods Conference, Inc. (Tristate), a tariff publishing agency, represents approximately 275 PUC household good carriers. Substantially large increases in the cost of diesel fuel, which were unanticipated, motivated Tristate to request the implementation of the Fuel Cost Recovery Surcharge. The Fuel Cost Recovery Surcharge Special Permission 28207 was approved in Public Meeting held April 17, 2003, and extended in the Public Meetings held April 15, 2004, April 7, 2005, March 16, 2006 and April 13, 2007. The extension was approved for duration of one year unless changed, cancelled or extended. The current surcharge grants approval to temporarily increase the Tristate tariff to recover temporarily increased fuel costs when transporting household goods for moves more than 40 miles (weight and distance) and moves that are 40 miles or less (hourly) by the use of a Fuel Cost Recovery Surcharge. Tristate filed a request on February 6, 2008, to permit members of its conference to continue assessing a fuel cost recovery surcharge to defray the continuing rise in costs of diesel fuel.

The surcharge is determined by a formula which attempts to approximate the amount of fuel used on a particular trip and multiplies that amount by the increased cost of fuel, allowing the carrier to recover only the additional fuel charges incurred. The formula includes the following constant factors: (1) base price per gallon of fuel<sup>1</sup>; (2) average vehicle fuel consumption of 5 miles per gallon; and (3) a terminal factor which allows the carrier to recover the additional cost of fuel used in traveling to and from the carrier's terminal to the origin point of the

<sup>1</sup> The proposed base price is \$1.267, which was the price of a gallon of diesel fuel according to the Department of Energy report of Retail On-Highway Diesel Prices for the Central Atlantic Region as of February 15, 2002. Tristate proposes this as a base price since fuel prices have steadily increased from that date.

move. The formula also includes one variable factor, the current month's diesel fuel price.<sup>2</sup>

Moves of **40 miles or less** will be divided into 4 categories according to average mileage: 5 mile average for trips ranging from 1 to 10 miles, 15 mile average for trips ranging from 10 to 20 miles, 25 mile average for trips ranging from 20 to 30 miles, and 35 mile average for trips ranging from 30 to 40 miles. An example calculation for an 8 mile move is as follows<sup>3</sup>:

Origin of move to destination 8 miles	=	5 miles average
Terminal factor	=	40 miles
Total miles	=	45 miles
Average miles per gallon	=	5
Fuel used	=	9 gallons
DOE current Fuel Price as of 3/17/03	=	\$1.949
Base fuel Price	=	\$1.267
Fuel price difference	=	\$ .682
Gallons × Fuel price difference	=	9 × .682 = \$6.14

Moves of **more than 40 miles** will be calculated using actual mileage from the move's origin to destination and return. An example calculation for a 100 mile move is as follows:

Origin of move to destination	=	100 miles
Empty Return (dest. to origin)	=	100 miles
Terminal factor	=	40 miles
Total miles	=	240 miles
Average miles per gallon	=	5
Fuel used	=	48 gallons
DOE current Fuel Price as of 3/17/03	=	\$1.949
Base fuel Price	=	\$1.267
Fuel price difference	=	\$ .682
Gallons × Fuel price difference	=	48 × .682 = \$32.75

On February 6, 2008, Tristate filed a request to again extend the Fuel Cost Recovery Surcharge. The request was filed in response to the volatile nature of the petroleum market, which continues to produce unanticipated increases in diesel fuel prices.

In support of the request for extension, Tristate has submitted data from the Department of Energy for the Central Atlantic Region. The average price of diesel fuel for the period of January 2007 to December 2007, was \$2.94 per gallon, an increase of \$.13 per gallon over the previous year. During that time, prices ranged from \$2.68 per gallon to \$3.57 per gallon.

Additional support for an extension can be found in the March 14, 2008, edition of *Short Term Energy Outlook*, in which the Department of Energy reported that several factors will result in continued price fluctuations in the market. Instability in the relations with OPEC nations has kept the prices of crude at a high level. Demand was also increased as a result of greater need for home heating oil.

The Federal Department of Transportation has responded to the escalating fuel costs for interstate transportation by approving a fuel surcharge on a similar sliding scale. The Federal Fuel Surcharge became effective May 15, 2000, and continues in effect.

Under 66 Pa.C.S. § 1301, the Commission is required to ensure that all rates charged by a public utility are just and reasonable. Additionally, the Commission is

<sup>2</sup> This figure is determined by the Department of Energy's report of Retail On-Highway Diesel Prices for the Central Atlantic Region. The current month's diesel fuel price will be effective beginning the 15th day of each month through the 14th day of the subsequent month.

<sup>3</sup> All fuel surcharges shall be calculated and provided to the customer as part of the Estimate of Charges.

obligated to address industry-wide problems "without creating a chaotic rate structure impossible to manage or police." Emergency Fuel Surcharge, 47 Pa.P.U.C. 389, 391 (1974). The current surcharge addresses the problem of rising fuel costs, while being just and reasonable in that carriers are compensated only for the additional cost of the fuel used.

Based on our review, it appears that the extension of the Fuel Cost Recovery Surcharge for transportation of household goods is necessary, is an appropriate means to address this regulatory problem and will result in just and reasonable rates. In order to prevent financial hardship, it is imperative that Pennsylvania household goods carriers be afforded an opportunity to temporarily adjust rates to offset escalating fuel costs using the proposed extended Fuel Cost Recovery Surcharge and, accordingly, we shall allow the proposed extended surcharge to become effective for a period of one year unless changed, cancelled or further extended.

Therefore,

*It is Ordered That:*

1. Tristate members rendering service under authority of this Commission shall charge a Fuel Cost Recovery Surcharge on transportation provided for over 40 mile charges and for 40 miles or less hourly charges in accordance with all other tariff rules of this Commission. The Fuel Recovery Surcharge is to be extended effective April 18, 2008.

2. The Extended Fuel Recovery Surcharge shall be in effect for 1 year to April 18, 2009, unless changed, cancelled or further extended by the Commission.

3. Copies of this order shall be served by the Secretary to the Office of Consumer Advocate and Office of Small Business Advocate. The Secretary shall forward this Order to the *Pennsylvania Bulletin* for publication.

4. Each carrier shall post a copy of this Extended Fuel Cost Recovery Surcharge along with the original Fuel Cost Recovery Surcharge dated April 17, 2003, in a conspicuous place in the office and vehicles. In addition, each carrier shall include the surcharge as a separate line item of the Estimate of Charges provided to prospective shippers and on the Bill of Lading.

5. The rates collected to the Extended Fuel Cost Recovery Surcharge are subject to refund in the event that any formal complaints are filed, within 30 days of the date of publication of this order, and are successful in challenging the surcharge.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 08-816. Filed for public inspection April 25, 2008, 9:00 a.m.]

## Retail Markets Working Group; Doc. No. M-00072009

Under the Pennsylvania Public Utility Commission's Final Policy Statement on Default Service and Retail Electric Markets (Policy Statement) adopted May 10, 2007, at Docket No. M-00072009<sup>1</sup>, Commission staff is convening the Retail Markets Working Group (RMWG). The purpose of the RMWG is to develop policy recommen-

dations in certain areas to enhance customer choice and the development of robust and effective retail markets.<sup>2</sup>

Sections 69.1812—69.1817 of the Policy Statement identify the topics referred to the RMWG. These topic areas are information and data access, rate and bill ready billing, purchase of receivables, customer referral program, supplier tariffs and retail choice ombudsman.

The Commission has directed the Law Bureau to oversee the RMWG. To initiate the working group process, and to determine the nature and type of subgroup meetings to be held, staff requests all parties interested in participating in the RMWG to submit position papers on the enumerated topics. Each party should include in its position paper the contact persons<sup>3</sup> for each issue on which it intends to participate along with a concise summary of its position regarding each issue.

Position papers should be filed (original and 10 copies) with the Secretary's Bureau, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Position papers will be posted on the Commission's web site [www.puc.state.pa.us](http://www.puc.state.pa.us). Therefore no separate service on other parties is necessary. To facilitate the timely posting of comments to the Commission's web site, each position paper should also be submitted by electronic mail to Assistant Counsel Lawrence F. Barth at [lbarth@state.pa.us](mailto:lbarth@state.pa.us).

Position papers should be submitted no later than 45 days after publication of this notice in the *Pennsylvania Bulletin*. Reply position papers should not be submitted.

Direct any questions regarding this notice to Assistant Counsel Barth at (717) 772-8579 or the e-mail address appearing previously.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 08-817. Filed for public inspection April 25, 2008, 9:00 a.m.]

## Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by May 12, 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.

**Application of the following for approval to *begin operating as common carriers for transportation of persons as described under the application.***

**A-2008-2035839. George Strohmaier** (211 Maryland Avenue, Oxford, Chester County, PA 19363)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor

<sup>1</sup> Order adopted and entered May 10, 2007, published at 37 Pa.B. 5019, September 15, 2007.

<sup>2</sup> Policy Statement, pages 13—14.

<sup>3</sup> Please include full contact information including email addresses.

vehicles, from points within a 50 mile airline distance of Oxford, Chester County, to points in Pennsylvania, and return.

**Applications of the following for approval to *begin operating as contract carriers for transportation of persons as described under each application.***

**A-2008-2035390. R. W. Transit, LLC, t/d/b/a R. W. Transit Works** (5070 Parkside Avenue, Suite 1400, Philadelphia, PA 19131)—contract carrier—for Logisticare Solutions, LLC, persons between points in the City and County of Philadelphia and the County of Bucks. *Attorney:* Scott I. Fegley, Makefield Executive Quarters, 301 Oxford Valley Road, Suite 402A, Yardley, PA 19067.

**A-2008-2036065. Green Car Care, Inc.** (6841 Kindred Street, Philadelphia, PA 19149)—certificate of public convenience to begin to transport, as a contract carrier for LogistiCare Solutions, LLC. (A-00123240), persons in paratransit service, from points in the City and County of Philadelphia, to points in Pennsylvania, and return.

**Applications of the following for the approval of the right and privilege to *discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under each application.***

**A-00113081; A-00113081, F.1, Am-A; A-00113081, F.1, Am-B.** Resources For Human Development, Inc., t/d/b/a Transit Solutions (319 North Pottstown Pike, Suite 309, Exton, Chester County, PA 19341-2212), a corporation of the Commonwealth—for the discontinuance of service and cancellation of its certificate for the transportation of persons, in group and party service, between points in Delaware County, and within an airline distance of 5 statute miles of the limits of said county.

Subject to the following conditions:

(a) That the transportation rendered is limited to economically challenged persons with an annual income defined under Section 8 Housing Assistance Payments Program at 24 CFR 813.106; or to physically challenged persons with disabilities defined by Paragraph 3(b) of the United States Housing Act of 1937, and amended by Section 621 of the Housing and Community Development Act of 1992.

(b) That the transportation rendered is limited to school bus-type vehicles or vehicles with a seating capacity of 32 passengers or less, not including driver, and without storage or cargo areas for luggage, and without restroom facilities.

Am-A

To transport, as a common carrier, persons in group and party service, between points in the City and County of Philadelphia and the Counties of Chester, Delaware and Montgomery and from points in said territory to points in Pennsylvania, and return; Subject to the previous (a) and (b) conditions.

Am-B

To transport, as a common carrier, persons in group and party service, in vehicles with a seating capacity of

15 passengers or less, including the driver, between points in the County of Monroe, and from points in said county, to points in Pennsylvania, and vice versa.

*Attorney:* Gene Schneyer, 4700 Wissahickon Avenue, Suite 126, Philadelphia, PA 19144.

**A-00121759. Alan Scott Moore** (136 South Main Street, Chambersburg, Franklin County, PA 17201)—for the discontinuance of service and cancellation of his certificate, as a common carrier, by motor vehicle, persons, in limousine service, between points in the Counties of Franklin, Fulton, Adams, and points in Cumberland County lying on and south of Highway Route Interstate I-76 and from points in said territories, to points in Pennsylvania, and return, excluding service that is under the jurisdiction of the Philadelphia Parking Authority. *Attorney:* Jim Resh, Esquire, 136 South Main Street, Chambersburg, PA 17201; Adam R. Schellhase, Esquire, Salzmann Hughes, P. C., 455 Phoenix Drive, Suite A, Chambersburg, PA 17201.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 08-818. Filed for public inspection April 25, 2008, 9:00 a.m.]

## STATE EMPLOYEES' RETIREMENT BOARD

### Hearings Scheduled

The following hearings have been scheduled, as authorized by 71 Pa.C.S. Part XXV (relating to the State Employees' Retirement Code), in connection with the State Employees' Retirement System's denial of Claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the State Employees' Retirement System, 30 North Third Street, Fifth Floor, Harrisburg, PA 17101:

May 12, 2008 Alan Wisniewski 1 p.m.  
(Untimely Election of Class AA Service Credit)

May 22, 2008 Dennis J. Crosson 1 p.m.  
(Annuitant Return to Service Status)

Parties in each respective case may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 4 Pa. Code § 250.1 (relating to applicability of general rules), procedural matters will be in conformance with the 1 Pa. Code, Part II (relating to General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

LEONARD KNEPP,  
*Secretary*

[Pa.B. Doc. No. 08-819. Filed for public inspection April 25, 2008, 9:00 a.m.]



